State of Iowa

1990

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted At The

1990 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-FOURTH YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE EIGHTH DAY OF JANUARY
AND ENDED ON THE EIGHTH DAY OF APRIL, A.D. 1990

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GENERAL ASSEMBLY OF IOWA
Des Moines

PREFACE

CERTIFICATION

We, Diane E. Bolender, 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 1990 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 1991 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1991 Iowa Code.

Typographic style. The Acts and Resolutions in this volume are printed 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, 1990, 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 generally not included. 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

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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
Timothy Waddell, Deputy, Elections	Polk

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
Joan Fitzpatrick Bolin, 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
Charles J. Krogmeier, Deputy Attorney General	Lee
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, 73(1st)
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Name and Residence	Occupation	Senatorial District	Former Legislative Service
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Name and Residence	Occupation	Senatorial District	Former Legislative Service
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Rife, Jack Moscow	Farmer	29th—*Muscatine*, Scott	70, 71, 72, 72X, 72XX, 73(1st)
Riordan, James R. Waukee	Nursery/Garden Center Owner	45th—Adair, *Dallas*, Guthrie, Madison	71(2nd), 72, 72X, 72XX, 73(1st)
Running, Richard V. Cedar Rapids	Statistical Quality Control Trainer	26th—*Linn*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Scott, Kenneth D. Clear Lake	Realtor, Farmer, Auctioneer	15th—*Cerro Gordo*, Chickasaw, Floyd, Howard, Mitchell	64, 65, 66, 72, 72X, 72XX, 73(1st)
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Sturgeon, Al Sioux City	Legislator	1st—*Woodbury*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
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Tinsman, Maggie Bettendorf	Legislator	20th—*Scott*	73(1st)
Vande Hoef, Richard Harris	Farmer	4th—Cherokee, Clay, Lyon, O'Brien, *Osceola*, Sioux	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Varn, Richard J. Solon	Lawyer, Consultant	27th—Iowa, *Johnson*, Poweshiek	70, 71, 72, 72X, 72XX, 73(1st)
Welsh, Joe J. Dubuque	Businessman, Private Investigator	17th—*Dubuque*, Jackson, Jones	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Adams, Janet L. Webster City	Teacher	14th—*Hamilton*, Webster	72, 72X, 72XX, 73(1st)
Arnould, Robert C. Davenport	Legislator	42nd—*Scott*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Avenson, Donald D. Oelwein	Tool & Die Maker	28th—Chickasaw, *Fayette*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Banks, Bradly C. Westfield	Livestock and Grain Farmer	5th—*Plymouth*, Woodbury	73(1st)
Beaman, Jack Osceola	Self-employed	91st—Adair, Adams, Cass, *Clarke*, Union	72, 72X, 72XX, 73(1st)
Beatty, Linda L. Indianola	Homemaker	68th—*Warren*	71, 72, 72X, 72XX, 73(1st)
Bennett, Wayne Galva	Farmer	4th—*Ida*, Monona, Woodbury	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX 73(1st)
Bisignano, Tony Des Moines	President of AFSCME Local 1868	80th—*Polk*	72, 72X, 72XX, 73(1st)
Black, Dennis H. Grinnell	Jasper County Conservation Board, Director	71st—*Jasper*, Marshall	70, 71, 72, 72X, 72XX, 73(1st)
Blanshan, Eugene H. Scranton	Farmer	88th—Boone, Carroll, *Greene*	70, 71, 72, 72X, 72XX, 73(1st)
Brammer, Philip E. Cedar Rapids	Insurance Agent	51st—*Linn*	70, 71, 72, 72X, 72XX, 73(1st)
Brand, William J. Vinton	Administrator-Human Services	76th—*Benton*, Black Hawk	73(1st)
Branstad, Clifford O. Thompson	Farmer	16th—Hancock, Kossuth, *Winnebago*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Brown, Joel W. Lucas	Legislator	67th—Clarke, Monroe *Lucas*, Wayne	73(1st)
Buhr, Florence D. Des Moines	Legislator	85th—*Polk*	70, 71, 72, 72X, 72XX, 73(1st)
Carpenter, Dorothy F. West Des Moines	Legislator	82nd—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Chapman, Kay Cedar Rapids	Lawyer	49th—*Linn*	70, 71, 72, 72X, 72XX, 73(1st)
Clark, Betty Jean Rockwell	Legislator	29th—*Cerro Gordo*, Floyd, Mitchell	67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Cohoon, Dennis M. Burlington	Teacher	60th—*Des Moines*	72, 72X, 72XX, 73(1st)

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, 73(1st)
Corbett, Ron J. Cedar Rapids	Insurance Agent	52nd—*Linn*	72, 72X, 72XX, 73(1st)
Daggett, Horace C. Kent	Farmer	92nd—*Adams*, Decatur, Ringgold, Taylor	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
De Groot, Kenneth R. Doon	Farmer, Legislator	8th—*Lyon*, O'Brien, Osceola, Sioux	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Diemer, Marvin E. Cedar Falls	Retired	23rd—*Black Hawk*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
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, 73(1st)
Dvorsky, Robert E. Coralville	Legislator, Employment Coordinator	54th—Iowa, *Johnson*	72, 72X, 72XX, 73(1st)
Eddie, Russell J. Storm Lake	Farmer, Pork Producer	10th—*Buena Vista*, Pocahontas	72, 72X, 72XX, 73(1st)
Fey, Thomas H. Davenport	Legislator	41st—*Scott*	69(2nd), 70, 71, 72, 72X, 72XX, 73(1st)
Fogarty, Daniel P. Cylinder	Farmer	11th—Clay, *Palo Alto*	70, 71, 72, 72X, 72XX, 73(1st)
Fuller, Robert D. Steamboat Rock	Farmer	18th—Franklin, Hamilton, *Hardin*	72, 72X, 72XX, 73(1st)
Garman, Teresa Ames	Farmer	87th—Boone, *Story*	72, 72X, 72XX, 73(1st)
Groninga, John Mason City	Educator	20th—*Cerro Gordo*	70, 71, 72, 72X, 72XX, 73(1st)
Gruhn, Josephine Spirit Lake	Farm Owner/ Operator	12th—*Dickinson*, Emmet	70, 71, 72, 72X, 72XX, 73(1st)
Halvorson, Rod Fort Dodge	Real Estate Salesman, Political Consultant	13th—*Webster*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
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Name and Residence	Occupation	Representative District	Former Legislative Service
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Haverland, Mark A..... Polk City	College Teacher ...	77th—*Polk*	70, 71, 72, 72X, 72XX, 73(1st)
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Hester, Joan L..... Honey Creek	Farming ..... Retired	98th—Harrison, ... *Pottawattamie*	71, 72, 72X, 72XX, 73(1st)
Hibbard, David ..... Booneville	Attorney	90th—Adair, Dallas, ... Guthrie, *Madison*	73(1st)
Holveck, Jack ..... Des Moines	Attorney	84th—*Polk*	70, 71, 72, 72X, 72XX, 73(1st)
Iverson,Stewart E., Jr. . Dows	Farmer	17th—Franklin, ... Hancock, *Wright*	None
Jay, Daniel..... Moulton	Lawyer	66th—*Appanoose*, Davis,... Wapello	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
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Koenigs, Deo A. ..... Osage	Farmer and ..... Legislator	30th—Chickasaw, Howard,. *Mitchell*	70, 71, 72, 72X, 72XX, 73(1st)
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Name and Residence	Occupation	Representative District	Former Legislative Service
McKean, Andrew J. Anamosa	Lawyer, Graduate School Instructor	44th—*Jones*, Linn	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
McKinney, Wayne H., Jr. Waukee	Attorney	89th—*Dallas*	72, 72X, 72XX, 73(1st)
Mertz, Dolores M. Ottosen	Farm Owner- Operator	15th—Humboldt, *Kossuth*, Palo Alto, Pocahontas	73(1st)
Metcalf, Janet S. Des Moines	Legislator	83rd—*Polk*	71, 72, 72X, 72XX, 73(1st)
Miller, Tom H. Cherokee	Journalist	7th—*Cherokee*, Clay, O'Brien	71, 72, 72X, 72XX, 73(1st)
Muhlbauer, Louis J. Manilla	Agri-Business	96th—*Crawford*, Shelby	70, 71, 72, 72X, 72XX, 73(1st)
Murphy, Pat Dubuque	Documentation Specialist	35th—*Dubuque*	None
Neuhauser, Mary Iowa City	Attorney	46th—*Johnson*	72, 72X, 72XX, 73(1st)
Nielsen, Joyce Cedar Rapids	Financial Consultant	50th—*Linn*	73(1st)
Ollie, C. Arthur Clinton	Teacher	38th—*Clinton*	70, 71, 72, 72X, 72XX, 73(1st)
Osterberg, David Mt. Vernon	Economic Consultant	43rd—Cedar, *Linn*	70, 71, 72, 72X, 72XX, 73(1st)
Pavich, Emil S. Council Bluffs	Retired-Kellogg Cereal Company	100th—*Pottawattamie*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
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Petersen, Daniel F. Muscatine	Farmer	57th—*Muscatine*, Scott	71(2nd), 72, 72X, 72XX, 73(1st)
Peterson, Michael K. Carroll	Attorney, Legislator	95th—Audubon, *Carroll*, Shelby	71, 72, 72X, 72XX, 73(1st)
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Rosenberg, Ralph Ames	Attorney	73rd—*Story*	69(2nd), 70, 71, 72, 72X, 72XX, 73(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Royer, Bill D. ..... Essex	Real Estate ..... Broker, Appraiser	93rd—Fremont, Mills, ... *Page*	70, 71, 72, 72X, 72XX, 73(1st)
Schnekloth, Hugo ..... Eldridge	Farmer	39th—*Scott*	67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Schrader, David ..... Monroe	Small Business .... Owner	69th—*Marion*	72, 72X, 72XX, 73(1st)
Shearer, Mark S. ..... Columbus Junction	Newspaper ..... Editor	55th—Des Moines, ... *Louisa*, Washington	73(1st)
Sherzan, Gary ..... Des Moines	Parole Officer	86th—*Polk*	70, 71, 72, 72X, 72XX, 73(1st)
Shoning, Don ..... Sioux City	Legislator	3rd—*Woodbury*	71, 72, 72X, 72XX, 73(1st)
Shoultz, Don ..... Waterloo	Teacher	25th—*Black Hawk*	70, 71, 72, 72X, 72XX, 73(1st)
Siegrist, Brent ..... Council Bluffs	Teacher	99th—*Pottawattamie*	71, 72, 72X, 72XX, 73(1st)
Spear, Clay R. ..... Burlington	Retired Postal ..... Service Employee	61st—*Des Moines*, Lee	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Spenner, Gregory A. ..... Mt. Pleasant	Broadcaster	59th—Des Moines, ... *Henry*	73(1st)
Stueland, Vic ..... Grand Mound	Farmer, ... Businessman	37th—Cedar, *Clinton*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Svoboda, E. Jane ..... Clutier	Farm Wife- ..... Homemaker, Sales	75th—Black Hawk, ... Marshall, *Tama*	72, 72X, 72XX, 73(1st)
Swartz, Thomas E. ..... Marshalltown	Teacher, ... Consultant	72nd—*Marshall*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Tabor, David M. ..... Baldwin	Farmer	34th—Dubuque, *Jackson* ...	70, 71, 72, 72X, 72XX, 73(1st)
Teaford, Jane ..... Cedar Falls	Legislator	24th—*Black Hawk*	71, 72, 72X, 72XX, 73(1st)
Trent, Bill ..... Muscatine	Businessman, ... Lawyer	56th—Louisa, ... *Muscatine*	73(1st)
Tyrrell, Phil ..... North English	Independent ..... Insurance Agent	53rd—*Iowa*, Poweshiek	68, 69, 69X, 69XX, 72, 72X, 72XX, 73(1st)
Van Maanen, Harold .... Oskaloosa	Farmer	64th—Keokuk, ... *Mahaska*, Wapello	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73(1st)
Wise, Philip L. ..... Keokuk	Teacher	62nd—*Lee*, Van Buren	72, 72X, 72XX, 73(1st)

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.
Washington, D.C. 20510
(202) 224-3254

Box H
307 Federal Building
Council Bluffs, Iowa 51501
(712) 325-0036

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)
135 Hart Senate Office Bldg.
Washington, D.C. 20510-1501
(202) 224-3744

721 Federal Building
210 Walnut Street
Des Moines, Iowa 50309-2140
(515) 284-4890

210 Waterloo Building
531 Commercial Street
Waterloo, Iowa 50701-5497
(319) 232-6657

206 Federal Building
101 First Street, S.E.
Cedar Rapids, Iowa 52401-1227
(319) 363-6832

103 Federal Courthouse Bldg.
320 6th Street
Sioux City, Iowa 51101-1244
(712) 233-1860

116 Federal Building
131 E. 4th Street
Davenport, Iowa 52801-1513
(319) 322-4331

UNITED STATES REPRESENTATIVES

First District

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

209 West 4th Street
Davenport, Iowa 52801
(319) 326-1841

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

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

Second District

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

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

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

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

Third District

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

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

Room 505
102 S. Clinton Street
Iowa City, Iowa 52240
(319) 351-0789

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

Fourth District

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

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

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

UNITED STATES REPRESENTATIVES – Continued

Fifth District

Congressman James Lightfoot (R)
1222 Longworth House Office Building
Washington, D.C. 20515
(202) 225-3806

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

105 Pearl Street
Council Bluffs, Iowa 51503
(712) 322-5255

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

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

Sixth District

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

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

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

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

CONDITION OF STATE TREASURY

Receipts, Disbursements, and Balance in the Several Funds For the Fiscal Period Ending June 30, 1989

	Balance June 30, 1988	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1989
General Fund	$ 24,213,374	$ 3,822,987,575	$ 3,847,200,949	$ 3,806,918,295	$ 40,282,654
Special Revenue Fund	352,945,459	1,325,195,077	1,678,140,536	1,378,868,322	299,272,214
Capitol Project Fund	2,607,680	19,970,485	22,578,165	12,591,563	9,986,602
Debt Service Fund	1,124,587	13,188,775	14,313,362	12,744,830	1,568,532
Enterprise Fund	14,147,889	212,981,237	227,129,126	216,469,583	10,659,543
Internal Service Fund	8,451,248	36,910,091	45,361,339	42,344,856	3,016,483
Expendable Trust Fund	24,998,082	201,767,036	226,765,118	197,176,850	29,588,268
Non-Expendable Trust Fund	3,520,888	1,704,124	5,225,012	460,957	4,764,055
Pension Fund	3,778,675,294	623,375,900	4,402,051,194	193,015,012	4,209,036,182
Trust and Agency Fund	126,522,576	1,894,093,321	2,020,615,897	1,905,790,382	114,825,515
Totals	$ 4,337,207,077	$ 8,152,173,621	$ 12,489,380,698	$ 7,766,380,650	$ 4,723,000,048

Balance July 1, 1988	$ 4,337,207,077
Receipts and Transfers	8,152,173,621
Total Available	12,489,380,698
Redemptions and Disbursements	7,766,380,650
Balance June 30, 1989	$ 4,723,000,048

DEPARTMENT OF REVENUE AND FINANCE
May 2, 1990

ANALYSIS BY CHAPTERS

REGULAR SESSION

CH.	FILE		TITLE
1098	SF	2388	Spousal support debts
1099	HF	664	Fine for vehicle size and weight violations
1100	HF	2092	Debt management services fee
1101	HF	2119	Failure to obey school bus warning devices — procedures
1102	HF	2143	Snow route parking violations
1103	HF	2238	Public utility rate automatic adjustments
1104	HF	2250	Regulation of beekeeping
1105	HF	2279	Credit card payment of natural resources department charges
1106	HF	2307	City council member serving as volunteer fire chief
1107	HF	2308	Freestanding hospice facilities
1108	HF	2296	Regulation of dams
1109	SF	57	Handicapped persons' use of crossbow
1110	SF	2052	Foreclosure moratorium
1111	SF	2080	Purple loosestrife regulation
1112	SF	2097	Mediation by dental examiners board
1113	SF	2158	Shared petroleum facilities
1114	SF	2201	Family support subsidy program
1115	SF	2227	County and joint county and city special assessment districts
1116	SF	2235	Vehicle certificate of title reassignment reciprocity
1117	SF	2262	Veterinary medicine license
1118	SF	2263	Hospital depreciation fund
1119	HF	252	Candidate leaves of absence for deputy sheriffs
1120	HF	2131	Local housing authorities and sweat equity housing cooperatives
1121	HF	2142	City street construction reports and funds
1122	HF	2156	State group insurance plan membership by general assembly members and part-time employees
1123	HF	2437	Immediate income withholding of child support payments
1124	HF	2468	Criminal and juvenile justice planning
1125	HF	2531	Limits on state financial assistance for economic development
1126	HF	730	Real estate licensees insurance requirement
1127	SF	148	Injury to or interference with a police service dog
1128	HF	2338	Purple heart registration plates
1129	HF	2177	State hospital-schools training programs and employee records
1130	HF	2436	Prescription drug insurance restriction
1131	HF	2461	Odometer statements
1132	HF	2465	Railway tracks removal from crossings
1133	SF	2113	Pesticide ingredient statements
1134	SF	2169	Wage deductions, and non-English speaking employee services
1135	SF	2186	Fraudulent practice in procuring economic development assistance
1136	SF	2159	Labor laws
1137	SF	2245	Bridge beam construction contracts
1138	SF	2385	Value-added agricultural products and processes financial assistance
1139	SF	2197	Protection of individual rights
1140	HF	705	Economic development network
1141	HF	2271	Phase III teacher pay plans
1142	HF	2355	Hunting law violations
1143	HF	2404	Farm mediation service
1144	HF	2512	Financing E911 telephone service
1145	HF	2516	Motor vehicle service contracts
1146	SF	368	Federal jurisdiction
1147	HF	2321	Firearms regulation

1990 Regular Session
Of The
Seventy-Third General Assembly
Of The
State Of Iowa

CHAPTER 1001
LINE-OF-CREDIT MORTGAGES
S.F. 255

AN ACT relating to the priority of advances under line-of-credit mortgages.

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

Section 1. Section 654.12A, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Subject to section 572.18, if a prior recorded mortgage contains the notice prescribed in this section and identifies the maximum credit available to the borrower, then loans and advances made under the mortgage, up to the maximum amount of credit together with interest thereon, are senior to indebtedness to other creditors under subsequently recorded mortgages and other subsequently recorded or filed liens even though the holder of the prior recorded mortgage has actual notice of indebtedness under a subsequently recorded mortgage or other subsequently recorded or filed lien. So long as credit is available to the borrower, payment of the outstanding mortgage balance to zero shall not extinguish the prior recorded mortgage if it contains the notice prescribed by this section. The notice prescribed by this section for the prior recorded mortgage is as follows:

Approved February 2, 1990

CHAPTER 1002
INTERSTATE BANKING AND COMMUNITY INVESTMENT
H.F. 685

AN ACT relating to banking and other depository institutions by establishing the procedures, terms, and conditions for the acquisition by an out-of-state regional bank holding company of an interest in a bank located in Iowa or in a bank holding company owning one or more banks located in Iowa, and imposing community reinvestment disclosure requirements, establishing certain enforcement procedures, making penalties applicable, providing penalties, and providing an effective date.

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

Section 1. Section 453.6A, Code 1989, is amended to read as follows:

453.6A ELIGIBILITY FOR STATE PUBLIC FUNDS — PROCEDURES.

1. Public funds of the state shall not be deposited in a financial institution which does not demonstrate a commitment to serve the needs of the local community in which it is chartered to do business, including the needs of neighborhoods, rural areas, and small businesses in communities served by the financial institution. These needs include credit services as well as deposit services.

2. In addition to establishing a minimum interest rate for public funds pursuant to section 453.6, the committee composed of the superintendent of banking, the auditor of state or a designee and the treasurer of state shall develop a list of financial institutions eligible to accept state public funds. The committee shall require that a financial institution seeking to qualify for the list shall annually provide the committee a written statement that the financial institution has a commitment to community reinvestment consistent with the safe and sound operation of a financial institution. The committee shall accept a certified copy of the annual community reinvestment report filed by the financial institution pursuant to the federal Community Reinvestment Act, 12 U.S.C. § 2901 et seq., in satisfaction of the written statement requirement under this subsection. To qualify for the list a financial institution must demonstrate a continuing commitment to meet the credit needs of the local community in which it is chartered.

3. The committee shall develop procedures to ensure that the financial institution's statement is available and accessible for examination by citizens. The committee may require a financial institution to provide public notice inviting the public to submit comments to the financial institution regarding its community lending activities. Each financial institution shall maintain a file open to public inspection which contains the five most recent annual community reinvestment disclosure statements, public comments received on its community investment activities, and the financial institution's response to those comments. The committee shall adopt procedures for both of the following:

a. To receive information relating to a financial institution's commitment to community reinvestment.

b. To receive challenges from any person to a financial institution's continued eligibility to receive state public funds.

4. At least once a year the committee shall review any challenges that have been filed pursuant to subsection 3. The committee may hold a public hearing to consider the challenge. In considering a challenge, the committee shall review documents filed with federal regulatory authorities pursuant to the Community Reinvestment Act, 12 U.S.C. 2901 et seq. and regulations adopted pursuant to the Act, as amended to January 1, ~~1984~~ 1990. In addition, consistent with the confidentiality of financial institution records the committee shall consider other factors including, but not limited to, the following:

a. Activities conducted to determine the credit needs of the community.

b. Marketing and special credit-related programs to make citizens in the community aware of the credit services offered.

c. A description of how services actually provided satisfied the needs described under paragraph "a".

~~c~~ d. Practices intended to discourage application for types of credit set forth in the Community Reinvestment Act statement.

~~d~~ e. Geographic distribution of credit extensions, credit applications and credit denials.

~~e~~ f. Evidence of prohibited discriminatory or other illegal credit practices.

~~f~~ g. Participation in local community and rural development and redevelopment projects, and in state and federal business and economic development programs. The committee may specify by rule which programs must be included in the annual statement.

~~g~~ h. Origination or purchase of residential mortgage loans, housing rehabilitation loans, home improvement loans and business or farm loans within the community.

~~h~~ i. Ability to meet various community credit needs based on financial condition, size, legal impediments, and local economic conditions.

5. a. A person who believes a bank, savings and loan association, or savings bank has failed to meet its community reinvestment responsibility may file a complaint with the committee detailing the basis for that belief.

b. If any committee member, in the member's discretion, finds that the complaint has merit, the member may order the bank, savings and loan association, or savings bank alleged to have failed to meet its community reinvestment responsibility to attend and participate in a meeting with the complainant. The committee member may specify who, at minimum, shall represent the financial institution at the meeting. At the meeting, or at any other time, the financial institution may, but is not required to, enter into an agreement with a complainant to correct alleged failings.

c. A majority of the committee may order a bank, savings and loan association, or savings bank, against which a complaint has been filed pursuant to this subsection, to disclose such additional information relating to community reinvestment as required by the order of the majority of the committee.

d. This subsection does not preempt any other remedies available under statutory or common law available to the committee, the superintendent of banking, or aggrieved persons to cure violations of this section or chapter 524, or rules adopted pursuant to this section or chapter 524. The committee may conduct a public hearing as provided in subsection 4 based upon the same complaint. An order finding merit in a complaint and ordering a meeting is not an election of remedies.

Sec. 2. Section 524.1802, Code 1989, is amended to read as follows:

524.1802 LIMITATION.

1. A bank holding company shall not directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of a bank, savings and loan association, or savings bank, or the power to control in any manner the election of a majority of the directors of a bank, savings and loan association, or savings bank if upon the acquisition the banks, savings and loan associations, and savings banks so owned or controlled by the bank holding company would have, in the aggregate, more than ten percent of the total time and demand deposits of all banks, savings and loan associations, and savings banks in this state, as determined by the superintendent on the basis of the most recent reports of the banks, savings and loan associations, and savings banks in the state to their supervisory authorities which are available at the time of the acquisition.

2. ~~A bank holding company shall not directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of a savings and loan association or savings bank, or the power to control in any manner the election of a majority of the directors of a savings and loan association or savings bank, if upon the acquisition the associations so owned or controlled by the bank holding company would have, in the aggregate, more than ten percent of the total time and demand deposits of all associations and savings banks in this state, as determined by the superintendent on the basis of the most recent reports of the associations in the state to their supervisory authorities which are available at the time of the acquisition.~~ A bank holding company shall not acquire a bank or bank holding company pursuant to section 524.1805 or 524.1852 if, following that acquisition, those state and national banks located in this state in which out-of-state bank holding companies directly or indirectly control more than twenty-five percent of the voting shares or the power to control in any manner the election of the majority of directors would have, in the aggregate, more than thirty-five percent of the sum of the total time and demand deposits of all state and national banks located in this state plus the total time and demand deposits of all offices located in this state of savings and loan associations and savings banks, whether chartered under the law of this or another state or under federal law, as determined by the superintendent on the basis of the most recent reports of those financial institutions to their supervisory authorities.

Sec. 3. NEW SECTION. 524.1851 DEFINITIONS.

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

1. "Acquire", except in section 524.1802, subsection 1, means to directly or indirectly acquire twenty-five percent or more of the voting securities or other capital stock of, or power to control in any manner the election of a majority of the directors of, one or more banks conducting a banking business in this state or one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state.

2. "Bank holding company" means a bank holding company as defined or referred to in the federal Bank Holding Company Act of 1956, 12 U.S.C. § 1841 et seq., as amended to January 1, 1990, or a company that will become a bank holding company upon completion of an acquisition in accordance with section 524.1852.

3. "Community development corporation" means a community development corporation as defined in 42 U.S.C. § 8122.

4. "Community Reinvestment Act" means the federal Community Reinvestment Act of 1977, 12 U.S.C. § 2901 et seq., as amended to January 1, 1990.

5. "Low-income" means the income for "very low income families" as defined in section 220.1, subsection 4.

6. "Midwestern region" means the states of Illinois, Iowa, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin.

7. "Moderate-income" means the income for "lower income families" as defined in section 220.1, subsection 3.

8. "Out-of-state bank holding company" means an out-of-state bank holding company as defined or referred to in the federal Bank Holding Company Act of 1956, 12 U.S.C. § 1842(d), as amended to January 1, 1990.

9. "Regional bank holding company" means an out-of-state bank holding company located in the midwestern region other than a bank holding company authorized to make an acquisition by section 524.1805.

10. "State in which the regional bank holding company is located" means the state in which the operations of the banking subsidiaries of the regional bank holding company are "principally conducted" as defined in the federal Bank Holding Company Act of 1956, 12 U.S.C. § 1842(d), as amended to January 1, 1990. A bank holding company that is itself directly or indirectly owned or controlled by one or more bank holding companies is located in that state in which the ultimate parent bank holding company is located.

11. "Troubled bank" means a bank which has been closed by a regulatory authority or which the superintendent reasonably believes will be closed by a regulatory authority in the immediate future.

Sec. 4. NEW SECTION. 524.1852 ACQUISITIONS.

1. A regional bank holding company may directly or indirectly acquire an interest in the voting securities or other capital stock of, or power to control in any manner the election of any of the directors of, one or more banks conducting a banking business in this state or one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state.

2. Notwithstanding subsection 1, a regional bank holding company shall not directly or indirectly acquire twenty-five percent or more of the voting securities or other capital stock of, or power to control in any manner the election of a majority of the directors of, one or more banks conducting a banking business in this state or one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state without the prior approval of the superintendent and compliance with the application procedures and acquisition conditions, limitations, and requirements of this division.

Sec. 5. NEW SECTION. 524.1853 APPLICATION.

A regional bank holding company which desires to make an acquisition subject to section 524.1852, subsection 2, shall file an application with the superintendent accompanied by an application fee of ten thousand dollars payable to the superintendent. The application shall

contain such information as the superintendent may prescribe by rule as necessary or appropriate. The application shall be available for public examination upon request, except an application to acquire only a troubled bank shall not be disclosed or made available for public examination, nor shall the existence of such an application be acknowledged prior to the approval of the acquisition. The applicant shall furnish to the superintendent all of the following:

1. Information establishing that the acquisition will promote the safety and soundness of the bank or bank holding company proposed to be acquired, including the subsidiary banks of the bank holding company proposed to be acquired.

2. Information demonstrating that the applicant intends to adequately meet the convenience and needs of the communities served by the bank or subsidiary banks of the bank holding company proposed to be acquired in accordance with Iowa and federal community reinvestment requirements including, where applicable, information relating to the following:

a. Procedures proposed to be carried out by the banks or subsidiary banks of the bank holding company proposed to be acquired to ascertain the credit needs of the communities served by the banks or subsidiary banks of the bank holding company proposed to be acquired, including the extent of proposed efforts to communicate to such communities the credit services proposed to be provided by the banks or subsidiary banks of the bank holding company proposed to be acquired.

b. The extent of the proposed marketing and special credit-related programs to be conducted by the banks or subsidiary banks of the bank holding company proposed to be acquired to make the communities served by the banks or subsidiary banks of the bank holding company proposed to be acquired aware of the credit services proposed to be offered by them.

c. The extent of proposed participation by the board of directors of the bank or subsidiary banks of the bank holding company proposed to be acquired in formulating the policies and reviewing the performance of the bank or subsidiary banks of the bank holding company proposed to be acquired in meeting the purposes of the Iowa and federal community reinvestment requirements.

d. The expected geographic distribution of credit extensions, credit applications, and credit denials of the bank or subsidiary banks of the bank holding company proposed to be acquired.

e. The proposed participation, including investments by the bank or subsidiary banks of the bank holding company proposed to be acquired in local community development and redevelopment projects or programs.

f. The expected ability of the bank or subsidiary banks of the bank holding company proposed to be acquired to meet various credit needs of the communities served by the banks or subsidiary banks of the bank holding company proposed to be acquired.

3. Capital investment, loan, and dividend policies proposed by the applicant for the bank or the subsidiary banks of the bank holding company proposed to be acquired, including a discussion of the range of consumer and business services which are proposed to be offered and proposals to meet the credit needs of individuals, small businesses, and agricultural borrowers in the communities served by them.

4. Any plans of the applicant to merge, sell the assets of, or liquidate the bank, bank holding company, or the subsidiary banks of the bank holding company proposed to be acquired, or make any other major change in their business or corporate structure or management.

5. Information on how the proposed acquisition will result in net new benefits to Iowa or the communities served by the bank or subsidiary banks of the bank holding company proposed to be acquired.

6. Evidence of compliance by the subsidiary banks of the applicant in the states in which they are located with the federal Community Reinvestment Act and any applicable state community reinvestment statutes or rules.

7. Information demonstrating that the applicant intends to provide net new agricultural financing in this state. "Agricultural financing" includes credit to agricultural producers, agricultural suppliers, agricultural processors, and agricultural lenders.

Sec. 6. NEW SECTION. 524.1854 SUPERINTENDENT OF BANKING — RESPONSIBILITIES.

1. The superintendent, within thirty days of receipt of an application by a regional bank holding company to make an acquisition as authorized by this division, shall do one of the following:

a. Accept the application for processing if it is substantially complete.

b. Request additional information as may be necessary to complete the application.

c. Return the application if it is substantially incomplete.

2. If an application is accepted for processing, the superintendent shall immediately notify the applicant that the application is accepted for processing and, unless the application is solely to acquire a troubled bank, publish notice of the application in the administrative bulletin.

3. Within thirty days of acceptance of an application for processing, the superintendent shall commence an investigation into the condition of the applicant and the bank or bank holding company proposed to be acquired. The superintendent may request additional information from the applicant and require its production as a condition of approval of the application.

4. The superintendent shall approve or disapprove an application within one hundred eighty days after the filing of the complete application. The time period shall be extended upon request of the applicant.

5. In deciding whether to approve an application for an acquisition under this division, the superintendent shall determine whether the proposed acquisition will promote the general good of the state, making specific written findings on each of the following criteria. The superintendent shall not approve the application unless the superintendent finds that the proposed acquisition will be of benefit to this state upon consideration of all of the following:

a. Will result in the employment of net new funds within the state. The finding as to net new funds shall take into consideration, in addition to the applicant's plans for capital investment, such other factors as its policies on loans, investments, and dividends, and its general business operations, including the range of individual and business services to be offered and the charges for the services.

b. Will maintain a reasonable level of deposits in the acquired bank to be employed within the state.

c. Will result in the enhancement of the acquired bank's ability to meet the credit needs of its entire community, consistent with safe and sound operation of the bank. In making this determination the superintendent shall assess and consider the past performance of the existing bank subsidiaries of the applicant and of the expected future performance of the acquired bank in all of the following areas:

(1) The bank's participation, including investments, in local community development and redevelopment projects or programs.

(2) The bank's origination of residential mortgage loans, housing rehabilitation loans, home improvement and energy conservation loans, student loans, loans to women and minority-owned businesses and small business or small farm loans within its community, or the purchase of such loans originated in its community.

(3) The bank's participation in governmentally-insured, guaranteed, or subsidized loan programs for education, housing, small businesses or small farms, such as the Iowa housing finance authority, the small business administration and the farmers home administration.

(4) The bank's ability to meet various community credit needs based on its financial condition and size, legal or regulatory restrictions or requirements, local economic conditions, and other factors.

(5) Activities conducted by the bank to ascertain the credit needs of its community, including the extent of the bank's efforts to communicate with members of its community regarding the credit services being provided by the bank.

(6) The extent of the bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank.

(7) The extent of participation by the bank's board of directors in formulating the bank's policies and reviewing its performance with respect to the purposes of the federal Community Reinvestment Act.

(8) Any practices intended to discourage applications for types of credit offered by the bank.

(9) The geographic distribution of the bank's credit extensions, credit applications, and credit denials.

(10) The geographic distribution of the bank's demand deposits and time deposits, and the geographic distribution of areas with better than average deposit to loan ratios.

(11) Evidence of prohibited discriminatory or other illegal credit practices.

(12) The bank's record of opening and closing offices and providing services at offices.

(13) Any conviction for a felony within the preceding five years relating to the business of banking by any applicant or its subsidiaries, or any of their current directors or officers.

(14) The extent of foreign loan exposure and disclosure of information relating to such exposure as the superintendent may require.

d. Will not relieve any corporation of any obligation of its charter franchise.

e. Will favorably affect the economy of the state as a whole or of any area affected by the proposed transaction.

f. Will not result in banking monopoly or restraint of banking competition in the areas affected.

g. Will favorably affect borrowers or depositors of small sums.

h. Will not involve any violation of law or breach of trust.

i. Will be consistent with the public good and in the interests of the acquired bank's depositors.

j. Will not result in the acquisition of an Iowa bank by a bank or a bank holding company of inadequate safety and soundness and will not result in the impairment of the safety and soundness of the Iowa bank to be acquired.

k. Will result in net new agricultural financing in this state.

l. Will on balance have a positive effect upon the community interests of the communities served by the bank or banks to be acquired. In considering community interest factors, the superintendent may investigate in addition to the effects of the acquisition on shareholders or depositors, the effects of the acquisition on employees, suppliers, creditors, and community development. The superintendent shall consider the short-term and long-term impact upon community interests of the proposed acquisition, including the possibility that community interests may be best served by the continued independence of the bank or bank holding company to be acquired.

6. If an acquisition involves solely a troubled bank, the superintendent may waive or modify one or more limitations or conditions of this division if the superintendent determines in the superintendent's discretion that any or all of the following conditions exist:

a. The troubled bank cannot be sold unless a specific limitation or condition is modified or waived.

b. Modification or waiver of a specific limitation or condition will substantially increase the sale price received to the benefit of depositors or creditors other than shareholders.

c. Modification or waiver of a specific limitation or condition will substantially speed the sale to prevent further loss of capital.

7. The superintendent shall issue an order either approving or disapproving an application. The order shall include findings of fact based upon the application, investigation, public comments, or other submittals or evidence considered. An order disapproving an application shall list the specific reasons for disapproval.

8. Approval shall be conditioned upon the applicant entering into a contract with the superintendent providing that any bank located in this state and owned or controlled by the applicant will be operated in a manner that conforms to the findings pertaining to net new funds, maintenance of deposits and community credit needs and other findings required by subsection 5. As part of such contract, the applicant shall agree that it, as well as any Iowa bank or Iowa bank holding company acquired by it, shall provide reports and permit examinations of its

records to the extent considered necessary by the superintendent under this division to monitor and enforce the provisions of this division.

9. Appeals from a decision of the superintendent shall be pursuant to chapter 17A.

Sec. 7. NEW SECTION. 524.1855 RESTRICTIONS ON ACQUISITIONS.

1. A bank or a bank holding company acquired pursuant to this division is subject to this chapter, and all its limitations, including but not limited to, sections 524.1802, 524.1803, 524.1806, and 524.1807.

2. A regional bank holding company shall not acquire a bank or bank holding company under this division unless each of the existing bank subsidiaries of the regional bank holding company has sufficient capital to satisfy capital requirements in effect for that bank as established by the primary regulatory authority for that bank. A change in capital requirements that takes effect during the consideration of an application under this division shall be deemed in effect for purposes of this subsection.

3. A regional bank holding company shall itself have been in existence for at least three years as a condition of any acquisition, and shall not under this division acquire any of the following:

a. A bank unless the bank has been in existence and continuously operated as a bank for five or more years.

b. A bank holding company unless each of its subsidiary banks has been in existence and continuously operated as a bank for five or more years.

c. A bank holding company that has been in existence for less than three years.

4. For purposes of subsection 3, a bank or bank holding company shall be considered to have been in existence and continuously operated as a bank for the requisite period if either of the following apply:

a. The bank or bank holding company is a new bank or new bank holding company, as applicable, as a result of a consolidation of entities each of which had been in existence and continuously operated for the requisite period before the consolidation.

b. The bank or bank holding company was organized solely for the purpose of facilitating the acquisition of another bank or bank holding company that had been in existence and continuously operated for the requisite period before the acquisition.

5. For purposes of subsection 3, "subsidiary bank" does not include a bank which is not empowered to accept deposits or to make loans or to do both. This section does not apply to an acquisition by a regional bank holding company solely of a troubled bank.

6. The board of directors of a state bank or national banking association located in this state or a bank holding company located in this state may adopt an irrevocable resolution before January 1, 1991, to exempt the bank or bank holding company from the provisions of section 524.1852 for such a period of time as shall be provided in the resolution. If such a resolution is adopted, the board of directors shall file a certified copy of the resolution with the superintendent by January 1, 1991. The resolution may be renewed prior to the expiration of the period of time provided in the resolution adopted by the board of directors of the bank and filed with the superintendent, if the renewal is effective prior to the expiration of the period of time provided in the prior resolution. If such a resolution is adopted and the board of directors files a certified copy of the resolution with the superintendent as required by this subsection, the bank or bank holding company shall not be acquired directly or indirectly under section 524.1852 or acquire a bank or bank holding company outside this state until the expiration of the period of time provided in the resolution or any renewal of the resolution.

Sec. 8. NEW SECTION. 524.1856 ENFORCEMENT.

In addition to any civil penalty imposed by this division, or other relief available in law or equity, upon the superintendent's determination that the conditions of the superintendent's approval of an application have been substantially or repeatedly violated, the superintendent may order the bank holding company to do one or more of the following:

1. Cease and desist from the violation of the conditions of the superintendent's approval.

2. Forfeit the performance bond which the acquiring bank holding company posted at the time of acquisition. A bank holding company which acquires a bank or bank holding company pursuant to this division shall post a performance bond as a condition of acquisition in an amount and form determined by the superintendent, but not to exceed two hundred fifty thousand dollars and a term of five years from the date of acquisition.

3. The superintendent may assess a civil penalty to a bank holding company in violation of a condition up to five thousand dollars per violation, but not to exceed a total of two hundred fifty thousand dollars per year.

Sec. 9. NEW SECTION. 524.1857 BASIC SERVICES TRANSACTION ACCOUNT.

A bank owned or controlled by a regional bank holding company shall offer a basic services transaction account to eligible individuals. For purposes of this section:

1. "Basic services transaction account" means a transaction account that has no initial periodic service fees, allows at least six checks per month to be drawn on the account without charge, and allows at least six free electronic funds transfer transactions per month. The service fees for additional checks or electronic funds transfer transactions shall not exceed the lowest fee for similar services charged by the bank for accounts other than basic accounts.

2. "Eligible individual" means a person whose annual family income is less than the federal poverty income guidelines as published annually in the federal register by the United States department of health and human services.

Sec. 10. NEW SECTION. 524.1858 DEVELOPMENTAL LOANS.

A bank owned or controlled by a regional bank holding company shall provide, within its community, a level of developmental loans as defined by the superintendent by rule. The superintendent shall determine the level so as to maximize the availability of developmental loans within the limits of safe and sound banking practices. "Developmental loans" includes but is not limited to the following:

1. Loans for low-income and moderate-income housing, loans to community development corporations, loans to small businesses, student education loans, and energy conservation loans.

2. Loans to or equity investments in small businesses, made or originated by a small business investment company in which the bank has purchased shares or holds an equity interest, provided that either or both of the following conditions are satisfied:

a. The small business investment company has invested at least fifty percent of its investments in Iowa small businesses.

b. The small business investment company has invested at least seventy-five percent of its investments in small businesses located in Iowa or one or more contiguous states.

3. Loans within a distressed area for commercial purposes, home loans, home improvement loans, and operating loans to family farmers. The superintendent shall annually designate distressed areas. A distressed area may be designated for a geographic region smaller than a county. In designating a distressed area, the superintendent shall consider the unemployment rate, economic conditions, and credit needs of the area.

4. Agricultural loans in this state, including credit to agricultural producers, agricultural suppliers, agricultural processors, and agricultural lenders.

5. Agricultural loans to new farmers entering the profession of farming.

6. Loans for investment in a small business investment corporation, the Iowa business development finance corporation, or a similar entity designed to enhance small business development.

Sec. 11. NEW SECTION. 524.1859 ANNUAL REPORT.

The superintendent shall review the effects of this division each year, and shall file a written report of that review with the senate committee on commerce and the house of representatives committee on small business and commerce of the Iowa general assembly on or before January 31 of the following year. The report shall at minimum include all of the following:

1. A description of each acquisition under this division during the year.

2. The cumulative number of acquisitions under this division since its enactment, with subtotals for direct bank acquisitions and for bank holding company acquisitions.

3. The percentage of aggregate demand and time deposits of all financial institutions deposited in state and national banks located in this state in which out-of-state bank holding companies own or control an interest, directly or indirectly.

4. A description of each formal or informal remedial or enforcement action taken by the superintendent during the year in connection with this division. The description shall include the bank or bank holding company involved, the nature of the acts or omissions, and the outcome of the remedial or enforcement action.

5. A description of any litigation in which the superintendent or the state became a party during the year in connection with this division.

6. A description of any decision by a regulatory authority of the federal government, this state, or another state, or of a court during the year in connection with this division, and the effects, if any, of that decision upon the administration or enforcement of this division.

7. Any recommended amendments relating to this division.

8. Other information the superintendent deems pertinent.

Sec. 12. NEW SECTION. 524.1860 CHANGE OF LOCATION — DIVESTMENT.

A regional bank holding company or a bank holding company located outside of the midwestern region, other than a bank holding company authorized to acquire an Iowa bank or bank holding company pursuant to section 524.1805, shall divest itself of its interest in a state or national bank located in this state if any of the following occur:

1. The bank holding company is located outside of the midwestern region and acquires a bank located in this state.

2. The bank holding company is located outside of the midwestern region and acquires a bank holding company that directly or indirectly owns or controls a bank located in this state.

3. The regional bank holding company ceases to be located in the midwestern region while directly or indirectly owning or controlling a bank located in this state.

4. The regional bank holding company ceases to be located in the midwestern region while directly or indirectly owning or controlling a bank holding company that directly or indirectly owns or controls a bank located in this state.

The superintendent may prosecute any action or proceeding necessary to compel compliance with this section.

Sec. 13. NEW SECTION. 524.1861 INSURANCE SALES.

1. Insurance activities in Iowa of an out-of-state bank holding company and its subsidiaries are subject to regulation, including but not limited to regulation under title 20, in the same manner and to the same extent as are the insurance activities of an Iowa bank holding company and its subsidiaries.

2. An authorization for a bank chartered in this state, to engage in activities regulated under title 20, if any, does not grant the bank the ability or right to engage in such activities outside of this state.

Sec. 14. ADVISORY COUNCIL.

An advisory council is established to review the effectiveness and enforceability of the provisions of this division. The advisory council shall be composed of seven persons. Five members shall be appointed by the legislative council and two members shall be appointed by the superintendent of banking. Vacancies shall be filled by the appointing authority which appointed the person who has or is to vacate the council.

1. The members appointed by the legislative council shall meet the following requirements:

a. Two of the members shall be agricultural producers eligible for assistance from the agricultural development authority pursuant to section 175.13A.

b. Two of the members shall be businesspersons engaged in a small business as defined in section 220.1, subsection 28.

c. One of the members shall be eligible for the Iowa finance authority's residential mortgage interest reduction program pursuant to section 220.81.

2. The members appointed by the superintendent of banking shall meet the following requirements:

a. One of the members shall be employed by a bank which is not owned in whole or in part by a bank holding company.

b. One of the members shall be employed by a bank owned by a bank holding company or employed by a bank holding company.

For the purposes of this section, a bank holding company means a bank holding company as defined in section 524.1801.

The advisory council shall monitor and review the implementation of this Act and the effectiveness and enforceability of this Act. The advisory council shall meet as often as deemed necessary and shall from time to time, but not less than quarterly, recommend to the superintendent of banking the adoption of appropriate rules to maximize the effectiveness and enforceability of this Act. Members of the advisory committee shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations for those purposes to the superintendent of banking, and are subject to the budget requirements of chapter 8. Each member of the council may also be eligible to receive compensation as provided in section 7E.6. The advisory council shall from time to time, but not less than quarterly, recommend to the superintendent of banking any appropriate legislation as may be necessary to maximize the effectiveness and enforceability of this Act. The advisory council shall submit its final recommendations to the superintendent of banking not later than January 1, 1992. The banking division of the department of commerce shall provide staff support and assistance to the advisory council.

Sec. 15. SEVERABILITY.

1. If it is ultimately determined that any provision of this Act other than section 524.1852, or the application of any provision other than section 524.1852, to any person or circumstance, is invalid, the remainder of the Act and the application of the Act shall not be affected by the determination of invalidity to persons or circumstances other than those to which it is held invalid.

2. It is the express intention of the Iowa general assembly to permit interstate banking on a regional basis. Therefore, if section 524.1852 is determined by a final nonappealable order of an Iowa or federal court of competent jurisdiction to be invalid as applied or unconstitutional, this Act shall be null and void and of no further force and effect from the effective date of the final determination.

3. If before the effective date of a final determination described in subsection 2, a bank holding company directly or indirectly acquires an interest in or control of a bank located in Iowa under this Act, the bank holding company may maintain the interest acquired and may expand its holdings within the state except as otherwise limited by this chapter.

Sec. 16.

Sections 524.1851 through 524.1899 are established as a new division entitled "REGIONAL BANKING" to be added following division XVIII. The Code editor may renumber existing division XIX as division XX and renumber the sections in the divisions following division XVIII consistent with the numbering of other divisions in chapter 524.

Sec. 17.

This Act takes effect January 1, 1991.

Approved February 8, 1990

CHAPTER 1003

HUNTING LICENSES

H.F. 2114

AN ACT removing certain limitations on the issuance of nonresident deer hunting licenses and wild turkey hunting licenses and on the use of license revenues and providing an effective date.

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

Section 1. Section 110.7, subsection 3, Code Supplement 1989, is amended to read as follows:

3. A nonresident ~~hunting~~ wild turkey hunter is required to have only a nonresident wild turkey hunting license and a wildlife habitat stamp. The commission shall annually limit to ~~five~~ six 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~~ 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. 2. Section 110.8, subsection 3, Code Supplement 1989, is amended to read as follows:

3. A nonresident ~~hunting~~ deer hunter is required to have only a nonresident deer license and a wildlife habitat stamp. The commission shall annually limit to one thousand two hundred licenses the number of nonresidents allowed to have deer hunting licenses ~~for the year 1989 and establish application procedures. For subsequent years, the~~ 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. 3. NEW SECTION. 110.30 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 as many additional full-time conservation officers as can be employed with the revenues received.

Sec. 4. CONSERVATION OFFICERS.

Notwithstanding the limitation on full-time equivalent positions in 1989 Iowa Acts, chapter 311, section 6, the department shall use the revenues received from the nonresident deer and wild turkey hunting license fees pursuant to 1989 Iowa Acts, chapter 237, to employ as many new full-time conservation officers as can be employed with the revenues received. The new officers shall be employed as soon as possible after the effective date of this Act.

Sec. 5. Sections 110.28 and 110.29, Code Supplement 1989, are repealed.

Sec. 6. EFFECTIVE DATE.

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

Approved February 9, 1990

CHAPTER 1004

AGE OF AMATEUR BOXERS

H.F. 2016

AN ACT relating to the maximum age of amateur boxing participants and providing an effective date.

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

Section 1. Section 90A.10, subsection 1, Code 1989, is amended to read as follows:

1. A person ~~over the~~ age ~~of thirty~~ thirty-eight years or older shall not participate as a contestant in an organized amateur boxing contest unless each contestant participating in the contest is ~~over the~~ age ~~of thirty~~ thirty-eight years or older. A birth certificate, or other similar document, must be submitted at the time of the prefight physical examination in order to determine eligibility.

Sec. 2.

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

Approved February 9, 1990

CHAPTER 1005

CHILD AND FAMILY DAY CARE

S.F. 199

AN ACT relating to child day care by amending certain definitions and certain requirements for family day care homes.

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

Section 1. Section 237A.1, subsection 7, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

"Child day care" means the care, supervision, or guidance of a child by a person other than the parent, guardian, relative, or custodian for periods of ~~two hours or more and~~ less than twenty-four hours per day per child on a regular basis in a place other than the child's home, but does not include care, supervision, or guidance of a child by any of the following:

Sec. 2. Section 237A.1, subsection 8, Code Supplement 1989, is amended to read as follows:

8. "Child care center" or "center" means a facility providing child day care for seven or more children, except when the facility is registered as a family day care home or group day care home.

Sec. 3. Section 237A.1, subsection 9, paragraph a, Code Supplement 1989, is amended to read as follows:

a. "Family day care home" means a ~~facility~~ person or program which provides child day care to less than seven children at any one time or to less than twelve children at any one time as authorized by section 237A.3, subsection 1.

Sec. 4. Section 237A.2, unnumbered paragraph 4, Code 1989, is amended to read as follows:

A ~~facility~~ program which is not a child care center by reason of the definition of child day care in section 237A.1, subsection 7, but which provides care, supervision or guidance to a child may be issued a license if the ~~facility~~ program complies with all the provisions of this chapter.

Sec. 5. Section 237A.3, subsection 1, Code 1989, is amended to read as follows:

1. A person who operates or establishes a family day care home may apply to the department for registration under this chapter. The department shall issue a certificate of registration upon receipt of a statement from the family day care home that the home complies with rules adopted by the department. The registration certificate shall be posted in a conspicuous place in the family day care home, shall state the name of the registrant, the number of individuals who may be received for care at any one time and the address of the home, and shall include a check list of registration compliances. No greater number of children than is authorized by the certificate shall be kept in the family day care home at any one time. However, a registered or unregistered family day care home may provide care for more than six but less than twelve children at any one time for a period of less than two hours, but shall not do so unless the home does not provide care at any one time for more than six children who are not attending school full time on a regular basis. In determining the number of children cared for at any one time in a registered or unregistered family day care home, if the person who operates or establishes the home is a child's parent, guardian, relative, or custodian and the child is not attending school full time on a regular basis, the child shall be considered to be receiving child day care from the person and shall be counted as one of the children cared for in the home. The registration process may be repeated on an annual basis. A ~~facility~~ child day care provider or program which is not a family day care home by reason of the definition of child day care in section 237A.1, subsection 7, but which provides care, supervision or guidance to a child may be issued a certificate of registration under this chapter.

Approved February 20, 1990

CHAPTER 1006

PROPERTY TAX EXEMPTION FOR CERTAIN BUILDINGS

S.F. 280

AN ACT relating to the provision of economic development assistance to communities by authorizing certain property tax exemptions.

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

Section 1. Section 427.1, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 41. SPECIAL PROPERTY EXEMPTION. New construction of shell buildings by community development organizations for speculative purposes or the portion of the value added to buildings being reconstructed or renovated by community development organizations in order to become speculative shell buildings. The exemption or partial exemption shall be allowed only pursuant to ordinance of a city council or board of supervisors and shall be effective for the assessment year in which the building is first assessed for property taxation or the assessment year in which the reconstruction or renovation first adds value and all subsequent years until the property is leased or sold or for a specific time period stated in the ordinance or until the exemption is terminated by ordinance of the city council or board of supervisors which approved the exemption. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold shall not be entitled to an exemption under this subsection for subsequent years. An application shall be filed pursuant to section 427B.4 for each project for which an exemption is claimed. Upon the sale of the shell building, the shell building shall be considered new construction for purposes of section 427B.1 if used for purposes set forth in section 427B.1.

For purposes of this subsection the following definitions apply:

a. (1) "Community development organization" means an organization, which meets the membership requirements of subparagraph (2), formed within a city or county or multicommunity group for one or more of the following purposes:

(a) To promote, stimulate, develop, and advance the business prosperity and economic welfare of the community, area, or region and its citizens.

(b) To encourage and assist the location of new business and industry.

(c) To rehabilitate and assist existing business and industry.

(d) To stimulate and assist in the expansion of business activity.

(2) For purposes of this definition, a community development organization must have at least fifteen members with representation from the following:

(a) A representative from government at the level or levels corresponding to the community development organization's area of operation.

(b) A representative from a private sector lending institution.

(c) A representative of a community organization in the area.

(d) A representative of business in the area.

(e) A representative of private citizens in the community, area, or region.

b. "New construction" means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. "New construction" also includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations to market a building or structure as a speculative shell building, which determination must receive prior approval from the city council of the city or county board of supervisors of the county.

c. "Speculative shell building" means a building or structure owned and constructed or reconstructed by a community development organization without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line.

Approved February 20, 1990

CHAPTER 1007

VOTING BOOTH REQUIREMENTS

H.F. 2001

AN ACT relating to elections by revising provisions governing voting booth requirements.

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

Section 1. Section 49.25, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. The commissioner shall furnish to each precinct where voting is to be by paper ballot, special paper ballot, or ballot card, rather than by voting machine, the necessary ballot boxes, suitably equipped with seals or locks and keys, and voting booths. The voting booths shall be approved by the board of examiners for voting machines and electronic voting systems and

shall provide for voting in secrecy. At least one voting booth in each precinct shall be accessible to the handicapped. If the lighting in the polling place is inadequate, the voting booths used in that precinct shall include lights.

Sec. 2. Section 52.26, subsection 1, Code 1989, is amended to read as follows:

1. Provide for voting in secrecy, except as to persons entitled by sections 49.90 and 49.91 to assistance. The state board of examiners for voting machines and electronic voting systems shall determine whether the systems' voting booths provide for voting in secrecy.

Approved February 20, 1990

CHAPTER 1008

NAME CHANGE PETITIONS – BIRTH CERTIFICATE REQUIREMENT

H.F. 2113

AN ACT requiring name change petitioners to attach certified copies of birth certificates for each person seeking a name change to the name change petition.

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

Section 1. Section 674.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The verified petition shall be addressed to the district court of the county where the applicant resides and shall state and provide for each person seeking a name change:

Sec. 2. Section 674.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A certified copy of the birth certificate to be attached to the petition.

Approved February 20, 1990

CHAPTER 1009

POULTRY ASSOCIATIONS AID REPEALED

H.F. 2120

AN ACT to repeal a Code chapter relating to the organization, support, and functions of poultry associations.

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

Section 1. Section 159.6, subsection 9, Code Supplement 1989, is amended to read as follows:

9. State aid received by certain associations as provided in chapters 176 ~~to 184~~ through 183, and 186.

Sec. 2. Section 173.3, Code 1989, is amended to read as follows:

173.3 CERTIFICATION OF STATE AID ASSOCIATIONS.

On or before November 15 of each year, the secretary of agriculture shall certify to the secretary of the state fair board the names of the various associations and societies which have qualified for state aid under the provisions of chapters 176 ~~to~~ through 178, 180 ~~to 184~~ through

183, and 186, and which are entitled to representation in the convention as provided in section 173.2.

Sec. 3. Chapter 184, Code 1989, is repealed.

Approved February 20, 1990

CHAPTER 1010

MOTOR VEHICLE SERVICE TRADE PRACTICES

S.F. 81

AN ACT relating to consumer transactions involving the performance of repairs or service upon a motor vehicle, and imposing penalties.

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

Section 1. NEW SECTION. 537B.1 TITLE.
This chapter is entitled the "Motor Vehicle Service Trade Practices Act".

Sec. 2. NEW SECTION. 537B.2 DEFINITIONS.
As used in this chapter, unless the context otherwise requires:

1. "Consumer" means a person contracting for, or intending to contract for, repairs or service upon a motor vehicle used primarily for farm or personal use.

2. "Motor vehicle" means a motor vehicle as defined in section 321.1. However, "motor vehicle" does not include a motor vehicle, as defined in section 321.1, with a registered gross vehicle weight rating of more than twelve thousand pounds.

3. "Supplier" means a person offering to contract for repairs or service upon a motor vehicle. Supplier includes an employee or other representative of the supplier.

Sec. 3. NEW SECTION. 537B.3 REQUIRED TRADE PRACTICES.

1. If a consumer authorizes, in writing, repairs or service upon a motor vehicle prior to the commencement of the repairs or service, a conspicuous disclosure in substantially the following language shall appear on the authorization form or on a separate form provided to the consumer at the time of the authorization.

ESTIMATE

YOU HAVE THE RIGHT TO A WRITTEN OR ORAL ESTIMATE IF THE EXPECTED COST OF REPAIRS OR SERVICE WILL BE MORE THAN FIFTY DOLLARS. YOUR BILL WILL NOT BE HIGHER THAN THE ESTIMATE BY MORE THAN TEN PERCENT UNLESS YOU APPROVE A HIGHER AMOUNT BEFORE REPAIRS ARE FINISHED. INITIAL YOUR CHOICE:

_____ Written estimate.
_____ Oral estimate.
_____ No estimate.
_____ Call me if repairs and service will be more than $_____.

2. The form described in subsection 1, shall at minimum contain the following information:
a. The date.
b. The supplier's name.
c. The consumer's name and telephone number.
d. The reasonably anticipated completion date.

If a written estimate is requested, the supplier may write the written estimate on the authorization form or on another form. If the nature of repairs or service is unknown at the time that the estimate is given, the supplier may state an hourly labor charge for the work. If the consumer so requests, a copy of the written estimate shall be provided to the consumer prior to the commencement of any repairs or service.

3. If a consumer orally authorizes repairs or service upon a motor vehicle prior to the commencement of the repairs or service, the supplier shall inform the consumer of the right to receive a written or oral estimate. The supplier shall note the consumer's response on the form described in subsections 1 and 2. If the consumer requests an estimate, the supplier shall provide the estimate to the consumer prior to commencing the repairs or service.

Sec. 4. NEW SECTION. 537B.4 AFTERMARKET PARTS.

1. As used in this section:

a. "Aftermarket crash part" means a replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels, which replacement is not manufactured or marketed by the original equipment manufacturer of the motor vehicle. Aftermarket crash part does not include replacement glass for the windows, windshield, or backlight of the motor vehicle.

b. "Motor vehicle" means a motor vehicle as defined in section 321.1.

c. "Repair facility" means a motor vehicle dealer, garage, body shop, or other person, which undertakes the repair or replacement of those parts of a motor vehicle that generally constitute the exterior of a motor vehicle for a fee.

2. A repair facility shall not use aftermarket crash parts in the repair of a customer's motor vehicle without disclosing the proposed use of such parts in the estimate of repairs given to the customer prior to the repair of the motor vehicle. The estimate shall be in writing and shall clearly identify each part proposed to be used which is an aftermarket crash part. The following information shall appear in ten point type, or larger, on or attached to the estimate: "This estimate has been prepared based on the use of aftermarket crash parts supplied by a source other than the manufacturer of your motor vehicle. Any warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle."

3. An aftermarket crash part supplied for use in this state after January 1, 1991, shall have affixed or inscribed upon the part the logo or name of its manufacturer. A repair facility installing an aftermarket crash part on a motor vehicle shall install the part so that the manufacturer's logo or name is visible upon inspection after installation whenever practicable.

4. It is a deceptive act or practice for a repair facility or manufacturer or distributor of aftermarket crash parts to fail to comply with the requirements of this section.

Sec. 5. NEW SECTION. 537B.6 DECEPTIVE ACT OR PRACTICE.

It is a deceptive act or practice for a supplier to:

1. Fail to comply with the requirements of section 537B.3.

2. Make the performance of any repair or service contingent upon a consumer's waiver of any rights provided for in this chapter.

3. Fail to obtain oral or written authorization from the consumer for the anticipated cost of any additional, unforeseen, but necessary repairs or services when the cost of those repairs or services amount to more than ten percent, excluding tax, of the original estimate requested by a consumer.

4. Fail, if the anticipated cost of a repair or service is less than fifty dollars and an estimate has not been given to the consumer, to obtain oral or written authorization from the consumer for the anticipated cost of any additional unforeseen, but necessary repairs or services if the total cost of the repairs or services, if performed, will exceed fifty dollars.

5. Fail to disclose prior to the commencement of any repairs or service, that a charge will be made for disassembly, reassembly, partially completed work, or any other work not directly

related to the actual performance of the repairs or service. A charge so imposed must be directly related to the actual amount of labor or parts involved in the inspection, repair, or service.

6. Charge for any repair or service which has not been authorized by the consumer.

7. Fail to disclose upon the first contact with the consumer that any charge not directly related to the actual performance of the repair or service will be imposed by the supplier whether or not repairs or services are performed.

8. Fail to disclose upon the first contact with a consumer the basis upon which a charge will be imposed for towing the motor vehicle if that service will be performed.

9. Represent that repairs or services are necessary when that is not the fact.

10. Represent that repairs have been made or services have been performed when that is not the fact.

11. Represent that a motor vehicle or any part of a motor vehicle which is being inspected or diagnosed for a repair or service is in a dangerous condition, or that the consumer's continued use of it may be harmful, when that is not the fact.

12. Materially and intentionally understate or misstate the estimated cost of the repairs or service.

13. Fail to provide the consumer with an itemized list of repairs performed or services rendered, including a list of parts or materials and a statement of whether they are used, remanufactured or rebuilt, if not new, and their cost to the consumer, the amount charged for labor, and the identity of the individual performing the repair or service.

14. Fail to tender to the consumer any replaced parts, unless the parts are to be rebuilt or sold by the supplier, or returned to the manufacturer in connection with warranted repairs or services, and such intended reuse or return is made known to the consumer prior to commencing any repair or service. However, this subsection does not prohibit the supplier from retaining the replaced parts if the consumer so requests.

15. Fail to provide to the consumer upon the consumer's request a written, itemized receipt for any motor vehicle or part of a motor vehicle that is left with, or turned over to, the supplier for repair or service. The receipt shall include:

a. The identity of the supplier which will perform the repair or service.

b. The name and signature of the supplier or a representative who actually accepts the motor vehicle or any part of the motor vehicle.

c. A description including make and model number or other features as will reasonably identify the motor vehicle or any part of the motor vehicle to be repaired or serviced.

d. The date on which the motor vehicle or any part of the motor vehicle was left with or turned over to the supplier.

16. Fail to disclose to the consumer prior to the commencement of any repair or service, that any part of the repair or service will be performed by a person other than the supplier or the supplier's employees, if the consumer requests that information.

Sec. 6. Section 714.16, subsection 2, Code 1989, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. k. It is an unlawful practice for a supplier to commit a deceptive act or practice under chapter 537B.

NEW PARAGRAPH. l. It is an unlawful practice for a repair facility or manufacturer or distributor of aftermarket crash parts, as defined in section 537B.4, to commit a deceptive act or practice under chapter 537B.

Approved March 1, 1990

CHAPTER 1011

PRIVATE ACTIVITY BOND ALLOCATION FOR FIRST-TIME FARMERS
H.F. 2236

AN ACT to increase the percentage of the state ceiling allocated to qualified small issue bonds issued for first-time farmers, and providing an effective date.

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

Section 1. Section 7C.4A, subsection 4, Code 1989, is amended to read as follows:

4. ~~Five~~ Twelve percent of the state ceiling shall be allocated to qualified small issue bonds issued for first-time farmers. However, at any time during the calendar year the governor's designee, with the approval of the Iowa agricultural development authority, may determine that a lesser amount need be allocated to qualified small issue bonds for first-time farmers and on that date this lesser amount shall be the amount allocated for those bonds and the excess shall be allocated under subsection 6.

Sec. 2.

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

Approved March 5, 1990

CHAPTER 1012

MENTAL ILLNESS, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES LAW CONTINUED
S.F. 2082

AN ACT to indefinitely extend the effect of the Code chapter relating to persons with mental illness, mental retardation, or developmental disabilities and providing an effective date.

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

Section 1. Section 225C.24, Code 1989, is repealed.

Sec. 2. EFFECTIVE DATE.

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

Approved March 19, 1990

CHAPTER 1013

AUDITOR OF STATE'S RULEMAKING AUTHORITY FOR FEES
S.F. 2094

AN ACT providing rulemaking authority to the auditor of state to establish a fee schedule for certain services.

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

Section 1. Section 11.6, subsections 8 and 10, Code Supplement 1989, are amended to read as follows:

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 adopt rules in accordance with chapter 17A to 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.

10. The auditor of state shall adopt rules in accordance with chapter 17A to 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.

Approved March 19, 1990

CHAPTER 1014

PEACE OFFICER STATUS FOR FEDERAL LAW ENFORCEMENT OFFICERS
S.F. 2156

AN ACT giving federal law enforcement officials peace officer status in certain instances.

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

Section 1. NEW SECTION. 804.7A ARRESTS BY FEDERAL LAW ENFORCEMENT OFFICERS.

1. For purposes of this section, "federal law enforcement officer" means a person employed full time by the United States government who is empowered to effect an arrest with or without a warrant for a violation of the United States Code and who is authorized to carry a firearm in the performance of the person's duties as a federal law enforcement officer.

2. A federal law enforcement officer has the same authority, as provided in section 804.7, subsection 3, and has the same immunity from suit in this state as a peace officer, as defined in section 801.4, subsection 7, when making an arrest in this state for a nonfederal crime if either of the following exists:

a. The federal law enforcement officer has reasonable grounds for believing that an indictable public offense has been committed and has reasonable grounds for believing that the person to be arrested has committed it.

b. The federal law enforcement officer is rendering assistance to a peace officer of this state in an emergency or at the request of the peace officer.

Approved March 19, 1990

CHAPTER 1015

WITNESS COMPETENCY

S.F. 2173

AN ACT relating to the competency of a witness by amending the Iowa rules of evidence.

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

Section 1. Rule of evidence 601, Iowa court rules, third edition, is amended by striking the rule and inserting in lieu thereof the following:

RULE 601. GENERAL RULE OF COMPETENCY. Unless otherwise provided by statute or rule, every person is competent to be a witness.

Approved March 19, 1990

CHAPTER 1016

LICENSING OF HEALTH CARE FACILITIES

S.F. 2221

AN ACT requiring the department of inspections and appeals to adopt rules establishing a special license classification for an intermediate care facility, skilled nursing facility, or nursing facility or a special unit within the facility providing care to persons who suffer from chronic confusion or a dementing illness, and providing an effective date.

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

Section 1. HEALTH FACILITY SPECIAL LICENSE CLASSIFICATION – RULES REQUIRED.

The department of inspections and appeals shall adopt rules pursuant to chapter 17A establishing a special license classification for an intermediate care facility, a skilled nursing facility, or a nursing facility, which designates and dedicates the facility or a special unit within the facility to provide care for persons who suffer from chronic confusion or a dementing illness. A facility which designates and dedicates the facility or a special unit within the facility for the care of persons who suffer from chronic confusion or a dementing illness shall be licensed. A facility which does not designate and dedicate the facility or a specific unit within the facility to care for persons who suffer from chronic confusion or a dementing illness may serve the persons without a special license. However, an existing facility or unit of a facility which has designated and dedicated the facility or unit to care for persons who suffer from chronic confusion or a dementing illness must have a special license within ninety days following the date of enactment of this Act or by the date of the facility's or unit's next annual survey, whichever is later. The rules shall take effect upon filing unless a later date is specified in the rules.

Sec. 2. EFFECTIVE DATE.

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

Approved March 19, 1990

CHAPTER 1017

CONFIDENTIALITY OF COUNTY GENERAL RELIEF RECORDS

H.F. 324

AN ACT relating to the confidentiality of county general relief records, and subjecting violators to a penalty.

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

Section 1. Section 22.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 26. Applications, investigation reports, and case records of persons applying for county general relief pursuant to section 252.25.

Sec. 2. Section 252.25, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All applications, investigation reports, and case records of persons applying for county general relief under this chapter are privileged communications and confidential, subject to use and inspection only by persons authorized by law in connection with their official duties relating to financial audits and administration of this chapter or as authorized by order of a district court. Examination of an individual's applications, reports, and records may also be authorized by a signed release from the individual.

Approved March 19, 1990

CHAPTER 1018

DISPOSITION AND ACQUISITION OF SCHOOL PROPERTY

H.F. 2044

AN ACT relating to the sale, lease, or other disposition of student-constructed buildings and related school property.

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

Section 1. Section 297.22, Code 1989, is amended to read as follows:

297.22 POWER TO SELL, LEASE, OR DISPOSE OF PROPERTY — TAX.

1. The board of directors of a school district may sell, lease, or dispose of, in whole or in part, a schoolhouse, site, or other property belonging to the district. However, if the appraised value exceeds twenty-five thousand dollars, the board shall hold a public hearing before the board takes final action on the property.

Proceeds from the sale, lease or disposition of real property shall be placed in the schoolhouse fund and proceeds from the sale, lease or disposition of property other than real property shall be placed in the general fund.

Before the board of directors may sell, lease or dispose of any property belonging to the school district it shall comply with the requirements set forth in sections 297.15 to 297.20 and sections 297.23 and 297.24. Any real estate proposed to be sold shall be appraised by three disinterested freeholders residing in the school district and appointed by the chief judge of the judicial district of the county in which said real estate is located from the list of compensation commissioners.

The board of directors of a school ~~corporation~~ district may sell, lease, exchange, give, or grant, and accept any interest in real property to, with, or from a county, municipal corporation, school district, or township if the real property is within the jurisdiction of both the

grantor and grantee. In this case sections 297.15 to 297.20, sections 297.23 and 297.24, and appraisal requirements of this section do not apply to the transaction.

~~The board of directors of a school corporation may sell, lease, or dispose of a student-constructed building and the property on which the student-constructed building is located, and may purchase sites for the erection of additional structures, by any procedure which is adopted by the board.~~

The board of directors of a school ~~corporation~~ district may lease a portion of an existing school building in which the remaining portion of the building will be used for school purposes for a period of not to exceed five years. The lease may be renewed at the option of the board. Sections 297.15 to 297.20, sections 297.23 and 297.24, and the appraisal requirements of this section do not apply to the lease of a portion of an existing school building. A school ~~corporation~~ district shall pay out of the revenue from a lease to the state of Iowa, and to the city, school district and any other political subdivision authorized to levy taxes, an amount as determined by this section. The amount shall be determined by applying the annual tax rate of the taxing district to the assessed value of the portion of the building leased, prorated for the term of the lease during the appropriate taxing period. The provisions of this section relating to the payment of property tax because of leases shall only apply to leases to private, for-profit entities which lease a portion of a school building for a period of thirty or more consecutive days.

2. The provisions in subsection 1, relating to the sale, lease, or disposition of school district property do not apply to student-constructed buildings and the property on which student-constructed buildings are located. The board of directors of a school district may sell, lease, or dispose of a student-constructed building and the property on which the student-constructed building is located, and may purchase sites for the erection of additional structures, by any procedure which is adopted by the board.

Approved March 19, 1990

CHAPTER 1019

EFFECTIVE DATE OF APPROPRIATIONS FOR PROGRAMS FOR AT-RISK CHILDREN

H.F. 2132

AN ACT to change the effective date for programs for at-risk children and providing an effective date.

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

Section 1. 1989 Iowa Acts, chapter 135, section 140, is amended to read as follows:

SEC. 140. Sections 54~~,~~ and 55~~, and 76~~ of this Act take effect July 1, 1990.

Sec. 2.

Section 279.51, Code Supplement 1989, takes effect upon enactment of this Act.

Sec. 3.

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

Approved March 19, 1990

CHAPTER 1020

REPORTS TO COURT AFTER ADMISSION OF AN INDIVIDUAL INVOLUNTARILY COMMITTED TO A TREATMENT FACILITY

H.F. 2153

AN ACT relating to the fifteen-day report filed by an administrator or chief medical officer of a hospital or facility with the court after the commitment hearing in civil commitment proceedings.

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

Section 1. Section 125.83, Code 1989, is amended to read as follows:

125.83 PLACEMENT FOR EVALUATION.

If upon completion of the commitment hearing, the court finds that the contention that the respondent is a substance abuser has been sustained by clear and convincing evidence, the court shall order the respondent placed at a facility as expeditiously as possible for a complete evaluation and appropriate treatment. The court shall furnish to the facility at the time of admission, a written statement of facts setting forth the evidence on which the finding is based. The administrator of the facility shall report to the court no more than fifteen days after the individual is admitted to the facility, which shall include the chief medical officer's recommendation concerning substance abuse treatment. An extension of time may be granted for a period not to exceed seven days upon a showing of good cause. A copy of the report shall be sent to the respondent's attorney who may contest the need for an extension of time if one is requested. If the request is contested, the court shall make an inquiry as it deems appropriate and may either order the respondent released from the facility or grant extension of time for further evaluation. If the administrator fails to report to the court within fifteen days after the individual is admitted to the facility, and no extension of time has been requested, the administrator is guilty of contempt and shall be punished under chapter 665. The court shall order a rehearing on the application to determine whether the respondent should continue to be held at the facility.

Sec. 2. Section 125.84, subsections 2, 3, and 4, Code 1989, are amended to read as follows:

2. That the respondent is a substance abuser who is in need of full-time custody, care, and treatment in a facility, and is considered likely to benefit from treatment. If the report so states, the court ~~may~~ shall enter an order which may require the respondent's continued placement and commitment to a facility for appropriate treatment.

3. That the respondent is a substance abuser who is in need of treatment, but does not require full-time placement in a facility. If the report so states, the report shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court ~~may~~ shall enter an order ~~directing~~ which may direct the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment, as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 125.81 and, following notice and hearing held in accordance with the procedures of sections 125.77 and 125.82, may order the respondent treated as a patient requiring full-time custody, care, and treatment as provided in subsection 2, and may order the respondent involuntarily committed to a facility.

4. That the respondent is a substance abuser who is in need of treatment, but in the opinion of the chief medical officer is not responding to the treatment provided. If the report so states, the report shall include the facility administrator's recommendation for alternative placement, and the court ~~may~~ shall enter an order which may direct the respondent's transfer to the recommended placement or to another placement after consultation with respondent's attorney and the facility administrator who made the report under this subsection.

Sec. 3. Section 229.13, Code 1989, is amended to read as follows:

229.13 HOSPITALIZATION FOR EVALUATION.

If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has been sustained by clear and convincing evidence, it shall order the respondent placed in a hospital or other suitable facility as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment. The court shall furnish to the hospital or facility at the time the respondent arrives there a written finding of fact setting forth the evidence on which the finding is based. The chief medical officer of the hospital or facility shall report to the court no more than fifteen days after the individual is admitted to the hospital or facility, making a recommendation for disposition of the matter. An extension of time may be granted for not to exceed seven days upon a showing of cause. A copy of the report shall be sent to the respondent's attorney, who may contest the need for an extension of time if one is requested. Extension of time shall be granted upon request unless the request is contested, in which case the court shall make such inquiry as it deems appropriate and may either order the respondent's release from the hospital or facility or grant extension of time for psychiatric evaluation. If the chief medical officer fails to report to the court within fifteen days after the individual is admitted to the hospital or facility, and no extension of time has been requested, the chief medical officer is guilty of contempt and shall be punished under chapter 665. The court shall order a rehearing on the application to determine whether the respondent should continue to be held at the facility.

Sec. 4. Section 229.14, subsections 2, 3, and 4, Code 1989, are amended to read as follows:

2. That the respondent is seriously mentally impaired and in need of full-time custody, care and treatment in a hospital, and is considered likely to benefit from treatment. If the report so states, the court ~~may~~ shall enter an order which may require the respondent's continued hospitalization for appropriate treatment.

3. That the respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. If the report so states it shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court ~~may~~ shall enter an order ~~directing~~ which may direct the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 229.11 and, following notice and hearing held in accordance with the procedures of section 229.12, may order the respondent treated as a patient requiring full-time custody, care and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated the respondent is willing to submit to treatment on another basis as ordered by the court.

4. The respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further treatment in a hospital. If the report so states, the chief medical officer shall recommend an alternative placement for the respondent and the court ~~may~~ shall enter an order which may direct the respondent's transfer to the recommended placement. If the court or the respondent's attorney consider the placement inappropriate, an alternative placement may be arranged upon consultation with the chief medical officer and approval of the court.

Approved March 19, 1990

CHAPTER 1021

DISPOSITION OF DOCUMENTS BY COUNTY RECORDERS

H.F. 2324

AN ACT relating to disposition of instruments filed with the county recorder, and providing for the applicability of certain instruments.

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

Section 1. Section 331.606, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The county recorder may give the county sheriff the records filed under this chapter or chapter 695 of prior Codes pertaining to the sale and registration of weapons or may dispose of those records if the sheriff does not wish to receive the records.

Sec. 2. Section 331.609, subsection 3, paragraph a, subparagraph (2), Code Supplement 1989, is amended to read as follows:

(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 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 title and address of the official or entity certifying the lien, and the total appearing on the notice of lien. The recorder may return the original instrument to the sender or dispose of the instrument if the sender does not wish the instrument returned. A document filed in the recorder's office before July 1, 1990, may be returned to the sender or disposed of if the sender does not wish to have the document returned and if there is an official copy of that document in the recorder's office.

Sec. 3. Section 472.38, Code 1989, is amended to read as follows:

472.38 RECORD OF PROCEEDINGS.

The county recorder shall record ~~said~~ the papers, statements, and certificate in the record of deeds, and properly index ~~the same, and carefully preserve the originals as files of the recorder's office~~ them. The recorder may return the original instrument to the sender or dispose of that instrument if the sender does not wish to have the instrument returned. A document filed in the recorder's office before July 1, 1990, may be returned to the sender or disposed of if the sender does not wish to have the document returned and if there is an official copy of that document in the recorder's office.

Sec. 4. Section 547.3, Code Supplement 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 recorded under this chapter. The recorder may return the original instrument to the sender or dispose of the instrument if the sender does not wish to have the instrument returned. An instrument filed in the recorder's office before July 1, 1990, may be returned to the sender or disposed of if the sender does not wish to have the instrument returned and if there is an official copy of the instrument in the recorder's office.

Approved March 19, 1990

CHAPTER 1022

AIRPORT ZONING

H.F. 2341

AN ACT relating to airport zoning regulations by allowing conformance with federal aviation regulations.

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

Section 1. Section 329.10, subsections 2 and 3, Code 1989, are amended to read as follows:

2. a. ~~No airport~~ Airport zoning regulations adopted under this chapter ~~shall~~ may require, at the municipality's expense, the removal, lowering, or other change or alteration of any structure or tree, or ~~interfere with any~~ a change in use, not conforming to the regulations when adopted or amended, ~~except that they~~.

b. Airport zoning regulations adopted under this chapter may require ~~the~~ a property owner ~~thereof~~ to permit the municipality at its own expense to install, operate, and maintain ~~thereon such~~ on the property markers and lights as ~~may be~~ necessary to indicate to operators of aircraft the presence of the airport hazard.

3. All such regulations ~~shall~~ may provide that ~~no~~ a pre-existing nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when ~~such~~ the airport zoning regulations or amendments ~~thereto~~ to the regulations were adopted.

Approved March 19, 1990

CHAPTER 1023

CHILD FOSTER CARE LICENSING

H.F. 2498

AN ACT providing certain modifications to child foster care licensing requirements.

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

Section 1. Section 237.3, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If an agency is accredited by the joint commission on the accreditation of health care organizations under the commission's consolidated standards for residential settings or by the council on accreditation of services for families and children, the department shall modify facility licensure standards applied to the agency in order to avoid duplicating standards applied through accreditation.

Sec. 2. RULES.

The department shall adopt rules pursuant to chapter 17A to implement the provisions of this Act.

Approved March 19, 1990

CHAPTER 1024

AUTHORIZATION OF HOTEL AND MOTEL TAX BONDS
H.F. 2502

AN ACT relating to the issuance of bonds under the hotel and motel tax and providing an effective date.

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

Section 1. Section 422A.2, subsection 4, paragraph f, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

f. A city or county acting on behalf of an unincorporated area may, in lieu of calling an election, institute proceedings for the issuance of bonds under this section by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, together with the maximum rate of interest which the bonds are to bear, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city or unincorporated area at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds.

If at any time before the date fixed for taking action for the issuance of the bonds, a petition signed by three percent of the qualified electors of the city or unincorporated area, asking that the question of issuing the bonds be submitted to the qualified electors of the city or unincorporated area, the council or board of supervisors acting on behalf of an unincorporated area shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds.

The proposition of issuing bonds under this section is not approved unless the vote in favor of the proposition is equal to a majority of the vote cast.

If no petition is filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the council or board of supervisors acting on behalf of an unincorporated area may proceed with the authorization and issuance of the bonds.

Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with this paragraph.

Sec. 2.

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

Approved March 19, 1990

CHAPTER 1025

ACCESS TO VITAL STATISTICS RECORDS
H.F. 2105

AN ACT providing for access to certain vital statistics records which are at least seventy-five years old.

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

Section 1. Section 144.43, unnumbered paragraph 2, Code 1989, is amended to read as follows:

However, the following vital statistics records may be inspected and copied as of right under chapter 22 when they are in the custody of a county registrar or when they are in the custody of the state archivist and are at least seventy-five years old:

Approved March 23, 1990

CHAPTER 1026

SUBSTITUTE MEDICAL DECISION-MAKING BOARDS
H.F. 2178

AN ACT relating to state and local substitute medical decision-making boards.

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

Section 1. Section 135.28, Code Supplement 1989, is amended to read as follows:

135.28 STATE ~~EMERGENCY~~ SUBSTITUTE MEDICAL DECISION-MAKING BOARD.

A state ~~emergency~~ substitute medical decision-making board is established to formulate policy and guidelines for the operations of local ~~emergency~~ substitute medical decision-making boards, and to act if a local substitute medical decision-making board does not exist. The department, with the approval of the state substitute medical decision-making board, shall adopt rules pursuant to chapter 17A for the appointment and operation of local substitute medical decision-making boards.

The state substitute medical decision-making board is comprised of medical professionals and lay persons appointed by the director and the ~~council on human services~~ state board of health according to rules adopted by the department. The state substitute medical decision-making 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. Section 135.29, Code Supplement 1989, is amended to read as follows:

135.29 LOCAL ~~EMERGENCY~~ SUBSTITUTE MEDICAL DECISION-MAKING BOARD.

1. Each county in this state may establish and fund a local ~~emergency~~ substitute medical decision-making board. The local substitute medical decision-making board shall be comprised of medical professionals and lay persons appointed pursuant to the ~~guidelines established by the state emergency medical board~~ rules adopted by the department.

2. ~~The~~ Pursuant to rules adopted by the department, the local substitute medical decision-making board may act as a ~~surrogate~~ substitute decision maker for patients incapable of making their own medical care decisions if no other ~~surrogate~~ substitute decision maker is available to act. The local substitute medical decision-making 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 substitute medical decision-making board shall continue to act in the patient's best interests until a guardian is appointed.

3. The local substitute medical decision-making 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 substitute medical decision-making board or state substitute medical decision-making 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.

Approved March 23, 1990

CHAPTER 1027

AGRICULTURAL DRAINAGE WELLS
H.F. 2199

AN ACT relating to agricultural drainage wells and providing an effective date.

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

Section 1. Section 159.29, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

An owner of an agricultural drainage well and a landholder whose land is drained by the well or wells of another person shall develop, in consultation with the department of agriculture and land stewardship and the department of natural resources, a plan which proposes alternatives to the use of agricultural drainage wells by July 1, ~~1991~~ 1994.

Sec. 2. Section 159.29, subsection 2, paragraph b, Code 1989, is amended to read as follows:

b. An owner of an agricultural drainage well and a landholder whose land is drained by the well or wells of another person shall not be eligible for financial incentive moneys pursuant to paragraph "a" if the owner fails to register the well with the department of natural resources by ~~January 1~~ September 30, 1988, or if the owner fails to develop a plan for alternatives in cooperation with the department of agriculture and land stewardship and the department of natural resources.

Sec. 3. Section 159.29, subsection 7, Code 1989, is amended to read as follows:

7. Beginning July 1, ~~1990~~ 1993, the department shall initiate an ongoing program to meet the goal of eliminating chemical contamination caused by the use of agricultural drainage wells by January 1, 1995, based upon the findings of the report published pursuant to subsection 6.

Sec. 4. Section 159.29, subsection 8, paragraph c, Code 1989, is amended to read as follows:

c. The owner submits a written statement that approved emergency repairs are necessary and do not constitute a basis to avoid the eventual closure of the well if closure is later determined to be required. If a county board of supervisors or the board's designee approves the emergency repair of an agricultural drainage well, the county board of supervisors or the board's designee shall notify the department of natural resources of the approval within thirty days of the approval.

Sec. 5.

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

Approved March 23, 1990

CHAPTER 1028

BOUNDARY COMMISSION CONTINUED
H.F. 2212

AN ACT delaying the repeal of the Iowa boundary commission and providing an effective date.

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

Section 1. 1986 Iowa Acts, chapter 1245, section 2052, is amended to read as follows:

SEC. 2052. Section 2.91, Code 1985, is repealed effective July 1, ~~1990~~ 1993.

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

Approved March 23, 1990

CHAPTER 1029

EXCEPTION TO FIRE EXTINGUISHER REQUIREMENTS
FOR OPEN PARKING GARAGES
H.F. 2233

AN ACT relating to the installation of fire extinguishing systems in open parking garages.

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

Section 1. Section 100.39, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Any open parking garage structure which is in compliance with rules adopted by the state fire marshal.

Approved March 23, 1990

CHAPTER 1030

PENALTY FOR FAILURE TO ACKNOWLEDGE SATISFACTION OF JUDGMENT
H.F. 2364

AN ACT relating to increasing the penalty for failure to file a release and satisfaction when a judgment is paid in full.

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

Section 1. Section 624.37, Code 1989, is amended to read as follows:
624.37 SATISFACTION OF JUDGMENT — PENALTY.
When the amount due upon judgment is paid off, or satisfied in full, the party entitled to the proceeds thereof, or those acting for that party, must acknowledge satisfaction thereof upon the record of such judgment, or by the execution of an instrument referring to it, duly acknowledged and filed in the office of the clerk in every county wherein the judgment is a lien. A failure to do so ~~for~~ within thirty days after having been requested in writing shall subject the delinquent party to a penalty of ~~fifty~~ one hundred dollars plus reasonable attorney fees incurred by the party aggrieved, to be recovered in an action ~~therefor~~ for the satisfaction or acknowledgment by the party aggrieved.

Approved March 23, 1990

CHAPTER 1031

CIVIL PENALTY FOR NONCOMPLIANCE BY HEALTH CARE FACILITIES
H.F. 2368

AN ACT requiring the department of human services to adopt administrative rules which apply a civil penalty to certain health care facilities reimbursed under the medical assistance program.

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

Section 1. NEW SECTION. 249A.19 HEALTH CARE FACILITIES — PENALTY.

The department shall adopt rules pursuant to chapter 17A to assess and collect, with interest, a civil penalty for each day a health care facility which receives medical assistance reimbursements does not comply with the requirements of the federal Social Security Act, § 1919, as codified in 42 U.S.C. § 1396r. A civil penalty shall not exceed the amount authorized under section 135C.36 for health care facility violations. Any moneys collected by the department pursuant to this subsection shall be applied to the protection of the health or property of the residents of the health care facilities which are determined by the state or by the federal health care financing administration to be out of compliance. The purposes for which the collected moneys shall be applied may include payment for the costs of relocation of residents to other facilities, maintenance or operation of a health care facility pending correction of deficiencies or closure of the facility, and reimbursing residents for personal funds lost. If a health care facility is assessed a civil penalty under this section, the health care facility shall not be assessed a penalty under section 135C.36 for the same violation.

Approved March 23, 1990

CHAPTER 1032

NOTIFICATION OF HAZARDOUS CONDITIONS TO WATER SUPPLY SYSTEM OPERATORS

H.F. 2401

AN ACT relating to the reporting of a hazardous condition involving a hazardous substance to the department of natural resources, to the local law enforcement agency, and to operators of affected public or private water supply systems.

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

Section 1. Section 455B.386, Code 1989, is amended to read as follows:

455B.386 NOTIFICATION OF SPILLS – PENALTY.

A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the department, and the local police department, or the office of the sheriff of the affected county of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. A sheriff or police chief who has been notified of a hazardous condition shall immediately notify the department. The department, upon receiving notice of a hazardous condition, shall immediately notify the operator of any public water supply system or private water supply system which may be affected by the hazardous condition. If requested, a person shall submit within thirty days of the department's request a written report of particulars of the incident. A person violating this section is subject to a civil penalty of not more than one thousand dollars.

Approved March 23, 1990

CHAPTER 1033

EMPLOYEE ACCESS TO PERSONNEL FILES
H.F. 2405

AN ACT relating to access to personnel employment files by public and private employees.

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

Section 1. NEW SECTION. 91B.1 FILES – ACCESS BY EMPLOYEES.

An employee, as defined in section 91A.2, shall have access to and shall be permitted to obtain a copy of the employee's personnel file maintained by the employee's employer, as defined in section 91A.2, including but not limited to performance evaluations, disciplinary records, and other information concerning employer-employee relations.

However, an employee's access to a personnel file is subject to all of the following:

1. The employer and employee shall agree on the time the employee may have access to the employee's personnel file, and a representative of the employer may be present.
2. An employee shall not have access to employment references written for the employee.
3. An employer may charge a reasonable fee for each copy made by the employer for an employee of an item in the employee's personnel file, except that the total amount charged for all copies made cannot exceed five dollars.

Approved March 23, 1990

CHAPTER 1034

RELEASE OF INFORMATION RELATING TO AN ABSENT PARENT BY CHILD SUPPORT RECOVERY UNIT
H.F. 2421

AN ACT providing authority under certain conditions for the release of information by the child support recovery unit to certain persons and to other units of the department of human services.

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

Section 1. Section 252B.9, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

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~~ federal Social Security Act. However, information relating to the location of an absent parent shall be made available, pursuant to federal regulations, to 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. Unless otherwise prohibited by federal statute or regulation, the child support recovery unit shall release information relating to an absent parent to another unit of the department pursuant to a written request for the information approved by the director.

Approved March 23, 1990

CHAPTER 1035

AFFIDAVIT OF SURVIVING SPOUSE TO CHANGE TITLE TO REAL PROPERTY

H.F. 2423

AN ACT relating to establishing title where a surviving spouse is a joint tenant of real estate with a deceased spouse.

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

Section 1. Section 558.66, Code 1989, is amended to read as follows:

558.66 TITLE DECREE — ENTRY ON TRANSFER BOOKS.

Upon receipt of a certificate from the clerk of the district court or an appellate court that the title to real estate has been finally established in any named person by judgment or decree or by will or by affidavit of the surviving spouse, the auditor shall enter the information in the certificate upon the transfer books, upon payment of a fee in the amount specified in section 331.507, subsection 2, paragraph "a", which fee shall be taxed as court costs, collected by the clerk, and paid to the treasurer by the recorder as provided in section 331.902, subsection 3.

An affidavit of the surviving spouse shall be filed with the clerk only when real estate owned by a decedent, who died on or after January 1, 1988, was held in joint tenancy with right of survivorship solely with the surviving spouse and shall be in the following form:

AFFIDAVIT OF SURVIVING SPOUSE FOR CHANGE OF TITLE TO REAL ESTATE

STATE OF IOWA)

) ss:

COUNTY OF)

I, , being first duly sworn on oath, depose and state as follows:

1. I am the surviving spouse of , who died on the day of , 19 .

2. The following described real estate was owned only by and this Affiant, as joint tenants with full rights of survivorship at the time of my spouse's death:

3. I hereby request that the Clerk of Court certify the change of title to the above described real estate to the County Auditor pursuant to Section 602.8102(10) of the Iowa Code.

Subscribed and sworn to before me this day of , 19 .

Notary Public in and for the State of Iowa

Sec. 2. Section 602.8102, subsection 10, Code Supplement 1989, is amended to read as follows:

10. When title to real estate is finally established in a person by a judgment or decree of the district court or by decision of an appellate court or when the title to real estate is changed by judgment, decree, will, proceeding, filing of an affidavit of the surviving spouse pursuant to section 558.66, or order in probate, certify the final decree, judgment, affidavit of the surviving spouse, or decision under seal of the court to the auditor of the county in which the real estate is located.

Approved March 23, 1990

CHAPTER 1036

ESTATE CLAIMS, VOLUNTARY CONSERVATORSHIPS, AND VOLUNTARY TRUSTS
H.F. 2425

AN ACT relating to certain trust and estate documents by providing for notice requirements for claims against an estate, the validity of a voluntary trust, and voluntary petitions for conservatorships and their required contents.

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

Section 1. Section 633.230, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An action based upon the failure to give notice by mail required by this section, section 633.304 or 633.305, to heirs of a decedent or to persons known by the personal representative to own or possess a claim in any estate in which the personal representative was discharged prior to July 1, 1989, shall not be maintained in any court in this state unless commenced prior to July 1, 1991.

Sec. 2. Section 633.591, Code Supplement 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, if executed on or after July 1, 1989, shall advise the proposed ward of a conservator's powers as provided in section 633.576.

Sec. 3. NEW SECTION. 682.60A VALIDITY OF VOLUNTARY TRUSTS.

A voluntary trust is not invalid, merged, or terminated if the trustor is also the sole trustee or a cotrustee, and a beneficiary during the trustor's lifetime.

Approved March 23, 1990

CHAPTER 1037

PUBLIC EMPLOYMENT RELATIONS BOARD
AND EMPLOYEE ORGANIZATION DUTIES
H.F. 2460

AN ACT relating to remedial relief for public employment relations violations and to unfair representation by a bargaining representative of a public employee.

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

Section 1. Section 20.1, subsection 2, Code 1989, is amended to read as follows:

2. Adjudicating prohibited practice complaints ~~and fashioning appropriate remedial relief for violations of this chapter~~ including the exercise of exclusive original jurisdiction over all claims alleging the breach of the duty of fair representation imposed by section 20.17.

Sec. 2. Section 20.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Fashioning appropriate remedial relief for violations of this chapter, including but not limited to the reinstatement of employees with or without back pay and benefits.

Sec. 3. Section 20.17, subsection 1, Code Supplement 1989, is amended to read as follows:

1. The employee organization certified as the bargaining representative shall be the exclusive representative of all public employees in the bargaining unit and shall represent all public employees fairly. However, any public employee may meet and adjust individual complaints with a public employer. To sustain a claim that a certified employee organization has committed a prohibited practice by breaching its duty of fair representation, a public employee must establish by a preponderance of the evidence action or inaction by the organization which was arbitrary, discriminatory, or in bad faith.

Approved March 23, 1990

CHAPTER 1038

SMALL CLAIMS COURT JURISDICTION OVER EXECUTIONS AND GARNISHMENTS

H.F. 2471

AN ACT relating to the jurisdiction of small claims court over executions of personal property, including garnishments, and providing for the Act's applicability.

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

Section 1. Section 631.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to executions against personal property, including garnishments, where the value of the property or garnisheed money involved is two thousand dollars or less.

Sec. 2.

This Act is applicable to all actions filed on or after the effective date of the Act.

Approved March 23, 1990

CHAPTER 1039

HEALTH CARE FACILITIES

H.F. 2489

AN ACT relating to health care facilities, providing a penalty, and providing an effective date.

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

Section 1. Section 135B.33, subsection 5, Code 1989, is amended to read as follows:

5. An analysis of community health needs, ~~specifically~~ including long-term care ~~needs, including intermediate care facility and skilled~~ nursing facility care, pediatric and maternity services, and the health facilities' potential role in facilitating the provision of services to meet these needs.

Sec. 2. Section 135C.1, subsections 2 and 3, Code 1989, are amended by striking the subsections.

Sec. 3. Section 135C.1, subsection 4, Code 1989, is amended to read as follows:

4. "Health care facility" or "facility" means ~~any~~ a residential care facility, ~~intermediate care facility, or skilled~~ a nursing facility, an intermediate care facility for the mentally ill, or an intermediate care facility for the mentally retarded.

Sec. 4. Section 135C.1, subsection 18, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

18. "Intermediate care facility for the mentally ill" means an institution, place, building, or agency designed to provide accommodation, board, and nursing care for a period exceeding twenty-four consecutive hours to three or more individuals, who primarily have mental illness and who are not related to the administrator or owner within the third degree of consanguinity.

Sec. 5. Section 135C.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 20. "Nursing facility" means an institution or a distinct part of an institution housing three or more individuals not related to the administrator or owner within the third degree of consanguinity, which is primarily engaged in providing health-related care and services, including rehabilitative services, but which is not engaged primarily in providing treatment or care for mental illness or mental retardation, for a period exceeding twenty-four consecutive hours for individuals who, because of a mental or physical condition, require nursing care and other services in addition to room and board.

NEW SUBSECTION. 21. "Intermediate care facility for the mentally retarded" means an institution or distinct part of an institution with a primary purpose to provide health or rehabilitative services to three or more individuals, who primarily have mental retardation or a related condition and who are not related to the administrator or owner within the third degree of consanguinity, and which meets the requirements of this chapter and 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. § 1936d which are contained in 42 C.F.R. pt. 483, subpt. D, § 410-480.

Sec. 6. Section 135C.2, subsection 3, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The department shall establish by administrative rule, ~~within the intermediate care facility category, a special classification for facilities intended to serve mentally retarded individuals, and~~ within the residential care facility category, a special classification for residential facilities intended to serve mentally ill individuals. The department may also establish by administrative rule ~~other classifications within that category, or~~ special classifications within the residential care facility, intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, or ~~skilled~~ nursing facility categories, for facilities intended to serve individuals who have special health care problems or conditions in common. Rules establishing a special classification shall define the problem or condition to which the special classification is relevant and establish requirements for an approved program of care commensurate with the problem or condition, and may grant special variances or considerations to facilities licensed within the special classification ~~so established~~.

Sec. 7. Section 135C.3, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

135C.3 NATURE OF CARE.

1. A licensed nursing facility shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed nurse. Medical and nursing services must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the nursing facility must be based on a physician's written order certifying that the individual being admitted requires no greater degree

of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing.

2. A licensed intermediate care facility for the mentally ill shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed registered nurse, who has had at least two years of recent experience in a chronic or acute psychiatric setting. Medical and nursing service must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the intermediate care facility for the mentally ill must be based on a physician's written order certifying that the individual being admitted requires no greater degree of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing.

Sec. 8. Section 135C.19, subsection 3, Code 1989, is amended to read as follows:

3. If the facility cited subsequently advises the department of human services that the violation has been corrected to the satisfaction of the department of ~~health~~ inspections and appeals, the department of human services must maintain this advisory in the same file with the copy of the citation. The department of human services shall not disseminate to the public any information regarding citations issued by the department of ~~health~~ inspections and appeals, but shall forward or refer such inquiries to the department of ~~health~~ inspections and appeals.

Sec. 9. Section 135C.23, subsection 2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, ~~skilled~~ nursing facility, or county care facility when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, ~~skilled~~ nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, ~~skilled~~ nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, ~~skilled~~ nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and mental retardation commission, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities for the mentally ill, intermediate care facilities for the mentally retarded, ~~skilled~~ nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

Sec. 10. Section 135C.39, unnumbered paragraph 2, Code Supplement 1989, is amended by striking the paragraph.

Sec. 11. NEW SECTION. 135C.45A NOTIFICATION PENALTY.

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 of the facility is scheduled, is subject to an administrative penalty of not less than one thousand dollars and not more than two thousand dollars.

Sec. 12. Section 135E.1, subsection 3, Code 1989, is amended to read as follows:

3. "Nursing home" means an institution or facility, or part ~~thereof~~ of an institution or facility, whether proprietary or nonprofit, licensed as ~~an intermediate care facility or~~ a ~~skilled~~ nursing facility, but not including an intermediate care facility for the mentally retarded or an intermediate care facility for the mentally ill, defined as such for licensing purposes under state law or ~~pursuant to the rules for nursing homes promulgated by the state board of health, in consultation with the department of inspections and appeals, whether proprietary or nonprofit~~ administrative rule adopted pursuant to section 135C.2, including but not limited to, a nursing ~~homes~~ home owned or administered by the federal or state government or an agency or political subdivision of government.

Sec. 13. Section 225C.37, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A parent or legal guardian of a family member who is a resident of or being considered for placement in a state hospital-school, ~~a community-based~~ an intermediate care facility ~~which is intended to serve~~ for the mentally retarded ~~individuals or persons with developmental disabilities~~, a child foster care group home, a child foster care family home, or a state mental health institute may apply to the local office of the department for the family support subsidy program. The application shall include:

Sec. 14. Section 237.1, subsection 3, paragraph e, Code 1989, is amended to read as follows:

e. Care furnished in a hospital licensed under chapter 135B or care furnished in ~~an intermediate care facility or~~ a ~~skilled~~ nursing facility licensed under chapter 135C.

Sec. 15. Section 249A.2, subsection 5, Code Supplement 1989, is amended to read as follows:

5. "Discretionary medical assistance" means medical assistance or additional medical assistance provided to individuals whose income and resources are in excess of eligibility limitations but are insufficient to meet all of the costs of necessary medical care and services, provided that if the assistance includes services in institutions for mental diseases or intermediate care ~~facility services~~ facilities for the mentally retarded, or both, for any group of such individuals, the assistance also includes for all covered groups of such individuals at least the care and services enumerated in Title XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), and (17), as codified in 42 U.S.C. ~~sec.~~ § 1396d(a), pars. (1) through (5), and (17), or any seven of the care and services enumerated in Title XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (7) and (9) through (18), as codified in 42 U.S.C. ~~sec.~~ § 1396d(a), pars. (1) through (7), and (9) through (18).

Sec. 16. Section 422.45, subsection 22, paragraph a, Code Supplement 1989, is amended to read as follows:

a. Residential care facilities and intermediate care facilities for the mentally retarded and residential care facilities for the mentally ill licensed by the department of ~~health~~ inspections and appeals under chapter 135C.

Sec. 17. Section 514D.5, subsection 5, Code 1989, is amended to read as follows:

5. The commissioner shall adopt rules prohibiting the advertising of forms titled as "nursing home" forms or inferring coverage for custodial care in ~~an intermediate care~~ a nursing facility as defined in section 135C.1 unless such forms provide coverage for custodial care in ~~an intermediate care~~ a nursing facility as defined in section 135C.1.

Sec. 18. Section 514E.4, subsection 5, Code 1989, is amended to read as follows:

5. Services of a ~~skilled~~ nursing facility as defined in section 135C.1, ~~subsection 3, or services in an intermediate care facility as defined in section 135C.1, subsection 2, to the same extent as the services would be paid in a skilled nursing facility,~~ for not more than one hundred eighty days in a calendar year.

Sec. 19. 1989 Iowa Acts, chapter 241, section 7, is repealed.

Sec. 20. EFFECTIVE DATE.

This Act takes effect October 1, 1990.

Approved March 23, 1990

CHAPTER 1040

CIVIL RIGHTS COMMISSION'S RELEASE TO COMMENCE ACTION

S.F. 182

AN ACT relating to the commencement in the district court of certain civil rights actions involving administrative closures.

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

Section 1. Section 601A.16, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. The complaint has been on file with the commission for at least ~~one hundred twenty~~ sixty days and the commission has issued a release to the complainant pursuant to subsection 2 of this section.

Sec. 2. Section 601A.16, subsection 2, Code 1989, is amended to read as follows:

2. Upon a request by the complainant, and after the expiration of ~~one hundred twenty~~ sixty days from the timely filing of a complaint with the commission, the commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the district court. A release under this subsection shall not be issued if a finding of no probable cause has been made on the complaint by the administrative law judge charged with that duty under section 601A.15, subsection 3, ~~or~~ a conciliation agreement has been executed under section 601A.15, ~~or~~ the commission has served notice of hearing upon the respondent pursuant to section 601A.15, subsection 5, or the complaint is closed as an administrative closure and two years have elapsed since the issuance date of the closure.

Notwithstanding section 601A.15, subsection 4, a party may obtain a copy of all documents contained in a case file where the commission has issued a release to the complainant pursuant to this subsection.

Approved March 26, 1990

CHAPTER 1041

OBTAINING DEPOSITIONS IN OTHER JURISDICTIONS

S.F. 460

AN ACT relating to obtaining depositions in a foreign jurisdiction.

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

Section 1. 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.

Approved March 26, 1990

CHAPTER 1042

DISPOSAL OF FORFEITED WEAPONS
S.F. 2137

AN ACT providing for the disposal of forfeited weapons.

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

Section 1. Section 809.21, Code 1989, is amended to read as follows:
809.21 SALE OF CERTAIN AMMUNITION AND FIREARMS.
Ammunition and firearms which are not illegal and which are not offensive weapons as defined by section 724.1 may be sold by the department of public safety at public auction. The department of public safety may sell at public auction forfeited legal weapons received from the director of the department of natural resources, except that rifles and shotguns shall be retained by the department of natural resources for disposal according to its rules. The sale of ammunition or firearms pursuant to this section shall be made only to federally licensed firearms dealers or to persons who have a permit to purchase the firearms. Persons who have not obtained a permit may bid on firearms at the public auction. However, persons who bid without a permit must post a fifty percent of purchase price deposit with the commissioner of public safety on any winning bid. No transfer of firearms may be made to a person bidding without a permit until such time as the person has obtained a permit. If the person is unable to produce a permit within two weeks from the date of the auction, the person shall forfeit the fifty percent deposit to the department of public safety. All proceeds of a public auction pursuant to this section, less department expenses reasonably incurred, shall be deposited in the general fund of the state. The department of public safety shall be reimbursed from the proceeds for the reasonable expenses incurred in selling the property at the auction.

Approved March 26, 1990

CHAPTER 1043

POSTCONVICTION JUDGMENT APPEALS
S.F. 2139

AN ACT relating to the appeal process for certain postconviction procedures.

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

Section 1. Section 663A.9, Code 1989, is amended to read as follows:
663A.9 APPEAL.
An appeal from a final judgment entered under this chapter may be taken, perfected, and prosecuted either by the applicant or by the state in the manner and within the time after judgment as provided in the rules of appellate procedure for appeals from final judgments

in criminal cases. However, if the applicant is seeking an appeal under section 663A.2, subsection 6, the appeal shall be by writ of certiorari.

Approved March 26, 1990

CHAPTER 1044

OWNERSHIP AND THEFT OF FISH IN A PRIVATE HATCHERY
S.F. 2290

AN ACT relating to the theft of fish from private fish hatcheries.

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

Section 1. Section 109.2, Code 1989, is amended to read as follows:
109.2 STATE OWNERSHIP AND TITLE – EXCEPTIONS.
The title and ownership of all fish, mussels, clams, and frogs in any of the public waters of the state, and in all ponds, sloughs, bayous, or other land and waters adjacent to any public waters stocked with fish by overflow of public waters, and of all wild game, animals, and birds, including their nests and eggs, and all other wildlife, found in the state, whether game or nongame, native or migratory, except deer in parks and in public and private preserves, the ownership of which was acquired prior to April 19, 1911, are hereby declared to be in the state, except as otherwise in this chapter provided. The title and ownership of all fish in private fish hatcheries, as defined in section 109.64, shall be in private persons.

Sec. 2. Section 109.64, Code 1989, is amended by adding the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. All fish in a private fish hatchery are private property and are not the property of the state, and the theft of fish from a private fish hatchery is punishable as provided in section 714.2.

Approved March 26, 1990

CHAPTER 1045

APPROVAL OF COMMERCIAL WEIGHING AND MEASURING DEVICES AND SERVICERS
S.F. 2363

AN ACT relating to commercial weighing and measuring, and providing an effective date.

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

Section 1. Section 215.14, Code 1989, is amended by striking the section and inserting in lieu thereof the following:
215.14 APPROVAL BY DEPARTMENT.
A commercial weighing and measuring device shall not be installed in this state unless approved by the department. All livestock scales and pit type scales, regardless of capacity, installed on or after July 1, 1990, shall have a clearance of not less than four feet from the finished floor line of the scale to the bottom of the "I" beam of the scale bridge. Livestock

shall not be weighed on any scale other than a livestock scale or pit type scale. An electronic pitless scale shall be placed on concrete footings with concrete floor. After approval by the department, the specifications for a commercial weighing and measuring device shall be furnished to the purchaser of the device by the manufacturer. The approval shall be based upon the recommendation of the United States national institute of standards and technology.

Sec. 2. Section 215.23, Code 1989, is amended to read as follows:

215.23 SERVICER'S LICENSE.

A servicer shall not install, service, or repair a commercial weighing or measuring device until the servicer has demonstrated that the servicer has available adequate testing equipment, and that the servicer possesses a working knowledge of all devices the servicer intends to install or repair and of all appropriate weights, measures, statutes, and rules, as evidenced by passing a qualifying examination to be conducted by the department and obtaining a license. The secretary of agriculture shall establish by rule pursuant to chapter 17A, requirements for and contents of the examination. In determining these qualifications, the secretary shall consider the specifications of the United States national ~~bureau~~ institute of standards and technology, handbook forty-four, "specifications, tolerances, and technical requirements for commercial weighing and measuring devices", or the current successor or equivalent specifications adopted by the United States national institute of standards and technology. The secretary shall require an annual license fee of not more than five dollars for each license. Each license shall expire one year from date of issuance.

Sec. 3. CHANGE OF NAME.

1. Sections 100.19 and 213.2, Code 1989, are amended by striking from the sections the words "national bureau of standards" and inserting in lieu thereof the words "United States national institute of standards and technology".

2. Section 210.1, Code 1989, is amended by striking from the section the words "federal bureau of standards" and inserting in lieu thereof the words "United States national institute of standards and technology", and by striking from the section the words "said bureau" and inserting in lieu thereof the words "the institute".

3. Sections 215.18 and 409.31, Code 1989, are amended by striking from the sections the words "United States bureau of standards" or "U. S. bureau of standards" and inserting in lieu thereof the words "United States national institute of standards and technology".

Sec. 4.

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

Approved March 26, 1990

CHAPTER 1046

WORKERS' COMPENSATION OPTIONS FOR OFFICIALS

S.F. 2155

AN ACT relating to the computation of workers' compensation benefits for elected and appointed officials.

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

Section 1. Section 85.36, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. In computing the compensation to be allowed an elected or appointed official, the official may choose either of the following payment options:

a. The official shall be paid an amount of compensation based on the official's weekly earnings as an elected or appointed official.

b. The earnings of the official as an elected or appointed official shall be disregarded and the official shall be paid an amount equal to one hundred forty percent of the statewide average weekly wage.

Sec. 2.

This Act applies to personal injuries arising out of and in the course of employment sustained or incurred on or after the effective date of this Act.

Approved March 26, 1990

CHAPTER 1047

IOWA LOGO AUTHORIZATION – IMMUNITY FROM LIABILITY

S.F. 2252

AN ACT relating to the Iowa logo program and the use of the logo.

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

Section 1. Section 15.108, subsection 2, paragraph b, Code Supplement 1989, is amended to read as follows:

b. Aid in the marketing and promotion of Iowa products and services. The department may adopt, subject to the approval of the board, a label or trademark identifying 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. In authorizing the use of a marketing label or trademark to an applicant, the state, and any state agency, official, or employee involved in the authorization, is immune from a civil suit for damages, including but not limited to a suit based on contract, breach of warranty, negligence, strict liability, or tort. Authorization of the use of a marketing label or trademark by the state, or any state agency, official, or employee, is not an express or implied guarantee or warranty concerning the safety, fitness, merchantability, or use of the applicant's product or service. This paragraph does not create a duty of care to the applicant or any other person.

Approved March 26, 1990

CHAPTER 1048

LIST OF CERTIFIED OPHTHALMIC DISPENSERS – REQUIREMENT DELETED

S.F. 2257

AN ACT relating to the distribution of lists of certified ophthalmic dispensers.

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

Section 1. Section 153A.7, Code 1989, is amended to read as follows:

153A.7 RECORD.

The department shall enter the name, location, number of years of practice of the person to whom the certificate as an ophthalmic dispenser is issued, the number of the certificate,

and the date the certificate is issued in a registry book. The registry book is open to the public. ~~In addition, the department shall send a list containing the names and addresses of each certified ophthalmic dispenser to each physician and surgeon, osteopathic physician, osteopathic physician and surgeon, and optometrist licensed to practice in this state. The list shall be made available to patients.~~

Approved March 26, 1990

CHAPTER 1049

CHILDREN'S PARTICIPATION IN EXTRACURRICULAR ACTIVITIES
S.F. 2322

AN ACT relating to participation in extracurricular interscholastic contests and competitions by certain children.

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

Section 1. NEW SECTION. 256.46 RULES FOR PARTICIPATION IN EXTRACURRICULAR ACTIVITIES BY CERTAIN CHILDREN.

The state board shall adopt rules that permit a child who does not meet the residence requirements for participation in extracurricular interscholastic contests or competitions sponsored or administered by an organization as defined in section 280.13 to participate in the contests or competitions immediately if the child is duly enrolled in a school, is otherwise eligible to participate, and meets one of the following circumstances or a similar circumstance: the child has been adopted; the child is placed under foster or shelter care; the child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship; the child is or has been a foreign exchange student; the child has been placed in a juvenile correctional facility; the child is a ward of the court or the state; or the child is a participant in a substance abuse or mental health program.

Approved March 26, 1990

CHAPTER 1050

SUPPORT OBLIGATIONS PAID FROM GARNISHEED MONEYS
H.F. 512

AN ACT relating to the payment of a support obligation out of garnisheed funds.

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

Section 1. NEW SECTION. 642.24 GARNISHMENTS – SUPPORT PAYMENT PRIORITY.

The court shall include in any order for garnishment a requirement that any amount garnisheed for the payment of a support obligation, whether or not the amount represents a current or delinquent support obligation, shall first be paid out of the garnisheed funds, after

subtracting applicable fees related to the issuance of the specific garnishment, before any amounts garnisheed for other purposes are paid out of the garnisheed funds.

Approved March 26, 1990

CHAPTER 1051

MISSING PERSON DEFINITION

H.F. 2103

AN ACT relating to missing person reports to law enforcement agencies by amending the definition of missing person to conform with a definition used by the national crime information center.

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

Section 1. Section 694.1, subsection 2, Code 1989, is amended to read as follows:

2. ~~Was, or is, in the company of another person~~ Is missing under circumstances indicating that the ~~missing~~ person's safety may be in danger.

Approved March 26, 1990

CHAPTER 1052

NAME OF FATHER ON BIRTH CERTIFICATE

H.F. 2104

AN ACT requiring the Iowa department of public health to enter the name of the father on the certificate of birth upon a determination of paternity by a court of competent jurisdiction.

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

Section 1. Section 144.13, unnumbered paragraphs 2 and 3, Code 1989, are amended to read as follows:

If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

If the mother was not married either at the time of conception or birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and the person to be named as the father, unless a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

Approved March 26, 1990

CHAPTER 1053

CRIMINAL HISTORY DATA DEFINITION
H.F. 2109

AN ACT relating to computer data storage of records of a criminal justice agency after acquittal or dismissal of charges.

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

Section 1. Section 692.17, Code 1989, is amended to read as follows:

692.17 EXCLUSIONS.

Criminal history data in a computer data storage system shall not include arrest or disposition data after the person has been acquitted or the charges dismissed.

For the purposes of this section, "criminal history data" includes information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data set forth in section 692.1.

Approved March 26, 1990

CHAPTER 1054

ACCIDENT REPORT COPIES
H.F. 2118

AN ACT relating to vehicle accident reports.

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

Section 1. Section 321.271, unnumbered paragraph 1, Code 1989, is amended to read as follows:

All accident reports filed by a driver of a vehicle involved in an accident as required under section 321.266 shall be in writing. The report shall be without prejudice to the individual so reporting and shall be for the confidential use of the department, except that upon the request of any person involved in the accident, the person's insurance company or its agent, or the attorney for such person, the department shall disclose the identity and address of the person involved in the accident. The department, upon written request of the person making the report, shall provide the person with a copy of that person's report. The written report filed with the department shall not be admissible in or used in evidence in any civil or criminal case arising out of the facts on which the report is based.

Sec. 2. Section 321.271, unnumbered paragraph 2, Code 1989, is amended to read as follows:

All written reports filed by a law enforcement officer as required under section 321.266 shall be made available to any party to an accident, the party's insurance company or its agent, ~~or~~ the party's attorney, or the attorney general, on written request to the department and the payment of a fee of four dollars for each copy. If a copy of an investigating officer's report of a motor vehicle accident filed with the department is retained by the law enforcement agency of the officer who filed the report, a copy shall be made available to any party to the accident, the party's insurance company or its agent, ~~or~~ the party's attorney, or the attorney general, on written request and the payment of a fee. The attorney general shall not be required by the department or the law enforcement agency to pay a fee for a copy of a report filed by a law enforcement or investigating officer.

Approved March 26, 1990

CHAPTER 1055

ADDITIONAL DISTRICT JUDGE FOR PENITENTIARY'S DISTRICT
H.F. 2045

AN ACT relating to the appointment of an additional district judge for the district which includes the Iowa state penitentiary.

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

Section 1. Section 602.6201, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. All other judicial election districts are entitled to the number of judgeships equal to the average, rounded to the nearest whole number, of the following two quotients, each rounded to the nearest hundredth:

(1) The combined civil and criminal filings in the election district divided by four hundred fifty.

(2) The election district's population divided by forty thousand.

However, the judicial election district in which the Iowa state penitentiary is located is entitled to one additional judgeship.

Sec. 2. Section 602.6201, subsection 10, Code 1989, is amended to read as follows:

10. Notwithstanding the formula for determining the number of judgeships in this section, the number of district judges shall not exceed one hundred one during the period commencing ~~January~~ July 1, ~~1987~~ 1990.

Approved March 26, 1990

CHAPTER 1056

MANDATORY DOMESTIC ABUSE ARRESTS
H.F. 2160

AN ACT relating to mandatory domestic abuse arrests and providing guidelines concerning a primary physical aggressor.

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

Section 1. Section 236.12, subsection 2, Code Supplement 1989, is amended to read as follows:

2. a. A peace officer may, with or without a warrant, arrest a person under section 708.2, subsection 4, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which did not result in any injury to the alleged victim.

b. ~~A~~ Except as otherwise provided in subsection 3A, a peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 2, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed which resulted in the alleged victim's suffering a bodily injury.

c. ~~A~~ Except as otherwise provided in subsection 3A, a peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 1, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed with the intent to inflict a serious injury.

d. ~~A~~ Except as otherwise provided in subsection 3A, a peace officer shall, with or without a warrant, arrest a person under section 708.2, subsection 3, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable

cause to believe that a domestic abuse assault has been committed and that the alleged abuser used or displayed a dangerous weapon in connection with the assault.

Sec. 2. Section 236.12, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. As described in subsection 2, paragraph "b", "c", or "d", the peace officer shall arrest the person whom the peace officer believes to be the primary physical aggressor. The duty of the officer to arrest extends only to those persons involved who are believed to have committed an assault. Persons acting with justification, as defined in section 704.3, are not subject to mandatory arrest. In identifying the primary physical aggressor, a peace officer shall consider the need to protect victims of domestic abuse, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between the persons involved. A peace officer's identification of the primary physical aggressor shall not be based on the consent of the victim to any subsequent prosecution or on the relationship of the persons involved in the incident, and shall not be based solely upon the absence of visible indications of injury or impairment.

Approved March 26, 1990

CHAPTER 1057

MOTOR VEHICLE DEALER'S BOND

H.F. 2165

AN ACT relating to indemnification for odometer fraud from a motor vehicle dealer's surety bond and increasing the amount of the bond.

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

Section 1. Section 322.4, subsection 7, Code 1989, is amended to read as follows:

7. Before the issuance of a motor vehicle dealer's license to a dealer engaged in the sale of vehicles for which a certificate of title is required under chapter 321, the applicant shall furnish a surety bond executed by the applicant as principal and executed by a corporate surety company, licensed and qualified to do business within this state, which bond shall run to the state of Iowa, be in the amount of ~~twenty-five~~ thirty-five thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer with all of the statutes of this state regulating or applicable to the business of a dealer in motor vehicles, and indemnifying any person who buys a motor vehicle from the dealer from any loss or damage occasioned by the failure of the dealer to comply with any of the provisions of chapter 321 and this chapter, including, but not limited to, the furnishing of a proper and valid certificate of title to the motor vehicle involved in a transaction. The bond shall also indemnify any motor vehicle purchaser from any loss or damage caused by the failure of the dealer to comply with the odometer requirements in section 321.71, regardless of whether the motor vehicle was purchased directly from the dealer. The bond shall be filed with the department prior to the issuance of a license. The aggregate liability of the surety, however, shall not exceed the amount of the bond.

Approved March 26, 1990

CHAPTER 1058

NOTICE OF EXECUTION SALES
H.F. 2304

AN ACT relating to notice requirements for sales under execution.

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

Section 1. Section 626.75, Code 1989, is amended to read as follows:

626.75 POSTING AND PUBLICATION — COMPENSATION.

Notice shall be ~~given by posting up~~ posted in at least three public places of the county, one of which shall be at the ~~place where the last district court was held~~ county courthouse. In addition to which, in case of the sale of real estate, or where personal property ~~to the amount~~ with a value of two hundred dollars or ~~upwards~~ greater is to be sold, there shall be two weekly publications of such notice in some newspaper printed in the county, to be selected by the party causing the notice to be given, ~~and~~ the first at least four weeks in the case of real estate, or three weeks in the case of personal property, before the date of sale, and the second at a later time before the date of sale. The compensation for such publication shall be the same as is provided by law for legal notices.

Approved March 26, 1990

CHAPTER 1059

CONTROLLED SUBSTANCES
H.F. 2309

AN ACT relating to schedule II controlled substances.

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

Section 1. Section 204.206, subsection 3, Code 1989, is amended by adding the following new paragraph and relettering the subsequent paragraphs:

NEW PARAGRAPH. f. Carfentanil.

Sec. 2. Section 204.206, subsection 7, Code 1989, is amended to read as follows:

7. HALLUCINOGENIC SUBSTANCES. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. Marijuana ~~is deemed to be a schedule II substance~~ when used for medicinal purposes pursuant to rules of the board of pharmacy examiners.

b. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product. [Some other names for dronabinol ~~(6aR-trans)-6a~~ (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, ~~9-trimethyl-3-pentyl-6H-dibenzol~~ 9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1-01, or ~~(-)-delta~~ (-)-delta 9-(trans)-tetrahydrocannabinol.]

c. Nabilone [another name for nabilone:(+ -) -trans-3-(1,1-di-methylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6,6-dimethyl-9H - dibenzo [b,d] pyran-9-one].

Approved March 26, 1990

CHAPTER 1060

REAL PROPERTY INSPECTION REPORTS

H.F. 2369

AN ACT relating to real property by establishing a real property inspection report.

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

Section 1. NEW SECTION. 114.35 EXCEPTION – REAL PROPERTY INSPECTION REPORT.

1. "Real property inspection report" means a report stating whether, after visual examination, a parcel of real property which is being collateralized is materially impaired.

2. A real property inspection report is not a property survey or an engineering document and is exempt from the provisions of this chapter and the rules adopted under this chapter which apply to property surveys. A real property inspection report shall not be filed or recorded with the county recorder. The real property inspection report shall include all of the following:

a. A clear and prominent statement of disclosure to the buyer that the real property inspection report is not a property survey or an engineering document and should not be relied upon as such, and that property boundaries shown may be approximate only.

b. A clear and prominent statement that the report is for the use of the mortgage lender or its assigns and determination of the actual placement of boundary lines should be addressed by a property survey in accordance with the provisions of this chapter.

c. A person who completes the real property inspection report shall not represent themselves as a registered land surveyor or a professional engineer for purposes of the report.

Approved March 26, 1990

CHAPTER 1061

MOTOR VEHICLE ARBITRATION

H.F. 2453

AN ACT relating to arbitration agreements between manufacturers, distributors, or importers of motor vehicles and motor vehicle dealers.

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

Section 1. Section 322.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not require a motor vehicle dealer to submit to arbitration to resolve a controversy before the controversy arises. The parties may enter into a voluntary agreement to arbitrate a controversy after it arises. Such an agreement shall require that the arbitrator apply Iowa law in resolving the controversy. Either party may appeal a decision of an arbitrator to the district court on the grounds that the arbitrator failed to apply Iowa law.

Approved March 26, 1990

CHAPTER 1062

GAMBLING DEVICES

H.F. 2454

AN ACT relating to the manufacture, distribution, and possession of gambling devices.

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

Section 1. Section 99A.10, Code 1989, is amended to read as follows:

99A.10 MANUFACTURE AND DISTRIBUTION OF ~~ELECTRONIC~~ GAMBLING DEVICES PERMITTED.

A person may manufacture ~~electronic or computerized~~ or act as a distributor for gambling devices for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is permitted pursuant to either chapter 99B or chapter 99E.

Sec. 2. Section 725.9, subsection 5, Code 1989, is amended to read as follows:

5. This chapter does not prohibit the ~~manufacture~~ possession of ~~electronic or computerized~~ gambling devices by a manufacturer or distributor if ~~manufactured~~ the possession is solely for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is licensed pursuant to either chapter 99B or chapter 99E.

Approved March 26, 1990

CHAPTER 1063

AIRCRAFT REGISTRATION AND SPECIAL CERTIFICATION

H.F. 2457

AN ACT relating to aircraft registration and special certificate fees.

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

Section 1. Section 328.21, subsection 3, Code 1989, is amended to read as follows:

3. The registration fee for an aircraft operated in scheduled interstate airline operation, owned by an Iowa person and operated part-time within this state shall be a fee of ~~thirty-five~~ one hundred dollars. The application for registration shall be supported by such records as the department shall prescribe.

Sec. 2. Section 328.21, subsection 4, unnumbered paragraph 2, Code 1989, is amended to read as follows:

When the fee as so computed results in a fractional part of a dollar, it shall be computed to the nearest ~~quarter of a~~ dollar.

Sec. 3. Section 328.21, subsection 6, Code 1989, is amended by striking the subsection.

Sec. 4. Section 328.21, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 9. An aircraft owned and operated by an aviation business located at a publicly owned, public use airport and providing, under agreement with the governing body of the airport, a specified minimum level of aviation services to the general public, shall be registered for a fee of one hundred dollars.

Sec. 5. Section 328.29, Code 1989, is amended to read as follows:

328.29 APPLICATION FOR SPECIAL CERTIFICATE.

~~Any~~ At the time of annual registration, a manufacturer, transporter, or dealer, may, upon payment of a one hundred dollar fee ~~of twenty-five dollars~~ and an additional ten dollar fee for each aircraft, make application to the department upon such forms as the department may prescribe for a special certificate ~~containing a general distinguishing number and for one or more duplicate special certificates hereunder~~ issued for each aircraft in inventory. The applicant shall also submit such reasonable proof of the applicant's status as a bona fide manufacturer, transporter, or dealer as the department may require. Dealers in new aircraft shall furnish satisfactory evidence of a valid franchise with manufacturer or distributor of such aircraft authorizing such dealership.

Sec. 6. Section 328.30, Code 1989, is amended to read as follows:

328.30 ISSUANCE OF SPECIAL ~~CERTIFICATES~~ CERTIFICATE.

The department upon granting ~~any such~~ an application shall issue to the applicant a special certificate for each aircraft containing the applicant's name and address, ~~and~~ the ~~general~~ distinguishing number assigned to the ~~applicant~~ aircraft, and ~~such~~ other information as the department may prescribe.

Sec. 7. Section 328.31, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

328.31 SPECIAL CERTIFICATES – INVENTORY REMOVALS OR ADDITIONS.

If at any time following annual registration, application, and issuance of special certificates, a dealer adds to or removes aircraft from inventory, the dealer shall:

1. Notify the department of an aircraft removed from inventory including the name and address of the buyer, if applicable. The special certificate remains valid for the remainder of the registration year and may be reassigned under subsection 2.

2. Notify the department of an aircraft added to inventory and the reassignment of a valid special certificate to that aircraft and the distinguishing number of that aircraft.

3. Apply for additional special certificates if the number of aircraft in inventory exceeds the number of aircraft registered at the beginning of the annual registration period.

Sec. 8. Section 328.35, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A lighter than air aircraft that is not engine driven.

Sec. 9. Section 328.51, Code 1989, is amended to read as follows:

328.51 ACCRUAL OF PENALTY.

~~Such delinquency~~ Failure to register shall ~~begin~~ be considered delinquent and a penalty shall accrue from the first day of the second month following the purchase of a new aircraft ~~and~~ or from the first day of the second month following the date an aircraft ~~are~~ is brought into the state, except as ~~herein~~ otherwise provided in this chapter.

Approved March 26, 1990

CHAPTER 1064

RESTITUTION FOR INTERFERENCE WITH TRAFFIC-CONTROL DEVICES
H.F. 2458

AN ACT requiring restitution of persons convicted of interfering with a traffic device, sign, or signal.

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

Section 1. Section 321.260, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Any~~ A person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes ~~any~~ an official traffic-control device, ~~any~~ an authorized warning sign or signal or barricade, whether temporary or permanent, ~~any~~ a railroad sign or signal, ~~any~~ an inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be guilty of a serious misdemeanor and shall be required to make restitution to the affected jurisdiction.

Approved March 26, 1990

CHAPTER 1065

ARTS AND CULTURE CHALLENGE GRANT FOUNDATION
H.F. 2485

AN ACT relating to the establishment of the Iowa arts and culture challenge grant foundation and foundation fund.

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

Section 1. Section 303.1, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Adopt rules for the disbursement and expenditure of funds from the Iowa arts and culture challenge grant foundation to develop, encourage and enhance the arts and cultural programs within the state, through the disbursement of grants to public and private organizations and persons.

Sec. 2. Section 303.2, subsection 4, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Administer the Iowa arts and culture challenge grant foundation established under section 303.89.

Sec. 3. Section 303.87, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Advise the director in the administration of the Iowa arts and culture challenge grant foundation established in section 303.89, and advise the director concerning the disbursement and expenditure of funds received by the Iowa arts and culture challenge grant foundation and the award of grants under section 303.89.

Sec. 4. NEW SECTION. 303.89 IOWA ARTS AND CULTURE CHALLENGE GRANT FOUNDATION ESTABLISHED.

1. The Iowa arts and culture challenge grant foundation is established. The foundation is an independent nonprofit quasi-public instrumentality and the exercise of the powers granted to the foundation as a corporation in this chapter is an essential governmental function. As used in this chapter "foundation" means the Iowa arts and culture challenge grant foundation.

2. The administrative functions of the foundation shall be performed by the arts division. The foundation shall be located in the department's offices.

3. The foundation may solicit and accept gifts, including donations and bequests. The foundation shall, to the extent possible, use gifts, donations, and bequests in accordance with the expressed desires of the person making the gift, donation, or bequest.

4. The foundation shall award grants to develop, encourage, and enhance the arts and cultural programs in the state, including grants to public or private organizations or persons.

5. Moneys appropriated from the general fund of the state to the foundation shall not be allocated or expended until matching funds have been received from other sources.

Sec. 5. NEW SECTION. 303.90 FUND CREATED AND TRANSFER OF MONEYS.

The Iowa arts and culture challenge grant foundation fund is established in the office of the treasurer of state. The moneys deposited in the fund shall be invested by the treasurer of state in investments authorized for the Iowa public employees' retirement fund in section 97B.7.

The foundation may accept gifts, grants, bequests, other moneys, and in-kind contributions for deposit in the fund as a part of the endowment. Interest earned on the fund shall be transferred by the department of revenue and finance to the credit of the fund at the request of the foundation. However, the interest may be used at any time for the purposes of section 303.89, as directed by the foundation.

Other gifts, grants, and bequests from public and private sources, state and federal funds, and other moneys received by the foundation may be used for the purposes of section 303.89, and need not be deposited in the fund.

Approved March 26, 1990

CHAPTER 1066

TIME FOR CHARGING SEXUAL ABUSE OF A CHILD

S.F. 18

AN ACT relating to the time period within which an information or indictment for sexual abuse with a child under the age of twelve shall be found.

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

Section 1. Section 802.2, Code 1989, is amended to read as follows:

802.2 SEXUAL ABUSE OF CHILD.

An information or indictment for sexual abuse in the first, second or third degree committed on or with a child under the age of ~~ten~~ twelve years shall be found ~~within four years after its commission~~ not later than six months after the child attains eighteen years of age.

Approved March 27, 1990

CHAPTER 1067

WORKERS' COMPENSATION SELF-INSURANCE AGREEMENT BY AREA SCHOOLS

S.F. 2059

AN ACT authorizing merged area schools to establish a self-insurance program for the payment of workers' compensation benefits, exempting the self-insurance program from taxation, and exempting the self-insurance program from insurance regulation.

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

Section 1. Section 87.4, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

A self-insurance association formed under this section and an association comprised of cities or counties, or both, or merged area schools, as defined in section 280A.2, which have entered into an agreement under chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits are exempt from taxation under section 432.1.

Sec. 2. Section 87.4, unnumbered paragraph 4, Code Supplement 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 or counties, or both, or merged area schools, as defined in section 280A.2, 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.

Approved March 27, 1990

CHAPTER 1068

DISTRIBUTION TO LIBRARIES OF STATE SALARY REPORT

S.F. 2164

AN ACT relating to the date of publication and distribution of the report of state employee salaries.

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

Section 1. Section 18.75, subsection 8, Code 1989, is amended to read as follows:

8. By ~~September~~ November 1 of each year supply a report which contains the name, gender, county or city of residence when possible, official title, salary received during the previous fiscal year, base salary as computed on July 1 of the current fiscal year, and traveling and subsistence expense of the personnel of each of the departments, boards, and commissions of the state government except personnel who receive an annual salary of less than one thousand dollars. The number of the personnel and the total amount received by them shall be shown for each department in the report. All employees who have drawn salaries, fees, or expense allowances from more than one department or subdivision shall be listed separately under the proper departmental heading. On the request of the superintendent, the head of each department, board, or commission shall furnish the data covering that agency. The report

shall be paid for out of moneys in the general fund not otherwise appropriated. A report shall be distributed upon request without charge to each member of the general assembly and the state law library. Six copies shall be distributed without charge to the state library and one copy shall be distributed without charge to each library which is designated as a documents depository by the state library. Other persons may purchase a copy for a fee not less than the amount required to print the copy. All funds from the sale of the report shall be deposited in the general fund.

Approved March 27, 1990

CHAPTER 1069

DEPOSITS OF PUBLIC MONEYS
S.F. 2165

AN ACT abolishing the duty of the treasurer of state to approve increases in the maximum deposit limit of a local government in a depository financial institution.

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

Section 1. Section 453.3, Code 1989, is repealed.

Approved March 27, 1990

CHAPTER 1070

PENALTY FOR FAILURE TO PAY SOLID WASTE TONNAGE FEE
S.F. 2181

AN ACT altering the penalty for late payment of the solid waste tonnage fee.

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

Section 1. Section 455B.310, subsection 6, Code 1989, is amended to read as follows:

6. A person required to pay fees by this section who fails or refuses to pay the fees imposed by this section shall be assessed a penalty of ~~fifteen~~ two percent of the fee due for each month the fee is overdue. The penalty shall be paid in addition to the fee due.

Approved March 27, 1990

CHAPTER 1071

WORKERS' COMPENSATION SECOND INJURY FUND LIMITS

S.F. 2187

AN ACT relating to workers' health, safety, and welfare, and effecting funding for the second injury fund.

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

Section 1. Section 85.66, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When the total amount of the payments provided for in the preceding section, together with accumulated interest and earnings, equals or exceeds ~~five hundred thousand~~ one million dollars no further contributions to the fund shall be required; but when, thereafter, the amount of the sum is reduced below ~~three~~ five hundred thousand dollars by reason of payments made to employees pursuant to this division, contributions shall be resumed and shall continue until the sum, together with accumulated interest and earnings, again amounts to ~~five hundred thousand~~ one million dollars. The treasurer of state shall determine when contributions shall be made to the fund and when they shall be suspended and may enforce the collection of contributions.

Approved March 27, 1990

CHAPTER 1072

LIMITS ON INDEMNIFICATION FOR SPECIAL EXHIBIT ITEMS

S.F. 2232

AN ACT relating to indemnification of art exhibitors by the Iowa arts council.

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

Section 1. Section 304A.28, Code 1989, is amended to read as follows:

304A.28 LIMITATIONS.

1. Coverage under this division shall extend only to loss or damage in excess of the first ~~twenty-five~~ two thousand dollars in connection with a single exhibition.

2. Indemnity agreements entered into by the administrator for a single exhibition or for any single location shall not exceed a total coverage for loss or damage of ~~two~~ five million dollars, and all indemnity agreements entered into by the administrator shall not exceed an aggregate coverage for loss or damage of ~~five~~ ten million dollars at any one time. The agreements, together with the claims paid to date, shall not exceed ~~five~~ ten million dollars at any one time.

Approved March 27, 1990

CHAPTER 1073

HEARING AID ADVERTISING
S.F. 2248

AN ACT relating to certain advertising by a hearing aid dealer.

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

Section 1. Section 154A.24, subsection 3, Code 1989, is amended by adding the following new paragraph after paragraph r and relettering the subsequent paragraph:

NEW PARAGRAPH. s. Failure to place in an advertisement, if an advertisement does not include the words "hearing aid" in the title of the business which is advertising, the qualifying words in the same size type, "for the purpose of fitting, selection, adaption, and sale of hearing aids". However, the qualifying words are not required if the advertisement includes the words, "hearing test", "hearing evaluation", "free hearing test", "free hearing evaluation", "hearing measurement", or "free hearing measurement", and the title of the business which is advertising appears in the advertisement and includes the words "hearing aid".

Approved March 27, 1990

CHAPTER 1074

FILING OF FINANCING STATEMENTS
S.F. 2261

AN ACT relating to the filing of uniform commercial code financing statements by permitting a filing officer to accept for filing a copy of a signature and authorizing the adoption of rules to permit electronic filing of financing statements.

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

Section 1. Section 554.9402, subsection 1, Code 1989, is amended to read as follows:

1. A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to section 554.9103, subsection 5, or when the financing statement is filed as a fixture filing (section 554.9313) and the collateral is goods which are or are to be become fixtures, the statement must also comply with subsection 5. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state. The secretary of state must accept for filing a copy of a signature required by this section. The secretary of state may adopt rules for the electronic filing of a financing statement.

Approved March 27, 1990

CHAPTER 1075

AFFIRMATIVE ACTION PLANS AND REPORTS

S.F. 2268

AN ACT changing the time deadlines for submission of state agency affirmative action plans and annual reports and providing an effective date.

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

Section 1. Section 19B.4, subsection 1, Code 1989, is amended to read as follows:

1. Each state agency, including the state board of regents and its institutions, shall annually prepare an affirmative action plan. State agencies other than the state board of regents and its institutions shall submit their plans to the department of personnel by July 31 each year. Institutions under the jurisdiction of the state board of regents shall submit their plans to that board. ~~The plans shall be submitted~~ between December 15 and December 31 each year. Each plan shall contain a clear and unambiguous written program containing goals and time specifications related to personnel administration.

Sec. 2. Section 19B.5, subsections 1 and 2, Code 1989, are amended to read as follows:

1. The head of each state agency other than the state board of regents and its institutions is personally responsible for submitting by July 31 an annual report of the affirmative action accomplishments of that agency to the department of personnel ~~between December 15 and December 31 each year~~.

2. The department of personnel shall submit a report on the condition of affirmative action programs in state agencies covered by subsection 1 by ~~January 31~~ August 31 of each year to the department of management.

Sec. 3. IMPLEMENTATION.

In order to implement the provisions of this Act, notwithstanding sections 1 and 2 of this Act, for the period covering January 1, 1991, through June 30, 1992, each state agency required to submit an affirmative action plan pursuant to section 19B.4, subsection 1, shall submit such plan by December 31, 1990. Each state agency required to submit an annual report pursuant to section 19B.5, subsection 1, shall submit such report by July 31, 1992, for the period covering January 1, 1991, through June 30, 1992. In addition, for the period covering January 1, 1991, through June 30, 1992, the department of personnel shall submit the report required by section 19B.5, subsection 2, by August 31, 1992.

Sec. 4. EFFECTIVE DATE.

This Act takes effect February 1, 1991.

Approved March 27, 1990

CHAPTER 1076

BANK MERGER OR CONSOLIDATION PLANS

S.F. 2271

AN ACT specifying the required contents of a plan for bank merger or consolidation.

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

Section 1. Section 524.1402, subsection 1, Code 1989, is amended to read as follows:

1. The parties shall adopt a plan stating ~~the method, terms and conditions of the merger or consolidation, including the rights under the plan of the shareholders of each of the parties, and an agreement concerning the merger or consolidation.~~ all of the following:

a. The names of the banks proposing to merge or consolidate and the name of the bank into which they propose to merge, which is the "resulting bank".

b. The terms and conditions of the proposed merger or consolidation.

c. The manner and basis of the converting of shares of each bank into shares, obligations, or other securities of the resulting bank or of any other corporation, or, in whole or in part, into cash or other property.

d. The rights of the shareholders of each of the parties.

e. An agreement concerning the merger or consolidation.

f. Such other provisions with respect to the proposed merger or consolidation which are deemed necessary or desirable.

Approved March 27, 1990

CHAPTER 1077

AGRICULTURAL EQUIPMENT DEALERS AND SUPPLIERS

S.F. 2334

AN ACT regulating business relationships between suppliers and dealers of certain equipment and providing dates of applicability.

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

Section 1. Section 322D.7, Code 1989, is amended to read as follows:

322D.7 APPLICATION – FARM IMPLEMENT FRANCHISE AGREEMENTS.

This chapter applies until July 1, 1990, to all farm implement franchise agreements ~~now~~ in effect before July 1, 1990, which have no expiration date and to all other such agreements entered into or renewed after April 12, 1985, but before July 1, 1990, which will expire after April 12, 1985. Any agreement in effect on April 12, 1985, which by its own terms will terminate on a subsequent date shall be governed by the law as it existed prior to April 12, 1985.

Sec. 2. NEW SECTION. 322F.1 DEFINITIONS.

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

1. "Dealer" or "dealership" means a person engaged in the retail sale of equipment, if the person sells equipment designed to be principally used for agricultural or horticultural operations, or raising livestock.

2. "Dealership agreement" means an oral or written agreement, either express or implied, between a supplier and a dealer which provides that the dealer is granted the right to sell, distribute, or service the supplier's equipment, regardless of whether the equipment carries a trade name, trademark, service mark, logo type, advertisement, or other commercial symbol, and which provides evidence of a continuing commercial relationship between the supplier and the dealer.

3. "Equipment" means a device or part of a device designed to be used for agriculture, horticulture, or livestock raising. Equipment includes but is not limited to tractors, trailers, combines, tillage, planting, and cultivating implements, balers, and irrigation implements. Equipment also includes attachments to equipment. Equipment does not include self-propelled machines designed primarily for the transportation of persons or property on a street or highway.

4. "Good cause" means a condition which occurs under any of the following circumstances:

a. The dealer fails to substantially comply with an essential and reasonable requirement imposed upon the dealer by the dealership agreement, but only if that requirement is also generally imposed upon similarly situated dealers.

b. The dealer has made a material misrepresentation or falsification of any record, contract, report, or other document which the dealer has submitted to the supplier.

c. The dealer transfers an interest in the dealership; a person with a substantial interest in the ownership or control of the dealership withdraws from the dealership, including an individual proprietor, partner, major shareholder, or manager; or a substantial reduction occurs in the interest of a partner or major shareholder in the dealership. However, good cause does not exist if the supplier consents to an action described in this paragraph.

d. The dealer has filed a voluntary petition in bankruptcy.

e. An involuntary petition in bankruptcy has been filed against the dealership and has not been discharged within thirty days after the filing.

f. The dealership is subject to a closeout or sale of a substantial part of the dealership equipment or assets related to the equipment.

g. A dissolution or liquidation of dealership assets has commenced.

h. The dealer's principal place of business is relocated, unless the supplier consents to the change in location.

i. The dealer has defaulted under a security agreement, including but not limited to a chattel mortgage, between the dealer and the supplier or any subsidiary or affiliate of the supplier.

j. A guarantee of the dealer's present or future obligations to the supplier is revoked or discontinued.

k. The dealer has failed to operate in the normal course of business for seven consecutive business days or has otherwise abandoned business operations.

l. The dealer has pleaded guilty to or has been convicted of a felony.

m. The dealer has engaged in conduct which is injurious or detrimental to the dealer's customers or to the public welfare, including but not limited to, misleading advertising, failing to provide reasonable service or replacement parts, or failing to honor warranty obligations.

n. The dealer consistently fails to comply with applicable state licensing requirements relating to the products and services represented on behalf of the supplier.

o. The dealer has inadequately represented the manufacturer's product relating to sales when compared to similarly situated dealers.

5. "Net cost" means the price the dealer paid to the supplier for the equipment, less applicable discounts.

6. "Net price" means the current price listed in the supplier's effective price list or catalog, less any applicable trade or cash discount.

7. "Supplier" means the manufacturer, wholesaler, or distributor of equipment sold by a dealer.

Sec. 3. NEW SECTION. 322F.2 NOTICE OF TERMINATION.

1. A supplier shall terminate a dealership agreement by cancellation, nonrenewal, or a substantial change in competitive circumstances only upon good cause and upon at least ninety days' prior written notice delivered to the dealer by certified or registered mail. The notice must specify each deficiency constituting good cause for the action. The notice must also state that the dealer has sixty days to cure a specified deficiency. If the deficiency is cured within sixty days from the date that the notice is delivered, the notice is void. However, if the deficiency is based on a dealer's inadequate representation of a manufacturer's product relating to sales, as provided in section 322F.1, the notice must state that the dealer has eighteen months to cure the deficiency. If the deficiency based on inadequate representation of a manufacturer's product relating to sales is cured within eighteen months from the date that notice is delivered, the notice is void.

2. The supplier shall have the right to terminate immediately without notice in the event the action is for good cause as defined in section 322F.1, subsection 4, paragraphs "b" through "m".

Sec. 4. NEW SECTION. 322F.3 TERMINATION OF AGREEMENT – REPURCHASE OF EQUIPMENT.

1. If a dealership agreement is terminated by cancellation or nonrenewal, the supplier must repurchase equipment and parts in the dealer's inventory. The repurchase is subject to the following conditions:

a. The supplier must pay to the dealer or credit the dealer's account with one hundred percent of the net cost of all unused complete equipment including attachments. The equipment must be in new condition and purchased by the dealership from the supplier within twenty-four months preceding notification by either party of an intent to terminate the contract.

b. The supplier must pay to the dealer or credit the dealer's account with ninety percent of the net price for repair parts, including superseded parts listed in the price lists or catalogs in use by the supplier on the date of termination. The supplier shall also pay the dealer or credit the dealer's account with five percent of the net price on the date of termination on all parts returned for the dealer's handling, packing, and loading of the parts to be returned to the supplier. However, the supplier is not required to pay or credit the five percent if the supplier elects to perform the handling, packing, and loading.

2. Upon payment or allowance of a credit to the dealer's account as required in this section, the title to the repurchased equipment is transferred to the supplier making the repurchase, and the supplier may take immediate possession of the repurchased equipment.

3. The supplier must make payment or allowance of a credit as required under this section not later than ninety days from the date that the supplier takes possession of the repurchased equipment.

4. This section does not require repurchase from the dealer of repair parts which have a limited storage life or are otherwise subject to deterioration, including but not limited to rubber items, gaskets, and batteries. This section also does not require repurchase from the dealer of parts in broken or damaged packages, single repair parts priced as a set of two or more items, or repair parts which because of their condition are not resalable as new parts without new packaging or reconditioning.

Sec. 5. NEW SECTION. 322F.4 SECURITY INTERESTS NOT AFFECTED.

This chapter shall not be construed to affect the existence or enforcement of a security interest which any person, including a supplier or financial institution, may have in the inventory of the dealer. The repurchase of inventory which is made under this chapter shall not be subject to the bulk sales provision of chapter 554, article 6 of the uniform commercial code.

Sec. 6. NEW SECTION. 322F.5 DEATH OR INCAPACITY OF DEALER.

If a dealer or a majority shareholder of a corporation operating a dealership dies or is incapacitated, the rights under this chapter may be exercised as an option by the heirs at law if the dealer or shareholder died intestate, or by the executor under the terms of the dealer's or shareholder's will. If the heirs or the executor do not exercise this option within twelve months from the date of death of the dealer or shareholder, the supplier must repurchase the equipment as if the supplier had terminated the dealership agreement pursuant to section 322F.3. However, this section does not entitle an heir, executor, administrator, legatee, or devisee of a deceased dealer or majority shareholder to continue to operate the dealership without the consent of the supplier.

Sec. 7. NEW SECTION. 322F.6 ASSIGNEES AND SUCCESSORS IN INTEREST.

The obligations under this chapter apply to the supplier's assignee or successor in interest. A successor in interest includes, but is not limited to, a purchaser of assets or stock, a surviving corporation resulting from a merger or liquidation, a receiver, or a trustee of the supplier.

Sec. 8. NEW SECTION. 322F.7 VIOLATIONS.

A supplier violates this chapter if the supplier does any of the following:

1. Requires a dealer to accept delivery of equipment that the dealer has not ordered.

2. Requires a dealer to order or accept delivery of equipment with special features or accessories not included in the base price list of equipment as publicly advertised by the supplier.

3. Requires a dealer to enter into any agreement, whether written or oral, which amends or supplements an existing dealership agreement with the supplier, unless the supplementary or amendatory agreement is imposed on other similarly situated dealers.

4. Requires as a condition of renewal or extension of a dealership agreement that the dealer complete substantial renovation of the dealer's place of business, or acquire new or additional space to serve as the dealer's place of business, unless the supplier provides at least one year's written notice of the condition which states all grounds supporting the condition. The supplier must provide a reasonable time for the dealer to complete the renovation or acquisition.

5. Requires a dealer to refuse to purchase equipment distributed by another supplier.

6. Discriminates in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers. This subsection does not prevent the use of differentials which make only due allowance for costs related to the manufacture, sale, or delivery of equipment, or to methods or quantities of equipment sold or delivered.

7. Takes action terminating, canceling, failing to renew, or substantially changing the competitive circumstances intended by the dealership agreement due to the results of conditions beyond the dealer's control, including drought, flood, labor disputes, or economic recession. This subsection shall not apply if the dealer is in default of a security agreement in effect with the supplier.

Sec. 9. NEW SECTION. 322F.8 SUPPLIER LIABILITY.

1. A dealer may bring a legal action against a supplier for damages sustained by the dealer as a consequence of the supplier's violation of this chapter. A supplier violating this chapter shall compensate the dealer for damages sustained by the dealer as a consequence of the supplier's violation, together with the actual costs of the action, including reasonable attorneys' fees. The dealer may be granted injunctive relief against unlawful termination, cancellation, nonrenewal, or a substantial change of competitive circumstances. The remedies in this section are in addition to any other remedies permitted by law.

2. a. If the payment or allowance of equipment repurchased pursuant to section 322F.3 is not made as required, the amount due bears interest at the rate of one and one-half percent per month calculated from the date that the dealership agreement was terminated.

b. If upon termination of a dealership agreement by nonrenewal or cancellation, by a dealer or supplier, the supplier fails to make payment or credit the account of the dealer as provided in this chapter, the supplier is liable in a civil action brought by the dealer for one hundred percent of the net costs of the equipment, plus interest as calculated pursuant to paragraph "a", and ninety percent of the net price of repair parts, plus interest as calculated pursuant to paragraph "a".

3. The requirements of this chapter supplement any agreement between a dealer and a supplier. The dealer may elect either to pursue contractual remedies under the dealership agreement or remedies provided under this chapter. An election by the dealer to pursue a remedy provided under this chapter does not bar the dealer from pursuing any other remedy under law or equity, including contractual remedies. This chapter does not affect rights of the supplier to charge back to the dealer's accounts amounts previously paid or credited as a discount to the dealer's purchase of goods, including equipment.

Sec. 10. NEW SECTION. 322F.9 APPLICABILITY.

A term of a dealership agreement which is inconsistent with the terms of this chapter is void and unenforceable and does not waive any rights which are provided to a person provided by this chapter.

This chapter applies to all dealership agreements in effect which have no expiration date and all other agreements entered into or renewed on or after July 1, 1990. Any agreement in effect on June 30, 1990, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to July 1, 1990.

Approved March 27, 1990

CHAPTER 1078

ANABOLIC STEROIDS
H.F. 2372

AN ACT relating to anabolic steroids, and providing a criminal penalty concerning the distribution of anabolic steroids to minors.

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

Section 1. Section 203B.2, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Anabolic steroid" means any anabolic steroid, including, but not limited to oxymetholone, oxandrolone, ethylestrenol, methandrostenolone, stanozolol, nandrolone phenpropionate, nandrolone decanoate, and any other substance designated by the board as an anabolic steroid through the adoption of rules pursuant to chapter 17A.

Sec. 2. Section 203B.3, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 23. Selling, dispensing, or distributing; causing to be sold, dispensed, or distributed; or possessing with intent to sell, dispense, or distribute, an anabolic steroid to a person under eighteen years of age, with knowledge that the anabolic steroid is not necessary for the legitimate treatment of disease pursuant to an order of a physician.

Sec. 3. Section 203B.5, subsection 1, Code Supplement 1989, is amended to read as follows:

1. A person who violates a provision of this chapter, other than a violation of section 203B.3, subsection 23, 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.

Sec. 4. Section 203B.5, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person who violates section 203B.3, subsection 23, commits an aggravated misdemeanor.

Approved March 27, 1990

CHAPTER 1079

DISCLOSURE OF MENTAL HEALTH INFORMATION
H.F. 2430

AN ACT relating to the disclosure of certain mental health information to family members.

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

Section 1. NEW SECTION. 228.8 DISCLOSURES TO FAMILY MEMBERS.

1. A mental health professional or an employee of or agent for a mental health facility may disclose mental health information to the spouse, parent, adult child, or adult sibling of an individual who has chronic mental illness, if all of the following conditions are met:

a. The disclosure is necessary to assist in the provision of care or monitoring of the individual's treatment.

b. The spouse, parent, adult child, or adult sibling is directly involved in providing care to or monitoring the treatment of the individual.

c. The involvement of the spouse, parent, adult child, or adult sibling is verified by the individual's attending physician, attending mental health professional, or a person other than the spouse, parent, adult child, or adult sibling who is responsible for providing treatment to the individual.

2. A request for mental health information by a person authorized to receive such information under this section shall be in writing, except in an emergency as determined by the mental health professional verifying the involvement of the spouse, parent, adult child, or adult sibling.

3. Unless the individual has been adjudged incompetent, the person verifying the involvement of the spouse, parent, adult child, or adult sibling shall notify the individual of the disclosure of the individual's mental health information under this section.

4. Mental health information disclosed under this section is limited to the following:

a. A summary of the individual's diagnosis and prognosis.

b. A listing of the medication which the individual has received and is receiving and the individual's record of compliance in taking medication prescribed for the previous six months.

c. A description of the individual's treatment plan.

Sec. 2. Section 228.2, Code 1989, is amended to read as follows:

228.2 MENTAL HEALTH INFORMATION DISCLOSURE PROHIBITED – EXCEPTIONS – RECORD OF DISCLOSURE.

1. Except as specifically authorized in section 228.3, 228.5, 228.6, ~~or~~ 228.7, or 228.8, a mental health professional, data collector, or employee or agent of a mental health professional, of a data collector, or of or for a mental health facility shall not disclose or permit the disclosure of mental health information.

2. Upon disclosure of mental health information pursuant to section 228.3, 228.5, 228.6, ~~or~~ 228.7, or 228.8, the person disclosing the mental health information shall enter a notation on and maintain the notation with the individual's record of mental health information, stating the date of the disclosure and the name of the recipient of mental health information.

The person disclosing the mental health information shall give the recipient of the information a statement which informs the recipient that disclosures may only be made pursuant to the written authorization of an individual or an individual's legal representative, or as otherwise provided in this chapter, that the unauthorized disclosure of mental health information is unlawful, and that civil damages and criminal penalties may be applicable to the unauthorized disclosure of mental health information.

3. A recipient of mental health information shall not disclose the information received, except as specifically authorized for initial disclosure in section 228.3, 228.5, 228.6, ~~or~~ 228.7, or 228.8. However, mental health information may be transferred at any time to another facility, physician, or mental health professional in cases of a medical emergency or if the individual or the individual's legal representative requests the transfer in writing for the purposes of receipt of medical or mental health professional services, at which time the requirements of section 228.2, subsection 2, shall be followed.

Approved March 27, 1990

CHAPTER 1080

PARTIAL PAYMENTS OF REAL PROPERTY AND MOBILE HOME TAXES

H.F. 2314

AN ACT relating to property taxes and mobile home taxes by providing for monthly or quarterly payments and providing an applicability date.

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

Section 1. NEW SECTION. 445.36A MONTHLY OR QUARTERLY PAYMENTS.

As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of current year real estate and real property taxes. A minimum payment amount shall be established by the county treasurer. The treasurer shall transfer amounts

from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are received, the treasurer shall collect the unpaid balance as provided in chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The county treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of current year real estate and real property taxes.

Sec. 2. Section 135D.24, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of current year mobile home taxes. A minimum payment amount shall be established by the county treasurer. The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are received, the treasurer shall collect the unpaid balance as provided in chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The county treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of current year mobile home taxes.

Sec. 3.

This Act is applicable for property taxes and mobile home taxes payable on or after July 1, 1991.

Approved March 27, 1990

CHAPTER 1081

COUNTY RECORDERS' FEES

H.F. 2322

AN ACT relating to the duties of the county recorder by imposing a fee for recording and indexing certain instruments, and by providing for the issuance of certain transcripts.

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

Section 1. Section 331.602, subsection 42, Code 1989, is amended to read as follows:

42. Carry out duties relating to the indexing of name changes, and the recorder may charge a fee for indexing as provided in section ~~674.14~~ 331.604.

Sec. 2. Section 558.12, Code 1989, is amended to read as follows:

558.12 TRANSCRIPT OF INSTRUMENTS.

~~Any~~ A person interested ~~therein~~ in a parcel of real estate may procure from ~~any~~ a county recorder in this state a transcript of any instrument affecting real estate which is of record in that recorder's office. ~~Such~~ The transcript shall be certified by the recorder~~, and the clerk of the district court shall certify under the seal of the clerk's office to the signature of such recorder and the recorder's official character~~.

Sec. 3. Section 602.8102, subsection 77, Code Supplement 1989, is amended by striking the subsection.

Sec. 4. Section 633.481, Code 1989, is amended to read as follows:

633.481 CERTIFICATE TO COUNTY RECORDER FOR TAX PURPOSES WITHOUT ADMINISTRATION.

When an inventory or report is filed under section 450.22, without administration of the estate of the decedent, the clerk shall issue and deliver to the county recorder of the county in which the real estate is situated a certificate pertaining to each parcel of real estate described in the inventory or report. Any fees for certificates or recording fees required by this section or section 633.480 shall be assessed as costs of administration~~, but the certificates shall be filed whether fees are paid or not~~. The fee for recording and indexing the instrument shall be as provided in section 331.604. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58.

Sec. 5. Section 655.4, Code 1989, is amended to read as follows:

655.4 ENTRY OF FORECLOSURE.

When a judgment of foreclosure is entered in any court, the clerk shall ~~file~~ record with the recorder an instrument in writing referring to the mortgage and duly acknowledging that the mortgage was foreclosed and giving the date of the decree. The ~~instrument shall be filed without~~ fee for recording and indexing an instrument shall be as provided in section 331.604.

Sec. 6. Section 655.5, Code 1989, is amended to read as follows:

655.5 INSTRUMENT OF SATISFACTION.

When the judgment is fully paid and satisfied upon the judgment docket of the court, the clerk shall ~~file~~ record with the recorder an instrument in writing, referring to the mortgage and duly acknowledging a satisfaction of the mortgage. The ~~instrument shall be filed without~~ fee for recording and indexing an instrument shall be as provided in section 331.604.

Approved March 27, 1990

CHAPTER 1082

FEES FOR IOWA MANAGEMENT TRAINING SYSTEM COURSES

H.F. 2339

AN ACT relating to costs associated with the Iowa management training revolving fund.

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

Section 1. Section 19A.12, subsection 2, Code 1989, is amended to read as follows:

2. An Iowa management training revolving fund is created in the state treasury. The moneys credited to the fund shall be used for the purpose of paying actual and necessary expenses incurred by the department in administering the Iowa management training system. All fees, grants, or specific appropriations for this purpose shall be credited to the fund. The fees for the Iowa management training system courses shall be set by the director to cover the cost

of administration except for costs associated with salaries of employees of the department, course development, training materials and equipment, and professional instructors. The fees shall be paid to the department by the state agency sending the employees for training and the payment shall be credited to the Iowa management training revolving fund. Notwithstanding section 8.33, the department shall not revert any unencumbered or unobligated balance in the fund, except amounts in excess of fifty thousand dollars, beginning on June 30, 1988.

Approved March 27, 1990

CHAPTER 1083

MUTUAL INSURANCE COMPANY CONVERSIONS

H.F. 2381

AN ACT authorizing the conversion of a mutual property and casualty insurance company into a stock company, subject to certain conditions and procedural requirements.

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

Section 1. NEW SECTION. 515F.1 DEFINITIONS.

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

1. "Affiliate" of a mutual insurer means a person who controls, is controlled by, or is under common control with, the mutual insurer being converted.

2. "Control" has the meaning assigned to it in section 521A.1, subsection 3.

3. "Mutual insurer" means a domestic mutual property and casualty insurance company organized and licensed under chapter 515.

4. "Holder of a surplus note agreement" means the holder of a guaranty fund or contribution certificate issued pursuant to section 515.20 or its equivalent which has been approved by the commissioner of insurance.

Sec. 2. NEW SECTION. 515F.2 MUTUAL INSURER BECOMING STOCK COMPANY – AUTHORIZATION.

A mutual insurer may become a stock insurance company pursuant to a plan established and approved in the manner provided by this chapter. The plan shall be adopted by the board of directors of the insurer to become effective on a future stated date. If conversion from a mutual insurer to a stock company is to be undertaken by a transaction which would be governed by chapter 521 or 521A, but the plan adopted by the board of directors of the insurer includes approval of an acquisition of control, merger, consolidation, or reinsurance, then chapter 521 or 521A shall not be applicable to the transaction. However, in that case, the commissioner may require any information from the person or persons acquiring control of the insurer as could be required under chapter 521 or 521A, and may disapprove the transaction on any basis on which it could be disapproved under chapter 521 or 521A.

Sec. 3. NEW SECTION. 515F.3 PLAN OF CONVERSION.

A plan of conversion shall include all of the following:

1. The proposed articles of incorporation and bylaws of the mutual insurer as a stock company.

2. The manner of treating a holder of a surplus note agreement, if any. The holder of a surplus note agreement, if otherwise qualified, may, at its option, exchange the agreement for an equitable share of the securities or other consideration, or both, of the corporation into which the insurer is to be converted.

3. The manner and basis of exchanging the equitable share of each mutual policyholder with a policy in force as provided in section 515F.4 for securities or other consideration, or both, of the stock corporation or an affiliate into which the mutual insurer is to be converted and

the disposition of any unclaimed shares. The plan shall also provide that each person who had a policy of insurance in effect on the date of adoption of the plan is entitled to receive in exchange for an equitable share, without additional payment, consideration payable in voting common shares of the insurer, or other consideration, or both. The equitable share of the policyholder in the mutual insurer may include a base value for each policyholder in recognition of the voting rights of the policyholder and the balance of such equitable share of its statutory surplus, plus any adjustments for nonadmitted assets permitted by the commissioner, shall be determined by the ratio which the net earned premiums the policyholder has properly and timely paid to the insurer on insurance policies in effect during the three years immediately preceding the adoption of the plan bears to the total net earned premiums received by the mutual insurer from policyholders during that three-year period. If the equitable share of the policyholder entitles the policyholder to the purchase of a fractional share of stock, the policyholder has the option to receive the value of the fractional share in cash or purchase a full share by paying the balance in cash. However, policyholders due a de minimus amount, as established by the commissioner, need not be offered the value of the fractional share or the option to purchase a full share.

4. The number of voting common shares proposed to be authorized for the stock corporation, their par value, and the price at which they shall be offered.

A plan of conversion for an insurer organized on the mutual plan under chapter 491, shall also provide for conversion to a stock company as follows: the insurer organized on the mutual plan under chapter 491 shall amend its articles pursuant to chapter 491 as necessary to become a stock company, and shall immediately convert to a chapter 490 corporation as provided in section 490.1701 upon becoming a stock company.

Sec. 4. NEW SECTION. 515F.4 ELIGIBLE POLICYHOLDERS PARTICIPATION.

The policyholders who are entitled to notice of and to vote upon approval of a plan of conversion and entitled to notice of a public hearing are the policyholders whose policies are in force on the date of the adoption of the plan by the board of directors.

Sec. 5. NEW SECTION. 515F.5 APPOINTMENT OF CONSULTANT.

A plan may provide for the appointment by the mutual insurer of a person as defined in section 4.1, subsection 13, who is qualified to act as a consultant. The appointment of the consultant shall be reviewed by the commissioner and unless the commissioner finds the consultant unqualified, the consultant shall carry out the duties required by the mutual insurer and this chapter.

The consultant may assist in determining the equity or value of the policyholders and the mutual insurer. The consultant may consider the value of the consideration to be given to the participating policyholders in exchange for their membership interests or into which the membership interest is to be converted and may consider any valuations necessary to carry out the plans provided for in section 515F.3. Valuations shall be made taking into account the latest filed annual statement of the mutual insurer and any significant developments occurring subsequent to the date of the statement.

The findings of the consultant may be modified by the mutual insurer at any time so long as the results are not unfair or inequitable to policyholders.

If it can be shown by the mutual insurer to the commissioner that an underwriter of the shares is a qualified person, the underwriter may be appointed as the consultant.

Sec. 6. NEW SECTION. 515F.6 APPROVAL OF PLAN BY POLICYHOLDERS – NOTICE OF ELECTION – EFFECTIVE DATE.

After the plan has been approved by the commissioner as provided in section 515F.7, the plan of conversion shall be submitted to and shall not take effect until approved by two-thirds of the policyholders of the mutual insurer voting on the plan or such greater vote, if any, as is required by the articles of incorporation or bylaws of the mutual insurer. Notice of a meeting for the purpose of voting on the conversion plan shall be provided by mail to each policyholder entitled to vote in accordance with notice provisions in the articles of incorporation

or bylaws of the mutual insurer. Each policyholder entitled to vote may cast one vote unless otherwise provided in the articles of incorporation or bylaws of the mutual insurer. Voting shall be by ballot, in person, or by proxy. A quorum consists of a quorum as defined in the articles of incorporation or bylaws of the mutual insurer. A copy of the plan of conversion, or a summary of the plan of conversion, shall accompany the notice of meeting and election. An approved plan of conversion shall take effect on the date specified in the plan.

Sec. 7. NEW SECTION. 515F.7 REVIEW OF PLAN BY COMMISSIONER – HEARING AUTHORIZED – APPROVAL.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, is not unfair or inequitable to the mutual insurer and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual insurer, and its policyholders, all of whom have the right to appear at the hearing.

Sec. 8. NEW SECTION. 515F.8 PAYMENT OF FEES, SALARIES, AND COSTS.

A director, officer, agent, or employee of the mutual insurer shall not receive a fee, commission, or other valuable consideration, other than regular salary and compensation, for aiding, promoting, or assisting in the conversion except as set forth in the plan approved by the commissioner. However, this section does not prohibit the payment of reasonable fees and compensation to a consultant, attorneys at law, accountants, actuaries, or other persons specifically employed for services performed in the practice of their professions while completing the plan of conversion, even if these persons are directors of the mutual insurer.

Sec. 9. NEW SECTION. 515F.9 ACT OF CONVERSION – CONTINUATION OF COMPANY.

When the commissioner and the policyholders approve the conversion plan as provided in this chapter, the commissioner shall issue a new certificate of authority to the successor stock company effective on the date specified in the plan. The successor stock company is a continuation of the mutual insurer and the conversion does not annul or modify any of the mutual insurer's existing suits, contracts, or liabilities except as provided in the approved conversion plan. All rights, franchises, and interests of the mutual insurer in and to property, assets, and other interests shall be transferred to and shall vest in the successor stock company and the successor stock company shall assume all obligations and liabilities of the mutual insurer.

The successor stock company shall exercise all rights and powers and perform all duties conferred or imposed by law on insurance companies writing the classes of insurance written by it, and shall retain the rights and contracts existing before conversion, subject to provisions of the plan.

Sec. 10. NEW SECTION. 515F.10 CONTINUATION OF OFFICERS.

The directors and officers of the mutual insurer shall serve the reorganized company until new directors and officers are elected and qualify pursuant to the articles of incorporation and bylaws of the reorganized company.

Sec. 11. NEW SECTION. 515F.11 RULES.

The commissioner may issue rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 12. NEW SECTION. 515F.12 AMENDMENTS – WITHDRAWAL.

At any time before approval of the plan of conversion and pursuant to rules issued by the commissioner, the board of directors of a mutual insurer may amend the conversion plan. The board of directors of a mutual insurer may withdraw the plan of conversion at any time prior to the approval of the plan of conversion by either the commissioner or the policyholders.

Sec. 13. NEW SECTION. 515F.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

Prior to and for a period of five years following the effective date of the conversion, and five years following the date of distribution of consideration to the policyholders in exchange for their membership interests, an officer or director, including family members and their spouses, of the mutual insurer or the successor stock company, shall not directly or indirectly offer to acquire or acquire control of the successor stock company unless the acquisition is made pursuant to a stock option or other plan approved by the commissioner, made pursuant to the plan of conversion, or made after the initial public offering from a broker or dealer of registered securities with the securities and exchange commission at the quoted price on the date of purchase, or made in connection with the defense against an acquisition of control of the reorganized company pursuant to any proposal not approved by the board of directors. As used in this section, "family member" includes a brother, sister, spouse, parent, grandparent, ancestor, or descendant of the officer or director.

Sec. 14. NEW SECTION. 515F.14 LIMITATION OF ACTIONS — SECURITY FOR ATTORNEY FEES.

An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than thirty days following the date of approval by the commissioner.

The successor stock company or any defendant may require the plaintiff in such an action to give security for the reasonable attorney fees which may be incurred by any party to the action. The amount of the security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Sec. 15. NEW SECTION. 515F.15 DUTIES OF SECRETARY OF STATE.

After approval of the conversion plan by the commissioner and the policyholders, the secretary of state shall accept for filing a verified copy of the amended articles of incorporation.

Approved March 27, 1990

CHAPTER 1084

WEIGHING AND MEASURING DEVICES

H.F. 2451

AN ACT relating to weighing and measuring devices, and establishing fees.

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

Section 1. Section 214.1, subsection 2, Code 1989, is amended to read as follows:

2. "Motor vehicle fuel pump" means a stationary pump, meter, or similar measuring device used for measuring retail motor vehicle fuel.

Sec. 2. Section 214.2, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

214.2 LICENSE.

A person who uses or displays for use any commercial weighing and measuring device, as defined in section 215.26, shall secure a license from the department.

Sec. 3. Section 214.3, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

214.3 FEE.

1. The license for inspection of a commercial weighing and measuring device shall expire on December 31 of each year, and for a motor vehicle fuel pump on June 30 of each year. The

amount of the fee due for each license shall be as provided in subsection 3, except that the fee for a motor vehicle fuel pump shall be three dollars if paid within one month from the date the license is due.

2. The license inspection fee on a commercial weighing and measuring device is due the day the device is placed into service. A license inspection fee shall be charged to the person owning or operating a commercial weighing and measuring device inspected in accordance with the class or section for devices as established by handbook 44 of the United States national institute of standards and technology.

3. The fee due under this section for a commercial weighing and measuring device shall be as follows:

a. CLASS S-IIIL.

(1) Railroad track scales, seventy-one dollars.

(2) Other scales.

(a) 500 to 1,000 pounds capacity, eleven dollars.

(b) 1,001 to 30,000 pounds capacity, twenty-one dollars.

(c) 30,001 to 50,000 pounds capacity, forty-one dollars.

(d) 50,001 pounds capacity or more, fifty-six dollars.

(3) A minimum fee of thirty-one dollars shall be charged for each vehicle or livestock scale.

b. CLASS S-II and S-III, six dollars.

(1) Bench scale, six dollars.

(2) Counter scale, six dollars.

(3) Portable platform scale, six dollars.

(4) Livestock monorail scale, six dollars.

(5) Single animal scale, six dollars.

(6) Grain test scale, six dollars.

(7) Precious metal and gems scale, six dollars.

(8) Postal scale, six dollars.

c. (1) Grain moisture meters, sixteen dollars.

(2) Additional meters at the same location, eleven dollars.

d. CLASS M-I. One hundred-gallon prover.

(1) Bulk meters, six dollars.

(2) Bulk liquid petroleum gas meters, thirty-five dollars.

(3) Bulk refined fuel meters, six dollars.

(4) Mass flow meters, six dollars.

e. CLASS M-II. Five-gallon prover.

(1) Slow flow meters, six dollars.

(2) Retail motor vehicle fuel pump, six dollars.

Sec. 4. Section 214.5, Code 1989, is amended to read as follows:

214.5 INSPECTION STICKERS.

For each ~~scale, pump, or meter~~ commercial weighing and measuring device licensed, the department shall issue an inspection sticker, which shall not exceed two inches by two inches in size. The inspection sticker shall be displayed prominently on the front of the ~~scale, pump or meter,~~ commercial weighing and measuring device and the defacing or wrongful removal of the sticker shall be punished as provided in chapter 189. Absence of an inspection sticker is prima facie evidence that the ~~scale, pump, or meter~~ commercial weighing and measuring device is being operated contrary to law.

Sec. 5. Section 215.2, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

215.2 SPECIAL INSPECTION REQUEST.

The fee for special tests, including but not limited to, using state inspection equipment, for the calibration, testing, certification, or repair of a commercial weighing and measuring device shall be paid by the servicer or person requesting the special test in accordance with the following schedule:

1. Class S, scales, fifty dollars per hour.
2. Class M, meters, thirty-five dollars per hour.

Sec. 6. Section 215.3, Code 1989, is amended to read as follows:

215.3 PAYMENT BY PARTY COMPLAINING.

~~When such~~ If an inspection ~~shall be~~ is made upon the complaint of ~~any~~ a person other than the owner of the ~~scale~~ commercial weighing and measuring device, and upon examination the ~~scale~~ commercial weighing and measuring device is found by the department to be accurate for commercial weighing and measuring, the inspection fee for such inspection shall be paid by the person making the complaint.

Sec. 7. Section 215.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

215.4 LIMITATION ON INSPECTIONS.

A commercial weighing and measuring device found to be inaccurate upon inspection by the department shall be tagged "condemned until repaired" and the "licensed for commercial use" inspection sticker shall be removed. If notice is received by the department that the device has been repaired and upon reinspection the device is found to be accurate, the license fee shall not be charged for the reinspection. However, a second license fee shall be charged if upon reinspection the device is found to be inaccurate.

Sec. 8. Section 215.18, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

215.18 SPECIFICATIONS AND TOLERANCES.

The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices, as adopted by the national conference on weights and measures and published in the national institute of standards and technology handbook 44, specifications, tolerances, and other technical requirements for weighing and measuring devices, shall apply to weighing and measuring devices in this state, except insofar as modified or rejected by rule and shall be observed in all inspections and tests.

Sec. 9. Section 215.20, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

215.20 LIQUID PETROLEUM GAS MEASUREMENT.

1. All liquefied petroleum gas, including but not limited to propane, butane, and mixtures of them, shall be kept, offered, exposed for sale, or sold by the pound, metered cubic foot of vapor, defined as one cubic foot at sixty degrees Fahrenheit, or by the gallon, defined as two hundred thirty-one cubic inches at sixty degrees Fahrenheit.

2. All metered sales exceeding one hundred gallons shall be corrected to a temperature of sixty degrees Fahrenheit through use of an approved meter with a sealed automatic compensation mechanism. All sale tickets for sales exceeding one hundred gallons shall show the stamped delivered gallons and shall state that the temperature correction was automatically made.

3. A reasonable tolerance within a maximum of plus or minus one percent shall be allowed on liquid petroleum gas meters licensed for commercial use in this state.

Sec. 10. Section 215.26, subsection 1, Code 1989, is amended to read as follows:

1. "Commercial weighing and measuring device" means a weight or measure or weighing or measuring device used to establish size, quantity, area or other quantitative measurement of a commodity sold by weight or measurement, or where the price to be paid for producing the commodity is based upon the weight or measurement of the commodity. The term includes an accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation may affect the accuracy of the device. Commercial weighing and measuring device includes a public scale as defined under section 214.1.

Sec. 11. Section 215.26, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. "Liquefied petroleum gas" means liquids that do not remain in a liquid state at atmospheric pressures and temperatures composed predominantly of any of the following hydrocarbons, or mixtures of hydrocarbons: propane, propylene, butanes including normal butane or isobutane, and butylenes.

Sec. 12. Section 215A.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department shall charge, assess, and cause to be collected at the time of inspection an inspection fee ~~of ten dollars for the first moisture-measuring device required to be inspected under this chapter, and for each additional moisture-measuring device inspected at the same time the fee shall be five dollars~~ in accordance with the fee schedule established pursuant to section 214.3, subsection 3.

Approved March 27, 1990

CHAPTER 1085

CHRONIC SUBSTANCE ABUSE

H.F. 2508

AN ACT relating to the commitment and treatment of chronic substance abusers.

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

Section 1. Section 125.2, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Chronic substance abuser" means a person who meets all of the following criteria:

a. Habitually lacks self control as to the use of chemical substances to the extent that the person is likely to seriously endanger the person's health, or to physically injure the person's self or others, if allowed to remain at liberty without treatment.

b. Lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment.

NEW SUBSECTION. 14A. "Substance abuse" means the use of chemical substances by persons suffering from chemical dependency, persons who are incapacitated by a chemical substance, substance abusers, or chronic substance abusers.

Sec. 2. Section 125.2, subsection 2, Code Supplement 1989, is amended to read as follows:

2. "Chemical substance" means alcohol, wine, spirits, and beer as defined in chapter 123 and ~~drugs~~ controlled substances as defined in section ~~203B.2~~ 204.101, ~~subsection 7, which when used improperly could result in chemical dependency~~.

Sec. 3. Section 125.9, subsections 2 and 4, Code 1989, are amended to read as follows:

2. Make contracts necessary or incidental to the performance of the duties and the execution of the powers of the director, including contracts with public and private agencies, organizations and individuals to pay them for services rendered or furnished to substance abusers, chronic substance abusers, or intoxicated persons.

4. Co-ordinate the activities of the department and co-operate with substance abuse programs in this and other states, and make contracts and other joint or co-operative arrangements with state, local or private agencies in this and other states for the treatment of substance abusers, chronic substance abusers, and intoxicated persons and for the common advancement of substance abuse programs.

Sec. 4. Section 125.10, Code 1989, is amended to read as follows:

125.10 DUTIES OF DIRECTOR.

The director shall:

1. Prepare and submit a state plan subject to approval by the commission and in accordance with the provisions of 42 U.S.C. sec. 4573. The state plan shall designate the department as the sole agency for supervising the administration of the plan.

2. Develop, encourage, and foster state-wide, regional and local plans and programs for the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons in co-operation with public and private agencies, organizations and individuals, and provide technical assistance and consultation services for these purposes.

3. Co-ordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons.

4. Co-operate with the department of human services in establishing and conducting programs to provide treatment for substance abusers, chronic substance abusers, and intoxicated persons.

5. Co-operate with the department of education, boards of education, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons, and in preparing relevant curriculum materials ~~thereon~~ for use at all levels of school education.

6. Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of chemical substances.

7. Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of substance abusers, chronic substance abusers, and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of chemical substances.

8. Organize and implement, in co-operation with local treatment programs, training programs for all persons engaged in treatment of substance abusers, chronic substance abusers, and intoxicated persons.

9. Sponsor and implement research in co-operation with local treatment programs into the causes and nature of substance abuse and treatment of substance abusers, chronic substance abusers, and intoxicated persons, and serve as a clearing house for information relating to substance abuse.

10. Specify uniform methods for keeping statistical information by public and private agencies, organizations and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

11. Develop and implement, with the counsel and approval of the commission, a comprehensive plan for treatment of substance abusers, chronic substance abusers, and intoxicated persons~~, said plan to be co-ordinated with health systems agencies~~.

12. Assist in the development of, and co-operate with, substance abuse education and treatment programs for employees of state and local governments and businesses and industries in the state.

13. Utilize the support and assistance of interested persons in the community, particularly recovered substance abusers and chronic substance abusers, to encourage substance abusers and chronic substance abusers to voluntarily undergo treatment.

14. Co-operate with the commissioner of public safety in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

15. Encourage general hospitals and other appropriate health facilities to admit without discrimination substance abusers, chronic substance abusers, and intoxicated persons and to

provide them with adequate and appropriate treatment~~, and~~. The director may negotiate and implement contracts with hospitals and other appropriate health facilities with adequate detoxification facilities.

16. Encourage all health and disability insurance programs to include substance abuse as a covered illness.

17. Review all state health, welfare, education and treatment proposals to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance abuse, ~~and~~ substance abusers, chronic substance abusers, and intoxicated persons.

Sec. 5. Section 125.12, subsections 1 and 3, Code 1989, are amended to read as follows:

1. The commission shall review a comprehensive and co-ordinated program for the treatment of substance abusers, chronic substance abusers, intoxicated persons, and concerned family members. Subject to the review of the commission, the director shall divide the state into appropriate regions for the conduct of the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to city and county lines, population concentrations, and existing substance abuse treatment services. In determining the regions, the director is not required to follow the regional map as prepared by the former office for planning and programming.

3. The director shall provide for adequate and appropriate treatment for substance abusers, chronic substance abusers, intoxicated persons, and concerned family members admitted under sections 125.33 and 125.34, or under section 125.75, 125.81, or 125.91. Treatment shall not be provided at a correctional institution except for inmates.

Sec. 6. Section 125.13, subsection 1, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Except as provided in subsection 2 ~~of this section~~, a person ~~may~~ shall not maintain or conduct any chemical substitutes or antagonists program, residential program, or nonresidential outpatient program, the primary purpose of which is the treatment and rehabilitation of substance abusers or chronic substance abusers without having first obtained a written license for the program from the department.

Sec. 7. Section 125.13, subsection 2, paragraphs a and c, Code Supplement 1989, are amended to read as follows:

a. A hospital providing care or treatment to substance abusers or chronic substance abusers 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.

c. Private institutions conducted by and for persons who adhere to the faith of any well recognized church or religious denomination for the purpose of providing care, treatment, counseling, or rehabilitation to substance abusers or chronic substance abusers and who rely solely on prayer or other spiritual means for healing in the practice of religion of such church or denomination.

Sec. 8. Section 125.32, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, subject to chapter 17A, considering available treatment resources and facilities, for the purpose of early and effective treatment of substance abusers, chronic substance abusers, intoxicated persons, and concerned family members. In establishing the rules the department shall be guided by the following standards:

Sec. 9. Section 125.33, subsections 1, 3, and 4, Code 1989, are amended to read as follows:

1. A substance abuser or chronic substance abuser may apply for voluntary treatment or rehabilitation services directly to a facility or to a licensed physician and surgeon or osteopathic

physician and surgeon. If the proposed patient is a minor or an incompetent person, a parent, a legal guardian or other legal representative may make the application. The licensed physician and surgeon or osteopathic physician and surgeon or any employee or person acting under the direction or supervision of the physician and surgeon or osteopathic physician and surgeon, or the facility shall not report or disclose the name of the person or the fact that treatment was requested or has been undertaken to any law enforcement officer or law enforcement agency; nor shall such information be admissible as evidence in any court, grand jury, or administrative proceeding unless authorized by the person seeking treatment. If the person seeking such treatment or rehabilitation is a minor who has personally made application for treatment, the fact that the minor sought treatment or rehabilitation or is receiving treatment or rehabilitation services shall not be reported or disclosed to the parents or legal guardian of such minor without the minor's consent, and the minor may give legal consent to receive such treatment and rehabilitation.

3. A substance abuser or chronic substance abuser seeking treatment or rehabilitation and who is either addicted or dependent on a chemical substance may first be examined and evaluated by a licensed physician and surgeon or osteopathic physician and surgeon who may prescribe a proper course of treatment and medication, if needed. The licensed physician and surgeon or osteopathic physician and surgeon may further prescribe a course of treatment or rehabilitation and authorize another licensed physician and surgeon or osteopathic physician and surgeon or facility to provide the prescribed treatment or rehabilitation services. Treatment or rehabilitation services may be provided to a person individually or in a group. A facility providing or engaging in treatment or rehabilitation shall not report or disclose to a law enforcement officer or law enforcement agency the name of any person receiving or engaged in the treatment or rehabilitation; nor shall a person receiving or participating in treatment or rehabilitation report or disclose the name of any other person engaged in or receiving treatment or rehabilitation or that the program is in existence, to a law enforcement officer or law enforcement agency. Such information shall not be admitted in evidence in any court, grand jury, or administrative proceeding. However, a person engaged in or receiving treatment or rehabilitation may authorize the disclosure of the person's name and individual participation.

4. If a patient receiving inpatient or residential care leaves a facility, the patient shall be encouraged to consent to appropriate outpatient or halfway house treatment. If it appears to the administrator in charge of the facility that the patient is a substance abuser or chronic substance abuser who requires help, the director may arrange for assistance in obtaining supportive services.

Sec. 10. Section 125.43, Code 1989, is amended to read as follows:

125.43 FUNDING AT MENTAL HEALTH INSTITUTES.

Chapter 230 governs the determination of the costs and payment for treatment provided to substance abusers or chronic substance abusers in a mental health institute under the department of human services, except that the charges are not a lien on real estate owned by persons legally liable for support of the substance abuser or chronic substance abuser and the daily per diem shall be billed at twenty-five percent. The superintendent of a state hospital shall total only those expenditures which can be attributed to the cost of providing inpatient treatment to substance abusers or chronic substance abusers for purposes of determining the daily per diem. Section 125.44 governs the determination of who is legally liable for the cost of care, maintenance, and treatment of a substance abuser or chronic substance abuser and of the amount for which the person is liable.

Sec. 11. Section 125.44, Code Supplement 1989, is amended to read as follows:

125.44 AGREEMENTS WITH FACILITIES — LIABILITY FOR COSTS.

The director may, consistent with the comprehensive substance abuse program, enter into written agreements with a facility as defined in section 125.2 to pay for one hundred percent of the cost of the care, maintenance, and treatment of a substance ~~abuser~~ abusers and chronic substance abusers, except when section 125.43A applies. All payments for state patients shall

be made in accordance with the limitations of this section. Such contracts shall be for a period of no more than one year.

The contract may be in the form and contain provisions as agreed upon by the parties. The contract shall provide that the facility shall admit and treat substance abusers and chronic substance abusers regardless of where they have residence. If one payment for care, maintenance, and treatment is not made by the patient or those legally liable for the patient, the payment shall be made by the department directly to the facility. Payments shall be made each month and shall be based upon the rate of payment for services negotiated between the department and the contracting facility. If a facility projects a temporary cash flow deficit, the department may make cash advances at the beginning of each fiscal year to the facility. The repayment schedule for advances shall be part of the contract between the department and the facility. This section does not pertain to patients treated at the mental health institutes.

If the appropriation to the department is insufficient to meet the requirements of this section, the department shall request a transfer of funds and section 8.39 shall apply.

The substance abuser or chronic 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 or chronic substance abuser while a voluntary or committed patient in a facility. This section does not prohibit any individual from paying any portion of the cost of treatment.

The department is liable for the cost of care, treatment, and maintenance of ~~a~~ substance ~~abuser~~ abusers and chronic substance abusers admitted to the facility voluntarily or pursuant to section 125.75, 125.81, or 125.91 or section 321J.3 or 204.409, subsection 2 only to those facilities that have a contract with the department under this section, only for the amount computed according to and within the limits of liability prescribed by this section, and only when the substance abuser or chronic substance abuser is unable to pay the costs and there is no other person, firm, corporation, or insurance company bound to pay the costs.

The department's maximum liability for the costs of care, treatment, and maintenance of substance abusers and chronic substance abusers in a contracting facility is limited to the total amount agreed upon by the parties and specified in the contract under this section.

Sec. 12. Section 125.46, Code 1989, is amended to read as follows:

125.46 COUNTY OF RESIDENCE DETERMINED.

The facility shall, when a substance abuser or chronic substance abuser is admitted, or as soon thereafter as it receives the proper information, determine and enter upon its records the Iowa county of residence of the substance abuser or chronic substance abuser, or that the person resides in some other state or country, or that the person is unclassified with respect to residence.

Sec. 13. Section 125.75, Code 1989, is amended to read as follows:

125.75 INVOLUNTARY COMMITMENT OR TREATMENT – APPLICATION.

Proceedings for the involuntary commitment or treatment of a chronic substance abuser to a facility may be commenced by the county attorney or an interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located or which is the respondent's place of residence. The clerk or the clerk's designee shall assist the applicant in completing the application. The application shall:

1. State the applicant's belief that the respondent is a chronic substance abuser.
2. State any other pertinent facts.
3. Be accompanied by one or more of the following:

a. A written statement of a licensed physician in support of the application.

b. One or more supporting affidavits corroborating the application.

c. Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement, the information under either paragraph "a" or paragraph "b".

Sec. 14. Section 125.80, subsections 3 and 4, Code 1989, are amended to read as follows:

3. If the report of a court-designated physician is to the effect that the respondent is not a chronic substance abuser, the court, without taking further action, may terminate the proceeding and dismiss the application on its own motion and without notice.

4. If the report of a court-designated physician is to the effect that the respondent is a chronic substance abuser, the court shall schedule a commitment hearing as soon as possible. The hearing shall be held not more than forty-eight hours after the report is filed, excluding Saturdays, Sundays, and holidays, unless an extension for good cause is requested by the respondent, or as soon thereafter as possible if the court considers that sufficient grounds exist for delaying the hearing.

Sec. 15. Section 125.81, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If a person filing an application requests that a respondent be taken into immediate custody, and the judge upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent is a chronic substance abuser who is likely to injure the person or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff, and be detained until the commitment hearing, which shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next business day. The judge may order the respondent detained for the period of time until the hearing is held, and no longer except as provided in section 125.88, in accordance with subsection 1 if possible, and if not, then in accordance with subsection 2 or, only if neither of these alternatives is available in accordance with subsection 3. Detention may be:

Sec. 16. Section 125.82, subsection 4, Code 1989, is amended to read as follows:

4. The respondent's welfare is paramount, and the hearing shall be tried as a civil matter and conducted in as informal a manner as is consistent with orderly procedure. Discovery as permitted under the Iowa rules of civil procedure is available to the respondent. The court shall receive all relevant and material evidence, but the court is not bound by the rules of evidence. A presumption in favor of the respondent exists, and the burden of evidence and support of the contentions made in the application shall be upon the person who filed the application. If upon completion of the hearing the court finds that the contention that the respondent is a chronic substance abuser has not been sustained by clear and convincing evidence, the court shall deny the application and terminate the proceeding.

Sec. 17. Section 125.83, Code 1989, is amended to read as follows:

125.83 PLACEMENT FOR EVALUATION.

If upon completion of the commitment hearing, the court finds that the contention that the respondent is a chronic substance abuser has been sustained by clear and convincing evidence, the court shall order the respondent placed at a facility or under the care of a suitable facility on an outpatient basis as expeditiously as possible for a complete evaluation and appropriate treatment. The court shall furnish to the facility at the time of admission or outpatient placement, a written statement of facts setting forth the evidence on which the finding is based. The administrator of the facility shall report to the court no more than fifteen days after the individual is admitted to or placed under the care of the facility, which shall include the chief medical officer's recommendation concerning substance abuse treatment. An extension of time may be granted for a period not to exceed seven days upon a showing of good cause. A copy of the report shall be sent to the respondent's attorney who may contest the need for an extension of time if one is requested. If the request is contested, the court shall make an inquiry as it deems appropriate and may either order the respondent released from the facility or grant extension of time for further evaluation.

Sec. 18. Section 125.84, subsections 2, 3, and 4, Code 1989, are amended to read as follows:

2. That the respondent is a chronic substance abuser who is in need of full-time custody, care, and treatment in a facility, and is considered likely to benefit from treatment. If the report so states, the court may order the respondent's continued placement and commitment to a facility for appropriate treatment.

3. That the respondent is a chronic substance abuser who is in need of treatment, but does not require full-time placement in a facility. If the report so states, the report shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court may enter an order directing the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment, as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 125.81 and, following notice and hearing held in accordance with the procedures of sections 125.77 and 125.82, may order the respondent treated as a patient requiring full-time custody, care, and treatment as provided in subsection 2, and may order the respondent involuntarily committed to a facility.

4. That the respondent is a chronic substance abuser who is in need of treatment, but in the opinion of the chief medical officer is not responding to the treatment provided. If the report so states, the report shall include the facility administrator's recommendation for alternative placement, and the court may order the respondent's transfer to the recommended placement or to another placement after consultation with respondent's attorney and the facility administrator who made the report under this subsection.

Sec. 19. Section 125.91, subsection 3, Code 1989, is amended to read as follows:

3. Upon arrival at the facility, the magistrate shall at once review the validity of the detention. Unless convinced upon initial inquiry that there are no grounds for further detention of the person, the magistrate shall ensure that the person has or is provided legal counsel at the earliest practical time in the manner prescribed by section 125.78, subsection 1, and shall arrange for the counsel to be present, if practical, before proceeding further under this subsection. The magistrate shall immediately notify counsel of the respondent's emergency detention. Counsel shall be afforded an opportunity to visit the respondent and to make appropriate preparations before or after the magistrate's order is issued. If the magistrate finds, upon review of the information presented by the administrator under subsection 2 and of other information or evidence the magistrate deems relevant, that there is probable cause to believe that the circumstances described in subsection 1 are applicable, the magistrate shall enter a written order detaining the person at the facility, or, if the facility where the person is at the time is not an appropriate facility, detaining and transporting the person to an appropriate facility. The magistrate's order shall state the circumstances under which the person was detained or otherwise delivered to a facility, and the grounds supporting the finding of probable cause to believe that person is a chronic substance abuser likely to physically injure the person or others if not detained. The order shall be filed with the clerk in the county where it is anticipated that an application will be filed under section 125.75, and a certified copy of the order shall be delivered to the administrator of the facility where the person is detained, at the earliest practical time.

Sec. 20. Section 229.21, subsections 3 and 4, Code 1989, are amended to read as follows:

3. When an application for involuntary hospitalization under this chapter or an application for involuntary commitment or treatment of chronic substance abusers under sections 125.75 to 125.94 is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge is accessible in the county, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 125.77. The referee shall discharge all of the duties imposed upon judges of the district court or magistrates by sections 229.7 to 229.19 or sections 125.75 to 125.94 in the proceeding so initiated. If an emergency hospitalization proceeding is initiated under section 229.22 a judicial hospitalization referee may perform the duties imposed upon a magistrate by that

section. However, any commitment to a facility regulated and operated under chapter 135C, shall be in accordance with section 135C.23.

4. Any respondent with respect to whom the judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a chronic substance abuser sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the referee's finding to a judge of the district court by giving the clerk notice in writing, within seven days after the referee's finding is made, that an appeal therefrom is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian or attorney. When so appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hospitalization or commitment hearing before a district judge at the earliest practicable time.

Sec. 21. Section 230.15, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A substance abuser or chronic substance abuser is legally liable for the total amount of the cost of providing care, maintenance, and treatment for the substance abuser or chronic substance abuser while a voluntary or committed patient. When a portion of the cost is paid by a county, the substance abuser or chronic substance abuser is legally liable to the county for the amount paid. The substance abuser or chronic 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 a state hospital to the state. Any payments received by the state from or on behalf of a substance abuser or chronic substance abuser shall be in part credited to the county in proportion to the share of the costs paid by the county. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost or any portion of the care and treatment of any mentally ill person, ~~or~~ substance abuser, or chronic substance abuser as established by the department of human services.

Approved March 27, 1990

CHAPTER 1086

PROFESSIONAL LICENSURE

H.F. 2518

AN ACT relating to licensure and discipline of certain practice professionals and providing a penalty.

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

Section 1. Section 147.4, Code 1989, is amended to read as follows:

147.4 GROUNDS FOR REFUSING.

The department may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked ~~by the district court~~ or suspended.

Sec. 2. Section 147.7, Code 1989, is amended to read as follows:

147.7 DISPLAY OF LICENSE.

Every person licensed under this title to practice a profession shall keep the license publicly displayed in the primary place in which the person practices.

Sec. 3. Section 147.9, Code 1989, is amended to read as follows:

147.9 CHANGE OF RESIDENCE.

When any person licensed to practice a profession under this title changes a residence or place of practice the person shall notify the department.

Sec. 4. Section 147.29, Code 1989, is amended to read as follows:

147.29 APPLICATIONS.

Any person desiring to take the examination for a license to practice a profession shall make application to the department at least fifteen days before the examination, on a form provided by the board. ~~Such~~ The application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take ~~such~~ the examination. All applications shall be in accordance with the rules of the department and shall be signed by the applicant. The board ~~shall not~~ may require that a recent photograph of the applicant be attached to the application.

Sec. 5. Section 147.102, Code 1989, is amended to read as follows:

147.102 PHYSICIANS AND SURGEONS, PSYCHOLOGISTS, CHIROPRACTORS, DENTISTS, AND OSTEOPATHS.

Notwithstanding the provisions of this title, every application for a license to practice medicine and surgery, psychology, chiropractic, dentistry, osteopathy, or osteopathic medicine and surgery, shall be made directly to the chairperson, executive director, or secretary of the examining board of such profession, and every reciprocal agreement for the recognition of any such license issued in another state shall be negotiated by the examining board for such profession~~, and all~~. All examination, license, and renewal fees received from ~~such~~ persons licensed to practice any of such professions shall be paid to and collected by the chairperson, executive director, or secretary of the examining board of such profession, who shall transmit the fees to the treasurer of state ~~who shall~~ for deposit ~~the fees in~~ into the general fund of the state. The salary of the secretary shall be established by the governor with the approval of the executive council pursuant to section 19A.9, subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 6. Section 147.104, Code 1989, is amended to read as follows:

147.104 RECORDS.

The chairperson, executive director, or secretary of each of ~~said~~ the boards shall keep a correct record of the proceedings of ~~said~~ the board, and upon the granting of any license to practice any of said professions the board shall, at the time of granting ~~said~~ a license, certify to the department the ~~application upon which such~~ name of the person to whom the license was issued, ~~together with the questions submitted in the examination of such applicant and the answers thereto,~~ and ~~such~~ the chairperson, executive director, or secretary shall deposit with the department all records not needed for the current use of the ~~secretary's examining~~ board.

Sec. 7. Section 147.135, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding subsection 2, if the board of medical examiners conducts an investigation based on a complaint received or upon its own motion, a hospital pursuant to subpoena shall make available information and documents requested by the board, specifically including reports or descriptions of any complaints or incidents concerning an individual who is the subject of the board's investigation, even though the information and documents are also kept for, are the subject of, or are being used in peer review by the hospital. However, the deliberations, testimony, decisions, conclusions, findings, recommendations, evaluations, work product, or opinions of a peer review committee or its members and those portions of any documents or records containing or revealing information relating thereto shall not be subject to the board's request for information, subpoena, or other legal compulsion. All information and documents received by the board from a hospital under this section shall be confidential pursuant to section 258A.6, subsection 4.

Sec. 8. Section 147.152, subsection 1, Code 1989, is amended to read as follows:

1. Licensed physicians and surgeons, licensed osteopathic physicians and surgeons, licensed osteopaths, approved physician's assistants and registered nurses acting under the supervision of a physician, persons conducting hearing tests under the direct supervision of a licensed

physician and surgeon, ~~or~~ licensed osteopathic physician and surgeon, or licensed osteopath, or students of medicine or surgery or osteopathic medicine and surgery pursuing a course of study in a medical school or college of osteopathic medicine and surgery approved by the medical examiners while performing functions incidental to their course of study.

Sec. 9. Section 148.3, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. The recommendation of the educational ~~council~~ commission for foreign medical graduates, incorporated or similar accrediting agency.

Sec. 10. Section 148.3, subsection 3, Code 1989, is amended to read as follows:

3. Present to the Iowa department of public health satisfactory evidence that the applicant has successfully completed one year of internship or resident training in a hospital approved for such training by the medical examiners.

Sec. 11. Section 148.5, Code 1989, is amended to read as follows:

148.5 RESIDENT PHYSICIAN'S LICENSE.

Any physician, who is a graduate of a medical school and is serving only as a resident physician and who is not otherwise licensed to practice medicine and surgery in this state, shall be required to obtain from the medical examiners a ~~temporary or special~~ license to practice as a resident physician. The license shall be designated "Resident Physician License" and shall authorize the licensee to serve as a resident physician only, under the supervision of a licensed practitioner of medicine and surgery, in an institution approved for this purpose by the medical examiners. Such license shall be valid for one year and may be renewed at the discretion of the medical examiners. The fee for this license shall be set by the board to cover the administrative costs of issuing the license, and if extended beyond one year, a renewal fee as set by the board shall be required. The medical examiners shall determine in each instance those eligible for this license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure shall be mandatory for this resident licensure except as specifically designated by the medical examiners. The granting of a resident physician's license does not in any way indicate that the person so licensed is necessarily eligible for regular licensure, nor are the medical examiners in any way obligated to so license such individual. The medical examiners shall revoke the license at any time they shall determine either that the caliber of work done by a licensee or the type of supervision being given such licensee does not conform to reasonable standards established by the medical examiners.

Sec. 12. Section 148.6, subsection 1, unnumbered paragraph 1, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 258A, or this subsection. Notwithstanding section 258A.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

Sec. 13. Section 148.6, subsection 1, paragraph h, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Inability to practice medicine and surgery, osteopathic medicine and surgery or osteopathy with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition. The medical examiners ~~shall~~ may, upon probable cause, ~~have authority to~~ compel a physician to submit to a mental or physical examination by designated physicians or to submit to alcohol or drug screening within a time specified by the medical examiners. Failure of a physician to submit to an examination or to submit to alcohol or drug screening shall constitute admission to the allegations made against the physician and the finding of fact and decision of the medical examiners may be entered without the taking of testimony or presentation of

evidence. At reasonable intervals, a physician shall be afforded an opportunity to demonstrate that the physician can resume the competent practice of medicine with reasonable skill and safety to patients.

Sec. 14. Section 148.6, subsection 1, paragraph i, Code 1989, is amended to read as follows:

i. Willful or repeated violation of lawful rule or regulation ~~promulgated~~ adopted by the board or violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

Sec. 15. Section 148.7, subsection 1, Code 1989, is amended to read as follows:

1. The medical examiners may, upon their own motion or upon verified complaint in writing, and shall, if such complaint is filed by the director of public health, issue an order fixing the time and place for hearing ~~thereon~~. A written notice of the time and place of the hearing together with a statement of the charges shall be served upon the licensee at least ten days before ~~said~~ the hearing in the manner required for the service of notice of the commencement of an ordinary action or by restricted certified mail.

Sec. 16. Section 258A.3, subsection 2, paragraph a, Code 1989, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 114.21, 116.21, 117.29, 118.13, 118A.15, 147.55, 148.6, 148B.7, 153.34, 154A.24, 169.13, or 602.3203 or chapter 135E, 151, 507B or 522, as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

Sec. 17. Section 258A.4, subsection 1, paragraph f, Code 1989, is amended to read as follows:

f. Define by rule acts or omissions which are grounds for revocation or suspension of a license under section 114.21, 116.21, 117.29, 118.13, 118A.15, 147.55, 148.6, 148B.7, 153.34, 154A.24, 169.13, 455B.191 or 602.3203 or chapter 135E, 151, 507B or 522, as applicable, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of section 258A.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 258A.9, subsection 2;

Approved March 27, 1990

CHAPTER 1087

HOMESTEAD CREDIT

H.F. 2549

AN ACT relating to the length of occupancy of the homestead for purposes of the homestead credit and providing a retroactive applicability date.

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

Section 1. Section 425.2, unnumbered paragraph 2, Code Supplement 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 as a homestead declares residency in Iowa for purposes of income taxation, and the property is occupied by ~~the~~ that person or

that person's spouse for at least six months in each of those ~~years~~ calendar years in which the tax year begins. 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~~ shall not 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~~ calendar 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 Supplement 1989, is amended to read as follows:

The homestead must ~~embrace~~ include 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~~ the calendar year in which the tax year begins, except as ~~herein~~ otherwise provided.

Sec. 3.

This Act applies retroactively to January 1, 1990, for homestead credits allowed for fiscal years beginning on or after January 1, 1990.

Approved March 27, 1990

CHAPTER 1088

FINANCE CHARGE ON EXTENSION OR RENEWAL OF A RETAIL VEHICLE INSTALLMENT CONTRACT

S.F. 2291

AN ACT relating to the interest rate charged in connection with a renewal or extension of time under a retail motor vehicle installment contract.

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

Section 1. Section 322.20, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

322.20 EXTENSION OF TIME.

Sections 537.2503 and 537.3402 notwithstanding, if the holder of a retail installment contract in connection with the purchase or sale of a vehicle, at the request of the buyer, renews the loan or extends the scheduled due date of all or any part of an installment or installments, the holder may restate the amount of installments and the time schedule for paying installments and collect for installments, subject to the renewal or extension, a finance charge on the outstanding declining balance of the amount financed for the period of the extension or renewal. The finance charge on a renewal or extension under this subsection shall not exceed the rate on the original retail installment contract as limited by section 322.19.

Approved March 29, 1990

CHAPTER 1089

VETERANS ORGANIZATIONS CLASS "A" LIQUOR CONTROL LICENSES
S.F. 2309

AN ACT relating to the issuance of class "A" liquor licenses to veterans organizations.

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

Section 1. Section 123.36, subsection 2, Code 1989, is amended to read as follows:

2. Class "A" liquor control licenses, the sum of six hundred dollars, except that for class "A" licenses in cities of less than two thousand population, and for clubs of less than two hundred fifty members, the license fee shall be four hundred dollars; however, the fee shall be two hundred dollars for any club which is a post, branch, or chapter of a veterans organization chartered by the Congress of the United States, if the club does not sell or permit the consumption of alcoholic beverages, wine, or beer on the premises more than one day in any week or more than a total of fifty-two days in a year, and if the application for a license states that the club does not and will not sell or permit the consumption of alcoholic beverages, wine, or beer on the premises more than one day in any week or more than a total of fifty-two days in a year.

Approved March 29, 1990

CHAPTER 1090

UNCLAIMED FEES
S.F. 2311

AN ACT relating to unclaimed fees to conform with the uniform disposition of unclaimed property Act.

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

Section 1. Section 12.11, Code 1989, is repealed.

Approved March 29, 1990

CHAPTER 1091

SWINE PSEUDORABIES CONTROL
S.F. 2315

AN ACT relating to a pseudorabies control program, and making penalties applicable.

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

Section 1. Section 166D.2, subsection 32, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A qualified differentiable negative herd.

Sec. 2. Section 166D.2, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 36A. "Qualified differentiable negative herd" means a herd in which one hundred percent of the herd's breeding swine have been vaccinated and have reacted negatively to a differentiable test and which have been retested, as provided in this chapter.

Sec. 3. Section 166D.2, subsection 37, Code Supplement 1989, is amended to read as follows:

37. "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~~ have not been vaccinated, and which is retested as provided in this chapter.

Sec. 4. Section 166D.5, Code Supplement 1989, is amended to read as follows:

166D.5 ADMINISTRATION OF PROGRAM AREAS.

Once a program has been designated, an owner of an infected herd must, within thirty days after notification, 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.

1. 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:

a. The department shall require all herds within the program area be tested within twelve months.

b. All herds not tested within twelve months shall only be moved directly to slaughter or to an approved premise as swine reacting positively to the test. The movement shall require notification of the department at least twenty-four hours before the movement by permit completed at the owner's expense.

c. Swine moving within or into the program area shall be reported to the department and identified by the herd of origin within ten days of movement. Swine moving into a program area may be inspected by the department within fifteen days of movement.

d. An owner of a quarantined herd has thirty days after the department's determination to petition the department for adoption of a herd cleanup plan or a feeder pig cooperator herd plan.

2. When the department determines that a majority of herds within a program area have been tested and a majority of herds reveal a noninfection rate of ninety percent or greater, the following shall apply:

~~1~~ a. A vaccine other than a differentiable vaccine shall not be used.

~~2~~ b. 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~~ c. Only noninfected herd swine may move into the program area.

~~b~~ d. Swine herds within the area must be a qualified negative herd, a monitored herd, a qualified differentiable negative 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~~ e. An approved premises inside the program area shall not be reapproved upon its annual renewal date.

~~4~~ f. 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.

3. 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.

4. 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~~ subsection does not apply to expenditures of funds for statewide surveillance or for enforcement of this chapter.

5. Upon the recommendation of the advisory committee, the department shall implement pilot projects to assist in the eventual eradication of pseudorabies or to lead to the designation of a program area.

Sec. 5. Section 166D.7, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A qualified differentiable negative herd shall be certified, recertified, and maintained as follows:

a. The herd shall be certified when one hundred percent of 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 a qualified negative or qualified differentiable negative herd. A differentiable vaccine must be administered at intervals in accordance with the package insert for that vaccine. 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 adding to the herd new swine, including swine returning to the herd after contact with nonherd swine, the herd 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 fifteen 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 differentiable negative herd is located.

c. Swine from a qualified negative or qualified differentiable negative herd may be added without isolation or testing.

d. The owner shall make a request to the department for certification or recertification of a qualified differentiable 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.

Sec. 6. Section 166D.10, subsection 1, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A qualified differentiable negative herd.

Sec. 7. Section 166D.11, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The secretary shall disapprove for use in this state on and after July 1, 1991, any vaccine that is not a differentiable vaccine.

Approved March 29, 1990

CHAPTER 1092

RESERVE PEACE OFFICER TRAINING

S.F. 2015

AN ACT relating to training requirements for reserve peace officers and providing for the Act's applicability.

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

Section 1. Section 80D.1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The governing body of a city, county, or the state of Iowa may provide for the establishment of a force of reserve peace officers, and may limit the size of the reserve force. In the case of the state, the department of public safety shall act as the governing body. ~~A reserve peace officer is a volunteer, nonregular, sworn member of a law enforcement agency who serves with or without compensation, has regular police powers while functioning as an agency's representative and participates on a regular basis in the agency's activities including those of crime prevention and control, preservation of the peace and enforcement of the law.~~

Sec. 2. NEW SECTION. 80D.1A DEFINITIONS.

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

1. "Minimum training course" means a curriculum of one hundred fifty hours of training and instruction required for certification as a reserve peace officer, excluding weapons training.

2. "Reserve force" means an organization of reserve peace officers established as provided in this chapter.

3. "Reserve peace officer" means a volunteer, nonregular, sworn member of a law enforcement agency who serves with or without compensation, has regular police powers while functioning as a law enforcement agency's representative, and participates on a regular basis in the law enforcement agency's activities including crime prevention and control, preservation of the peace, and enforcement of law.

Sec. 3. Section 80D.3, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

80D.3 TRAINING STANDARDS.

1. Each person appointed to serve as a reserve peace officer shall satisfactorily complete a minimum training course as provided in this section. In addition, if a reserve peace officer is authorized to carry weapons, the officer shall satisfactorily complete the same training course in the use of weapons as is required for basic training of regular peace officers by the Iowa law enforcement academy. The minimum training course for reserve peace officers must be satisfactorily completed within four years from the date of appointment. If reserve officer training received before the effective date of this Act meets the requirements of this section, the training may be applied to meet the minimum training course requirements of this section.

2. A reserve peace officer who does not carry a weapon shall not be required to complete a weapons training course, but the officer shall comply with all other training requirements.

3. A person appointed to serve as a reserve peace officer, who has received basic training as a peace officer and has been certified by the Iowa law enforcement academy pursuant to chapter 80B and rules adopted pursuant to chapter 80B, may be exempted from completing the minimum training course at the discretion of the appointing authority if the officer meets one of the following qualifications:

a. The appointee is serving as a regular peace officer with a bona fide law enforcement agency when the application for a reserve peace officer appointment is made.

b. The appointee has served as a regular peace officer with a bona fide law enforcement agency within three years of the date of application for appointment as a reserve peace officer.

4. The minimum training course required for a reserve peace officer shall be conducted pursuant to sections 80D.4 and 80D.7, and the following training schedule:

a. During the first year, thirty hours of general law enforcement training is required as provided in section 80D.4 and as prescribed by the Iowa law enforcement academy council. If weapons are to be carried, a reserve peace officer shall complete a weapons training course having the same number of hours of training as is required of regular peace officers in basic training pursuant to section 80D.7.

b. During the second through the fourth year, forty hours of training shall be provided each year. Ten hours annually shall be obtained by each reserve peace officer working with a regular peace officer. The remaining thirty hours annually shall be selected by the appointing authority from the approved basic training curriculum established by the Iowa law enforcement academy for use in training regular peace officers.

c. Notwithstanding the time schedule provided in this subsection, a person is eligible for certification as a reserve peace officer upon satisfactory completion of the one hundred fifty hours of training required for certification.

Sec. 4. Section 80D.4, Code 1989, is amended to read as follows:

80D.4 TRAINING.

Training for individuals appointed as reserve peace officers shall be provided by that law enforcement agency, but may be obtained in a merged area school or other facility selected by the individual and approved by the law enforcement agency. Upon satisfactory completion of training, the chief of police, sheriff or commissioner of public safety shall certify the individual as a reserve peace officer. ~~Initial training shall be completed within one year from the date of appointment.~~

Sec. 5. Section 80D.7, Code 1989, is amended to read as follows:

80D.7 CARRYING WEAPONS.

A member of a reserve force shall not carry a weapon in the line of duty until the member has been approved by the governing body and certified by the Iowa law enforcement academy council to carry weapons. ~~Individuals serving as reserve peace officers as of July 1, 1980 are exempt from the certification requirements of this section pending completion of approved training or until one year from the effective date of this chapter, whichever comes first.~~ After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the chief of police, sheriff, or commissioner of public safety or the commissioner's designee, as the case may be.

Sec. 6. Section 384.15, subsection 7, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Adopt rules for the administration of a law enforcement officer training reimbursement program by the director of the department of management. A decision of the director may be appealed by a city or county to the committee. The program shall provide reimbursement to a city or county for necessary and actual expenses incurred in training a law enforcement officer who resigns from law enforcement service with the city or county within four years after completion of the law enforcement training. The reimbursable training expenses include mileage, food, lodging, tuition, replacement of an officer while the officer is in training if the replacement officer is a temporary employee hired for that purpose only or is on overtime status, and salary costs of the officer while in training. The law enforcement training eligible for reimbursement is the minimum law enforcement officer training required under chapter 80B and, if funding is available, approved advanced law enforcement training and reserve officer training required under chapter 80D. The committee shall adopt rules prescribing application forms, expense documentation, and procedures necessary to administer the reimbursement program.

Sec. 7. APPLICABILITY.

A reserve peace officer who has been certified pursuant to section 80D.4 before the effective date of this Act must complete the minimum training course required pursuant to section 3 of this Act within four years of the effective date of this Act to remain certified. Training

completed before the effective date of this Act may be used to fulfill the requirements of the minimum training course if the training received meets the requirements specified in section 3 of this Act.

Approved March 29, 1990

CHAPTER 1093

HOSPITAL CLINICAL PRIVILEGES

S.F. 2343

AN ACT relating to clinical privileges of certain health practitioners.

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

Section 1. Section 135B.7, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The rules shall state that a hospital shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopaths, ~~or~~ osteopathic surgeons, or dentists licensed under chapter 148, 149, 150, 150A, or 153, solely by reason of the license held by the practitioner or solely by reason of the school or institution in which the practitioner received medical schooling or postgraduate training if the medical schooling or postgraduate training was accredited by an organization recognized by the council on postsecondary accreditation or an accrediting group recognized by the United States department of education.

Approved March 29, 1990

CHAPTER 1094

WATER USE PERMITS

S.F. 2317

AN ACTrelating to issuing permits for regulated uses of water by the department of natural resources.

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

Section 1. Section 455B.265, subsection 1, Code 1989, is amended to read as follows:

1. In its consideration of applications for permits, the department shall give priority in processing to persons in the order that the applications are received, except where the application of this processing priority system prevents the prompt approval of routine applications or where the public health, safety, or welfare will be threatened by delay. If the department determines after investigation that the diversion, storage, or withdrawal is consistent with the principles and policies of beneficial use and ensuring conservation, the department shall grant a permit. An application for a permit shall be approved or denied within ninety days from the date that the department receives the application. A renewal permit shall be approved or denied by the department within thirty days from the date that the department receives an application for renewal. Regardless of the request in the application, the director or the department on appeal may determine the duration and frequency of withdrawal and the quantity of water to be diverted, stored, or withdrawn pursuant to the permit. Each permit granted

after July 1, 1986, shall include conditions requiring routine conservation practices, and requiring implementation of emergency conservation measures after notification by the department.

Approved March 29, 1990

CHAPTER 1095

DISPOSITION OF UNCLAIMED PROPERTY

S.F. 2340

AN ACT relating to the disposition of unclaimed property.

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

Section 1. NEW SECTION. 556.9A OUT-OF-STATE PROPERTY ISSUED WITHIN THE STATE.

1. As used in this section, unless the context requires otherwise:

a. "Property" means intangible personal property located outside the state, but issued by the state of Iowa, a state agency, a political subdivision of the state, or a person formed within the state as a corporation, trust, partnership, limited partnership, association, cooperative, union, or organization.

b. "Temporary custodian" means an entity holding property outside of this state, including but not limited to a person, the United States government, or an agency or instrumentality of the United States government, and any other state or agency or political subdivision of that state.

2. Property and income derived from the property, including but not limited to dividends, earnings, and interest, which are held by a temporary custodian on behalf of the property's owner, are presumed abandoned and after deducting lawful charges are subject to the custody of this state as unclaimed property, if all the following apply:

a. The owner has not claimed the property or income derived from the property or corresponded in writing with the temporary custodian of the property within three years after the date prescribed for delivery of the property or payment of income from the property.

b. The current address of the owner is unknown.

c. Notice that the property may be claimed has been delivered to the last known address of the owner.

3. This section does not apply to property or income derived from the property subject to any other provision of this chapter providing for a different procedure for determining when property is presumed abandoned and subject to state custody.

Approved March 29, 1990

CHAPTER 1096

INSTITUTIONAL FUNDS MANAGEMENT

S.F. 2350

AN ACT relating to the uniform management of institutional funds Act.

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

Section 1. NEW SECTION. 122C.1 SHORT TITLE.

This chapter may be cited as the "Uniform Management of Institutional Funds Act".

Sec. 2. NEW SECTION. 122C.2 DEFINITIONS.

For purposes of this chapter and unless the context otherwise requires:

1. "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes, or a governmental organization to the extent that it holds funds exclusively for any of these purposes.

2. "Institutional fund" means a fund held by an institution for its exclusive use, benefit, or purposes, but does not include a fund held for an institution by a trustee that is not an institution and does not include a fund in which a beneficiary that is not an institution has an interest, other than possible rights that could arise upon violation or failure of the purposes of the fund.

3. "Endowment fund" means an institutional fund, or any part of an institutional fund, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument.

4. "Historic dollar value" means the aggregate fair value in dollars of all of the following:

a. An endowment fund at the time it becomes an endowment fund.

b. Each subsequent donation to the fund at the time it is made.

c. Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

5. "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document, including the terms of any institutional solicitations from which an institutional fund resulted, under which property is transferred to or held by an institution as an institutional fund.

Sec. 3. NEW SECTION. 122C.3 APPROPRIATION OF APPRECIATION.

The governing board of an institution may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by section 122C.7. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

Sec. 4. NEW SECTION. 122C.4 RULE OF CONSTRUCTION.

Section 122C.3 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation shall not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this chapter.

Sec. 5. NEW SECTION. 122C.5 INVESTMENT AUTHORITY.

In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary may make, the governing board of an institution, subject to specific limitations set forth in the applicable gift instrument or in the applicable law, other than law relating to investments by a fiduciary, may do any of the following:

1. Invest and reinvest an institutional fund in real or personal property deemed advisable by the governing board, whether or not the investment or reinvestment produces a current return, including mortgages, stocks, bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of a government or subdivision or instrumentality of a government.

2. Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable.

3. Include all or any part of an institutional fund in any pooled or common fund maintained by the institution.

4. Invest all or part of an institutional fund in another pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

Sec. 6. NEW SECTION. 122C.6 DELEGATION OF INVESTMENT MANAGEMENT.

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board of an institution may do any of the following:

1. Delegate to committees, officers, or employees of the institution or the fund, or agents, including investment counsel, the authority to act in place of the board in the investment and reinvestment of institutional funds.

2. Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, to act in place of the board in the investment and reinvestment of institutional funds.

3. Authorize the payment of compensation for investment advisory or management services.

Sec. 7. NEW SECTION. 122C.7 STANDARD OF CONDUCT.

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board of an institution shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long-term and short-term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

Sec. 8. NEW SECTION. 122C.8 RELEASE OF RESTRICTIONS ON USE OR INVESTMENT.

1. With the written consent of the donor, the governing board of an institution may release, in whole or in part, a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund.

2. If written consent of the donor cannot be obtained by reason of death, disability, unavailability, or impossibility of identification, the governing board may apply in the name of the institution to the district court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. The attorney general shall be notified of the application and shall be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate, or impracticable, it may by order release the restriction in whole or in part. A release under this subsection shall not change an endowment fund into a fund that is not an endowment fund.

3. A release under this section shall not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

4. This section does not limit the application of the doctrine of cy pres.

Sec. 9. NEW SECTION. 122C.9 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact the uniform management of institutional funds Act.

Approved March 29, 1990

CHAPTER 1097

HISTORICAL RESOURCE DEVELOPMENT

S.F. 2369

AN ACT relating to the historic resource development program.

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

Section 1. Section 303.2, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Administer the historical resource development program established in section 303.16.

Sec. 2. Section 303.16, subsections 1 and 2, Code Supplement 1989, are amended to read as follows:

1. The ~~department~~ historical division shall administer a program of grants and loans for historical resource development throughout the state, subject to funds for such grants and loans being made available through the appropriations process or otherwise provided by law.

2. The purpose of the historical resource development program is to preserve, conserve, interpret, and enhance historical resources that will encourage and support the economic and cultural health and development of the state and the communities in which the resources are located. For this purpose, the ~~department~~ division may make grants and loans as otherwise provided by law with funds as may be made available by applicable law.

Sec. 3. Section 303.16, subsection 3, paragraph a, Code Supplement 1989, is amended to read as follows:

a. County and city governments that are certified local governments by the state historic preservation officer, and agencies of certified local governments.

Sec. 4. Section 303.16, subsection 4, Code Supplement 1989, is amended to read as follows:

4. Grants and loans may be made for the following ~~categories of~~ purposes:

a. Acquisition and development of historical ~~properties~~ resources.

b. Preservation and conservation of historical ~~properties~~ resources.

c. Interpretation of historical resources.

~~Not less than twenty percent nor more than fifty percent of the funds in a single grant cycle shall be allocated to any one category.~~

d. Professional training and educational programs on the acquisition, development, preservation, conservation, and interpretation of historical resources.

Sec. 5. Section 303.16, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Grants and loans shall be awarded in each of the following categories:

a. Museums.

b. Documentary collections.

c. Historic preservation.

Not less than twenty percent and not more than sixty percent of the program's funds appropriated in one fiscal year shall be allocated to any single category.

Sec. 6. Section 303.16, subsection 5, Code Supplement 1989, is amended to read as follows:

5. Grants and loans are subject to the following restrictions:

a. ~~Grants shall not~~ Not more than twenty percent of the total grant moneys combined shall be given to or received by any state agency, institution or its representative or agent.

b. Grants or loan funds shall not be used to support operating expenses or programs as defined by the ~~department's~~ division's rules.

c. Grant or loan funds shall not be used to support ~~publications,~~ public relations, or marketing expenses.

~~d. Grant or loan funds shall not support or partially support salaries or benefits of anyone employed directly by the recipient. This restriction does not prohibit the recipient from contracting with individuals for specific work of limited duration, under federal internal revenue service guidelines for contract work.~~

e d. Not more than one hundred thousand dollars or twenty percent of the annual appropriation, whichever is more, shall be granted and loaned to recipients within ~~any~~ a single county in any given grant cycle.

~~f~~ e. Not more than one hundred thousand dollars or ten percent of the annual appropriation, whichever is more, ~~may~~ shall be granted ~~or~~ and loaned to any single recipient or its agent within a single fiscal year.

~~g~~ f. Grants ~~or loans~~ under this program may be given only after review and recommendation by the state historical society board of trustees. The division may contract with lending institutions chartered in this state to act as agents for the administration of loans under the program, in which case, the lending institution may have the right of final approval of loans, subject to the division's administrative rules. If the division does not contract with a lending institution, loans may be made only after review and recommendation by the state historical society board of trustees.

~~h. All grant or loan funds must be expended by employing individuals or businesses located within the state of Iowa.~~

g. The division shall not award grants or loans to be used for goods or services obtained outside the state, unless the proposed recipient demonstrates that it is neither feasible nor prudent to obtain the goods or services within the state.

Sec. 7. Section 303.16, subsection 7, Code Supplement 1989, is amended to read as follows:

7. The ~~department~~ division may use ten percent of the ~~amount appropriated to the department~~ annual appropriation to the division, but in no event more than seventy-five thousand dollars for administration of the grant and loan program.

Sec. 8. Section 303.16, subsection 8, Code Supplement 1989, is amended to read as follows:

8. a. The ~~department~~ division may establish a historical resource 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~~ division 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 are eligible for not more than one hundred thousand dollars in loans outstanding at any time under this program. A single lending institution contracting with the division pursuant to this section shall not hold more than five hundred thousand dollars worth of outstanding loans under the program.

b. The ~~department~~ division may:

(1) Contract, ~~sue and be sued,~~ and ~~promulgate~~ adopt administrative rules necessary to carry out the provisions of this section, but the ~~department~~ division shall not in any manner directly or indirectly pledge the credit of the state of Iowa.

(2) Authorize payment from the 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.

Approved March 29, 1990

CHAPTER 1098

SPOUSAL SUPPORT DEBTS

S.F. 2388

AN ACT relating to administrative procedures for the establishment, determination, and collection of certain spousal support debts.

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

Section 1. NEW SECTION. 249B.1 DEFINITIONS.

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

1. "Community spouse" means an individual who has not resided or is not likely to reside in a hospital or a health care facility for more than twenty-nine consecutive days and is married to an institutionalized spouse.

2. "Community spouse resource allowance" means a resource amount established for a community spouse pursuant to state policy adopted in accordance with the federal Social Security Act, section 1924(f)(2), as codified in 42 U.S.C. § 1396r-5(f)(2).

3. "Court order" means a judgment or order of a court of this state or another state requiring the payment of a set or determinable amount of monetary support.

4. "Department" means the department of human services.

5. "Institutionalized spouse" means a married individual who has resided or is likely to reside in a hospital or a health care facility for more than twenty-nine consecutive days.

6. "Medical assistance" means "medical assistance", "additional medical assistance", "discretionary medical assistance" or "medicare cost-sharing" as defined in section 249A.2 which is provided to an individual pursuant to chapter 249A and Title XIX of the federal Social Security Act.

7. "Minimum monthly maintenance needs allowance" or "minimum allowance" means the minimum monthly maintenance needs allowance established for the community spouse in accordance with Title XIX of the federal Social Security Act, section 1924(d)(3), as codified in 42 U.S.C. § 1396r-5(d)(3).

Sec. 2. NEW SECTION. 249B.2 CREATION OF SPOUSAL SUPPORT DEBT.

1. Medical assistance provided to an institutionalized spouse due to the institutionalized spouse's assignment of support rights, an inability to execute an assignment of support rights, or hardship, creates a spousal support debt due and owing to the department from the community spouse in an amount equal to the medical assistance provided on behalf of the institutionalized spouse.

2. The department may recover the spousal support debt from any income or resources of the community spouse that is not exempt for medical assistance eligibility purposes and that

is in excess of the minimum monthly maintenance needs allowance and the community spouse resource allowance.

3. When an institutionalized spouse is determined to be eligible for medical assistance pursuant to subsection 1, prior to issuing a formal notice of a spousal support debt pursuant to section 249B.3, the department shall offer to meet with the community spouse concerning creation of the spousal support debt.

Sec. 3. NEW SECTION. 249B.3 NOTICE OF SPOUSAL SUPPORT DEBT — FAILURE TO RESPOND — HEARING — ORDER.

1. The department may issue a notice establishing and demanding payment of an accrued or accruing spousal support debt due and owing to the department. The notice shall be served upon the community spouse in accordance with the rules of civil procedure. The notice shall include all of the following:

a. The amount of medical assistance provided to the institutionalized spouse which creates the spousal support debt.

b. A computation of spousal support debt, the minimum monthly maintenance needs allowance, and the community spouse resource allowance.

c. A demand for immediate payment of the spousal support debt.

d. (1) A statement that if the community spouse desires to discuss the amount of support that the community spouse should be required to pay, the community spouse, within ten days after being served, may contact the unit of the department which issued the notice and request a conference.

(2) A statement that if a conference is requested, the community spouse has ten days from the date set for the conference or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the unit of the department which issued the notice.

(3) A statement that after the holding of the conference, the department may issue a new notice and finding of financial responsibility to be sent to the community spouse by regular mail addressed to the community spouse's last known address, or if applicable, to the last known address of the community spouse's attorney.

(4) A statement that if the department issues a new notice and finding of financial responsibility, the community spouse has ten days from the date of issuance of the new notice or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the unit of the department which issued the notice.

e. A statement that if the community spouse objects to all or any part of the notice or finding of financial responsibility and no negotiation conference is requested, the community spouse, within twenty days of the date of service, shall send to the unit of the department which issued the notice, a written response setting forth any objections and requesting a hearing.

f. A statement that if a timely written request for a hearing is received by the unit of the department which issued the notice, the spouse has the right to a hearing to be held in district court; and that if no timely written response is received, the department will enter an order in accordance with the notice and finding of financial responsibility.

g. A statement that, as soon as the order is entered, the property of the community spouse is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

h. A statement that the community spouse must notify the department of any change of address or employment.

i. A statement that if the community spouse has any questions, the community spouse should telephone or visit the department or consult an attorney.

j. Other information as the department finds appropriate.

2. If a timely written response setting forth objections and requesting a hearing is received by the unit of the department which issued the notice, a hearing shall be held in district court.

3. If timely written response and request for hearing is not received by the department, the department may enter an order in accordance with the notice, and the order shall specify all of the following:

a. The amount to be paid with directions as to the manner of payment.

b. The amount of the spousal support debt accrued and accruing in favor of the department.

c. Notice that the property of the community spouse is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

4. The community spouse shall be sent a copy of the order by regular mail addressed to the community spouse's last known address, or if applicable, to the last known address of the community spouse's attorney. The order is final, and action by the department to enforce and collect upon the order may be taken from the date of the issuance of the order.

Sec. 4. NEW SECTION. 249B.4 CERTIFICATION TO COURT — HEARING — DEFAULT.

1. If a timely written request for a hearing is received, the department shall certify the matter to the district court in the county where the institutionalized spouse resides.

2. The certification shall include true copies of the notice and finding of financial responsibility or notice of the spousal support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

3. The district court shall set the matter for hearing and notify the parties of the time and place of hearing.

4. If a party fails to appear at the hearing, upon a showing of proper notice to the party, the district court may find the party in default and enter an appropriate order.

Sec. 5. NEW SECTION. 249B.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER — ORDER EFFECTIVE AS COURT DECREE.

A true copy of an order entered by the department 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 institutionalized spouse resides. Upon filing, the clerk shall enter the order in the judgment docket, and the department's order shall be presented to the district court for ex parte 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 has the force, effect, and attributes of a docketed order or decree of the district court.

Sec. 6. NEW SECTION. 249B.6 INTEREST ON SPOUSAL SUPPORT DEBTS.

Interest accrues on a spousal support debt at the rate provided in section 535.3 for court judgments. The department may collect the accrued interest, but is not required to maintain interest balance accounts. The department may waive payment of the interest if the waiver will facilitate the collection of the spousal support debt.

Sec. 7. NEW SECTION. 249B.7 SECURITY FOR PAYMENT OF SPOUSAL SUPPORT — FORFEITURE.

Upon entry of a court order or upon the failure of a community spouse to make payments pursuant to a court order, the court may require the community spouse to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the spousal support obligation under the court order. If the community spouse fails to make payments pursuant to the court order, the court may declare the security, bond, or other guarantee forfeited.

Approved March 29, 1990

CHAPTER 1099

FINE FOR VEHICLE SIZE AND WEIGHT VIOLATIONS
H.F. 664

AN ACT relating to the fine for certain violations regarding motor vehicles of excessive size or weight.

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

Section 1. Section 321E.16, Code 1989, is amended to read as follows:

321E.16 VIOLATIONS — PENALTIES.

Any person who is convicted of a violation of any provision of this chapter or of rules adopted under section 321E.15, other than length, height, width, or weight allowed by any permit issued under this chapter shall be punished by a fine of ~~not less than~~ one hundred dollars for the first conviction, two hundred fifty dollars for a second conviction within a twelve-month period, and five hundred dollars for a third conviction within a twelve-month period. The fine for violation of the length, height, width, and weight allowed by permit shall be based upon the difference between the actual length, height, width, and weight of the vehicle and load and the maximum allowable by permit and in accordance with section 321.482 for violations of length, height, or width limitations and sections 321.482 and 321.463 for violation of weight limitations. If a vehicle with indivisible load traveling under permit is found to be in violation of weight limitations, the vehicle operator shall be allowed a reasonable amount of time to remove any ice, mud, snow, and other weight attributable to climatic conditions accumulated along the route prior to application of the penalties prescribed in sections 321.463 and 321.482. The department shall adopt rules to require peace officer escorts for permit holders convicted for the third time in a twelve-month period of violating a provision of this chapter or a provision of rules adopted pursuant to section 321E.15.

Approved March 29, 1990

CHAPTER 1100

DEBT MANAGEMENT SERVICES FEE
H.F. 2092

AN ACT relating to debt management services.

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

Section 1. Section 533A.9, Code 1989, is amended to read as follows:

533A.9 FEE AGREED IN ADVANCE.

The fee of the licensee shall be agreed upon in advance and stated in the contract and provision for settlement in case of cancellation or prepayment shall be clearly stated herein. The fee of the licensee shall not exceed ~~twelve and one-half~~ fifteen percent of any payment made by the debtor and distributed to the creditors pursuant to the contract. In case of total payment of the contract before the contract period has expired, the licensee shall be entitled only to a fee of no more than three percent of such final payment.

Sec. 2. Section 533A.11, subsection 7, Code 1989, is amended by striking the subsection.

Approved March 29, 1990

CHAPTER 1101

FAILURE TO OBEY SCHOOL BUS WARNING DEVICES – PROCEDURES

H.F. 2119

AN ACT relating to violations involving disobedience of the warning lamps, signal lamps, and stop arms of school buses.

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

Section 1. Section 321.372A, Code 1989, is amended to read as follows:

321.372A PROMPT INVESTIGATION OF REPORTED VIOLATION OF FAILING TO OBEY SCHOOL BUS WARNING DEVICES.

The driver of a school bus who observes a violation of section 321.372, subsection 3, may prepare a written report on a form provided by the department of public safety indicating that a violation has occurred. The school bus driver or a school official may deliver the report not more than ~~twenty-four~~ seventy-two hours after the violation occurred to a peace officer of the state or a peace officer of the county or municipality in which the violation occurred. The report shall state the time and the location at which the violation occurred and shall include the registration plate number and a description of the vehicle involved in the violation.

Not more than ~~forty-eight hours~~ seven calendar days after receiving a report of a violation of section 321.372, subsection 3, from a school bus driver or a school official, the peace officer shall ~~investigate~~ initiate an investigation of the reported violation and contact the owner of the motor vehicle involved in the reported violation and request that the owner supply information identifying the driver in accordance with section 321.484. If, from the investigation, the peace officer is able to identify the driver and has reasonable cause to believe a violation of section 321.372, subsection 3, has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall ~~personally~~ serve it ~~upon~~ personally or by certified mail to the driver of the vehicle.

Approved March 29, 1990

CHAPTER 1102

SNOW ROUTE PARKING VIOLATIONS

H.F. 2143

AN ACT regulating the parking of motor vehicles on snow routes, and providing a penalty.

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

Section 1. Section 321.236, subsection 1, unnumbered paragraph 2 and paragraph a, Code 1989, are amended to read as follows:

Parking meter, ~~and~~ snow route, and overtime parking violations which are denied shall be charged and proceed before a court the same as other traffic violations and court costs shall be assessed as provided in section 805.6, subsection 1, paragraph "a" for parking violation cases. Parking violations which are admitted:

a. May be charged and collected upon a simple notice of a fine ~~not exceeding five dollars~~ payable to the city clerk or clerk of the district court, if authorized by ordinance. The fine shall not exceed five dollars except for snow route parking violations in which case the fine shall not exceed twenty-five dollars. No costs or other charges shall be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 2. Section 805.8, subsection 2, paragraph a, Code Supplement 1989, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars:. However, violations charged by a city or county upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 111.38 or 321.362 the scheduled fine is ten dollars.

Approved March 29, 1990

CHAPTER 1103

PUBLIC UTILITY RATE AUTOMATIC ADJUSTMENTS

H.F. 2238

AN ACT eliminating the requirement of zero balancing of automatic adjustments in the rates and charges of public utility service.

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

Section 1. Section 476.6, subsection 11, unnumbered paragraph 2, Code Supplement 1989, is amended by striking the paragraph.

Approved March 29, 1990

CHAPTER 1104

REGULATION OF BEEKEEPING

H.F. 2250

AN ACT relating to the importation of bees and bee-related items, increasing certain fees, and providing penalties.

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

Section 1. NEW SECTION. 160.1A DEFINITIONS.

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

1. "Apiary" means a place where one or more bee colonies are maintained.
2. "Appliance" means any equipment, structure, or container used to house bees.
3. "Bee" means a honeybee belonging to the genus apis.
4. "Colony" means a queen bee and more than one worker bee located on beeswax combs and enclosed in a container.

Sec. 2. Section 160.2, Code 1989, is amended to read as follows:

160.2 DUTIES.

The apiarist shall give lectures and demonstrations in the state on the production of honey, the care of the apiary, the marketing of honey, and upon other kindred subjects relative to the care of bees and the profitable production of honey; shall examine ~~the~~ bees, combs, and ~~beekeeping~~ appliances in any locality which the apiarist may suspect of being ~~affected~~ African

in origin or infected with a parasite or foulbrood or any other contagious or infectious disease common to bees; and shall ~~inspect~~ regulate bees ~~before removal from the~~, combs, and used appliances moving across state borders.

Sec. 3. Section 160.5, unnumbered paragraph 3, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

A person who desires to move a colony or a used appliance with combs into this state shall apply to the state apiarist for a written entry permit at least sixty days prior to the proposed entry date. A statement must accompany each application for an entry permit describing each offense related to beekeeping for which the person has been subject to a penalty by a state, federal, or foreign government. The written entry permit must accompany all such shipments when they enter the state. Entry into this state without a permit is unlawful and is punishable pursuant to section 160.14.

At least ten days before entry a person who has applied for an entry permit must meet both of the following conditions:

1. A valid certificate of inspection or certificate of health dated within the last sixty days must have been submitted by the state apiarist or inspector of the state of origin indicating the absence of any contagious diseases, parasites, or Africanized bees in the colony to be shipped.

2. A completed apiary registration form with locations of apiaries in Iowa indicated along with any fees required for nonresidents must have been submitted. Descriptions of locations shall include all of the following:

a. The name of the landowner.

b. Number of colonies to be kept at that location.

c. The county, township, section number and quarter section, or street address if located within the city limits.

Sec. 4. Section 160.14, subsections 1 and 2, Code 1989, are amended to read as follows:

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

2. A person who knowingly moves or causes to be moved into this state a colony, ~~of bees without a valid certificate of inspection from the state of origin or a permit to enter issued by the state apiarist pursuant to~~ used appliance, or combs in violation of section 160.5, is guilty of a serious misdemeanor.

Sec. 5. Section 160.14, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Each day a colony, a used appliance, or combs moved into this state in violation of section 160.5 remains in this state constitutes a separate offense. A colony, used appliance, or combs brought into this state in violation of section 160.5 may be declared a nuisance. The department shall provide written notice to the person owning the land where the colony, used appliance, or combs are located, and, if known, to the person owning the colony, used appliance, or combs. The notice shall state that the owner of the colony, used appliance, or combs must remove the colony, used appliance, or combs from this state within five days of the notification. After the five days have lapsed the department may seize the colony, used appliance, or combs. The department may secure a warrant if the owner of the land objects to the seizure. The department shall maintain the seized property until a court, upon petition by the department, determines the disposition of the property. The court shall render a decision concerning the disposition of the property by the court within ten days of the filing of the petition. Upon conviction of a violation of section 160.5, a person shall forfeit all interest in property moved in violation of that section and the department may immediately destroy the property.

Sec. 6. Section 160.16, Code 1989, is amended to read as follows:

160.16 IMPORTING ~~BEES~~ A COLONY FROM ANOTHER STATE -- FEE.

Each colony ~~of bees~~ moved into Iowa from another state by ~~nonresidents~~ a nonresident of Iowa shall be assessed a ~~fifty cents~~ one dollar entry fee. The fee, together with the certificate of inspection ~~from the state of origin~~ or certificate of health as provided in section 160.5, shall be collected by the state apiarist who shall forward ~~such fees~~ the fee to the auditor of the county where the ~~bees are~~ colony is to be located. Only nonresidents of Iowa shall be subject to ~~such~~ the entry fee.

Approved March 29, 1990

CHAPTER 1105

CREDIT CARD PAYMENT OF NATURAL RESOURCES DEPARTMENT CHARGES

H.F. 2279

AN ACT permitting the department of natural resources to accept credit cards for payment of certain fees and other permitted purposes.

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

Section 1. Section 455A.4, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department may accept payment of any fees, interest, penalties, subscriptions, or other payments due or collected by the department, or any portion of such payments, by credit card. The department may adjust the amount of the payment to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.

Approved March 29, 1990

CHAPTER 1106

CITY COUNCIL MEMBER SERVING AS VOLUNTEER FIRE CHIEF

H.F. 2307

AN ACT relating to the concurrent holding of the offices of city council member and fire chief of the volunteer fire department.

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

Section 1. Section 372.13, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. A council member, during the term for which that member is elected, is not precluded from holding the office of chief of the volunteer fire department if the fire department serves an area with a population of not more than two thousand, and if no other candidate who is not a city council member is available to hold the office of chief of the volunteer fire department.

Approved March 29, 1990

CHAPTER 1107

FREESTANDING HOSPICE FACILITIES

H.F. 2308

AN ACT relating to freestanding hospice facilities.

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

Section 1. Section 135B.1, subsection 1, Code 1989, is amended to read as follows:

1. "Hospital" means a place which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care over a period exceeding twenty-four hours of two or more nonrelated individuals suffering from illness, injury, or deformity, or a place which is devoted primarily to the rendering over a period exceeding twenty-four hours of obstetrical or other medical or nursing care for two or more nonrelated individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care over a period exceeding twenty-four hours of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care; and shall include sanatoriums or other related institutions within the meaning of this chapter. Provided, however, nothing in this chapter shall apply to hotels or other similar places that furnish only food and lodging, or either, to their guests or to a freestanding hospice facility which operates a hospice program in accordance with 42 C.F.R. § 418. "Hospital" shall include, in any event, any facilities wholly or partially constructed or to be constructed with federal financial assistance, pursuant to Public Law 725, 79th Congress, approved August 13, 1946.

Sec. 2. Section 135C.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A freestanding hospice facility which operates a hospice program in accordance with 42 C.F.R. § 418 may be operated without obtaining a license under this chapter and shall not be deemed to be licensed by the state.

Approved March 29, 1990

CHAPTER 1108

REGULATION OF DAMS

H.F. 2296

AN ACT relating to the regulation and operation of dams.

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

Section 1. Section 111.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A person, association, or corporation shall not build or erect any pier, wharf, sluice, piling, wall, fence, obstruction, building, or erection of any kind upon or over any state-owned land or water under the jurisdiction of the commission, without first obtaining from the commission a written permit. ~~However, this provision does not apply to dams constructed and operated under chapter 469.~~ A permit, in matters relating to or in any manner affecting flood control, shall not be issued without approval of the environmental protection commission of the department. A person shall not maintain or erect any structure beyond the line of private ownership along or upon the shores of state-owned waters in a manner to obstruct the passage of pedestrians along the shore between the ordinary high-water mark and the water's edge, except by permission of the commission.

Sec. 2. Section 455A.4, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. Provide overall supervision, direction, and coordination of functions to be administered by the administrators under chapters 84, 93, 106, 107, 108, 108A, 109, 109A, 110, 110A, 110B, 111, 111B, 111D, 112, 305, 321G, 455B, and 455C~~, and 469~~.

Sec. 3. Section 455A.6, subsection 6, paragraph a, Code Supplement 1989, is amended to read as follows:

a. Establish policy for the department and adopt rules, pursuant to chapter 17A, necessary to provide for the effective administration of chapter 455B~~, 455C,~~ or ~~469~~ 455C.

Sec. 4. Section 455B.275, subsection 1, 3, 4, and 6, Code 1989, are amended to read as follows:

1. A person shall not permit, erect, use, or maintain a structure, dam, obstruction, deposit, or excavation in or on a floodway or flood plains, which will adversely affect the efficiency of or unduly restrict the capacity of the floodway, or adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, and the same are declared to be public nuisances. ~~However, this subsection does not apply to dams constructed and operated under the authority of chapter 469.~~

3. A person shall file a written application with the department if the person desires to do any of the following:

a. ~~If a person desires to erect or make or to permit~~ Erect, construct, use, or maintain a structure, dam, obstruction, deposit, or excavation~~, other than a dam constructed and operated under chapter 469, to be erected, made, used, or maintained~~ in or on any floodway or flood plains~~, the person shall file a written application with the department, setting~~.

b. Erect, construct, maintain, or operate a dam on a navigable or meandered stream.

c. Erect, construct, maintain, or operate a dam on a stream for manufacturing or industrial purposes.

The application shall set forth information as required by rule of the commission. The department, after an investigation, shall approve or deny the application imposing conditions and terms as prescribed by the department.

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a structure, dam, obstruction, deposit, or excavation ~~other than a dam constructed and operated under the authority of chapter 469,~~ for which a permit has not been granted. The department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated. The costs of abatement shall be borne by the violator. Notwithstanding section 176B.11, a structure, dam, obstruction, deposit, or excavation on a floodway or flood plain in an agricultural area established under chapter 176B is not exempt from the sections of this part which relate to regulation of flood plains and floodways. As used in this subsection, "violator" includes a person contracted to erect or make a structure, dam, obstruction, deposit, or excavation in a floodway including stream straightening unless the project is authorized by a permit required under this part ~~or the project is a dam authorized pursuant to chapter 469~~.

6. The department may require, as a condition of an approval order or permit granted pursuant to this part ~~or chapter 469~~, the furnishing of a performance bond with good and sufficient surety, conditioned upon full compliance with the order or permit and the rules of the commission. In determining the need for and amount of bond, the department shall give consideration to the hazard posed by the construction and maintenance of the approved works and the protection of the health, safety, and welfare of the people of the state. This subsection does not apply to orders or permits granted to a governmental entity.

Sec. 5. NEW SECTION. 469A.8 UNLAWFUL COMBINATION – RECEIVERSHIP.

The state may take possession of a dam for which a permit has been issued under section 455B.275 through receivership proceedings, if the dam becomes owned, leased, trusteed, possessed, or controlled by a person in a manner constituting an unlawful combination or trust, or if the dam is the subject or part of the subject of an agreement to limit the output of hydraulic

or hydroelectric power derived from the dam for the purpose of price fixing. The receivership proceedings must be instituted by the executive council, and shall be conducted for the purpose of disposing of the dam for a lawful use. The proceeds from the disposition shall be used to reimburse the state for expenses incurred in the receivership. The remaining proceeds shall be awarded to persons found by the court to be entitled to the proceeds.

Sec. 6.

A permit or license issued pursuant to chapter 469 before July 1, 1990, shall be deemed to be a permit issued pursuant to section 455B.275, and shall be valid to the same extent that it had been valid under chapter 469. However, a person holding a permit or license under chapter 469 shall have the same rights and be subject to the same obligations and restrictions as a person holding a permit under section 455B.275.

Sec. 7. Sections 469.1 through 469.17, 469.26, 469.27, 469.29, and 469.30, Code 1989, are repealed.

Approved March 29, 1990

CHAPTER 1109

HANDICAPPED PERSONS' USE OF CROSSBOW

S.F. 57

AN ACT requiring the natural resource commission to adopt a rule to allow handicapped individuals to use a crossbow.

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

Section 1. Section 109.38, subsection 1, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission shall adopt a rule permitting a crossbow to be used only by handicapped individuals physically incapable of using a bow and arrow under the conditions in which a bow and arrow is permitted. The commission shall prepare an application to be used by an individual requesting the status. The application shall require the individual's physician to sign a statement declaring that the individual is not physically able to use a bow and arrow.

Approved March 30, 1990

CHAPTER 1110

FORECLOSURE MORATORIUM

S.F. 2052

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, 1991. Any person eligible to file an application under section 654.15, subsection 2, must file for the continuance by March 30, 1991. 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, 1990, the Act is retroactive to March 30, 1990, and is applicable on and after that date.

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

Approved March 30, 1990

CHAPTER 1111

PURPLE LOOSESTRIFE REGULATION

S.F. 2080

AN ACT providing for the sale, offer for sale, or distribution of sterile varieties of purple loosestrife.

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

Section 1. Section 317.25, Code Supplement 1989, is amended to read as follows:

317.25 TEASEL, MULTIFLORA ROSE, AND PURPLE LOOSESTRIFE PROHIBITED.

A person shall not sell, offer for sale, or distribute teasel (Dipsacus) biennial, the multiflora rose (rosa multiflora), purple loosestrife (lythrum salicaria), or seeds of them in any form in this state. However, this section does not prohibit the ~~multiflora rose (rosa multiflora) may be sold, offered for sale, or distributed when~~ sale, offer for sale, or distribution of the multiflora rose (rosa multiflora) used for understock for either cultivated roses or ornamental shrubs in gardens. This section also does not prohibit the sale, offer for sale, or distribution of varieties of the purple loosestrife (lythrum virgatum) when used for ornamental gardens, and which are sterile according to a list published by the state weed commissioner pursuant to chapter 17A. Any person violating the provisions of this section is subject to a fine of not exceeding one hundred dollars.

Sec. 2.

The state weed commissioner shall publish the list of varieties of purple loosestrife which are sterile according to this Act by September 1, 1990.

Approved March 30, 1990

CHAPTER 1112

MEDIATION BY DENTAL EXAMINERS BOARD

S.F. 2097

AN ACT relating to the mediation of disputes between licensees and patients by the board of dental examiners.

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

Section 1. Section 153.33, subsection 1, Code 1989, is amended to read as follows:

1. To initiate investigations of and conduct hearings on all matters or complaints relating to the practice of dentistry or dental hygiene or pertaining to the enforcement of any provision of this chapter, to provide for mediation of disputes between licensees and their patients when specifically recommended by the board, to revoke or suspend licenses or the renewal thereof issued under this or any prior chapter, to provide for restitution to patients, and to otherwise discipline licensees.

Subsequent to an investigation by the board, the board may appoint a disinterested third party to mediate disputes between licensees and patients. Referral of a matter to mediation shall not preclude the board from taking disciplinary action against the affected licensee.

Approved March 30, 1990

CHAPTER 1113

SHARED PETROLEUM FACILITIES

S.F. 2158

AN ACT permitting the shared ownership, operation, or cooperative use of publicly owned petroleum storage facilities by more than one public agency or political subdivision and providing for the applicability of the Act.

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

Section 1. NEW SECTION. 101.5A SHARED PUBLIC PETROLEUM STORAGE FACILITIES.

The state fire marshal shall permit by rule the shared ownership, operation, or cooperative use of a publicly owned petroleum storage or dispensing facility by more than one public agency or political subdivision in order to maximize the opportunity for cooperation, to avoid unnecessary duplication of facilities posing both an environmental and fire hazard, and to minimize the cost of providing public services. Shared or cooperative use is not a violation of chapter 23A, even if one public agency or political subdivision compensates another public agency or political subdivision for the use or for petroleum dispensed. A publicly owned petroleum storage facility subject to this section may use aboveground or underground storage tanks, or a combination of both.

Sec. 2.

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

Approved March 30, 1990

CHAPTER 1114

FAMILY SUPPORT SUBSIDY PROGRAM
S.F. 2201

AN ACT relating to the family support subsidy program.

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

Section 1. Section 225C.35, subsection 2, Code 1989, is amended to read as follows:

2. "Family member" means a person less than eighteen years of age who ~~requires special education pursuant to section 281.9, subsection 1, paragraph "c" or "d"~~ by educational determination has a moderate, severe, or profound educational handicap or special health care needs or who otherwise meets the definition of developmental disability in the federal Developmental Disabilities Act, section 102(5), as codified in 42 U.S.C. § 6001(5). The department shall adopt rules establishing procedures for determining whether a child has a developmental disability.

Sec. 2. Section 225C.36, Code 1989, is amended to read as follows:

225C.36 FAMILY SUPPORT SUBSIDY PROGRAM.

A family support subsidy program is created as specified in this division. The purpose of the family support subsidy program is to keep families together ~~and to reduce capacity in state facilities~~ by defraying some of the special costs of caring for a family member~~, thus facilitating the return of family members from out-of-home placements to their family homes, and preventing or delaying the out-of-home placement of family members who reside in their family homes~~ at home. The department shall adopt rules to implement the purposes of sections 225C.36 through 225C.42 which assure that families retain the greatest possible flexibility in determining appropriate use of the subsidy.

Sec. 3. Section 225C.37, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A parent or legal guardian of a family member ~~who is a resident of or being considered for placement in a state hospital-school, a community-based intermediate care facility which is intended to serve mentally retarded individuals or persons with developmental disabilities, a child foster care group home, a child foster care family home, or a state mental health institute~~ may apply to the local office of the department for the family support subsidy program. The application shall include:

Approved March 30, 1990

CHAPTER 1115

COUNTY AND JOINT COUNTY AND CITY SPECIAL ASSESSMENT DISTRICTS
S.F. 2227

AN ACT relating to public improvements, by authorizing counties to create special assessment districts in areas of the county outside cities or within cities for certain public improvements, to assess the cost of the improvements to the benefited property within the districts, to establish and collect rates and charges to maintain and operate the improvements, and by providing an effective date.

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

PART 6
SPECIAL ASSESSMENT DISTRICTS

Section 1. NEW SECTION. 331.485 DEFINITIONS.

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

1. "County special assessment district" means the area of a county outside of cities within boundaries established by the board of supervisors for the purpose of assessment of the cost of a public improvement.

2. "Cost" means cost as defined in section 384.37.

3. "District" means a joint special assessment district, and a county special assessment district.

4. "Joint special assessment district" means a district defined by a county and one or more other counties or one or more cities within the county or within an adjacent county pursuant to an agreement entered into by the county and one or more other counties or cities in accordance with chapter 28E and this part with respect to public improvements which the parties to the agreement determine benefit the property located in the cities and the designated area of the counties outside of cities, which are parties to the agreement.

5. "Public improvement" means public improvement as defined in section 384.37.

Sec. 2. NEW SECTION. 331.486 ASSESSMENT OF COSTS OF PUBLIC IMPROVEMENTS.

A county may assess to property within a county special assessment district the cost of construction and repair of public improvements benefiting the district and may assess to county property within a joint special assessment district the cost of construction and repair of public improvements benefiting the district. A county may construct and assess the cost of public improvements within a district in the same manner as a city may proceed under chapter 384, division IV, and chapter 384, division IV, applies to counties with respect to public improvements, the assessment of their costs, and the issuance of bonds for the public improvements. A county may contract for a public improvement benefiting a district under this part pursuant to part 3 of chapter 331, division III.

Sec. 3. NEW SECTION. 331.487 SPECIAL ASSESSMENT BONDS FOR PUBLIC IMPROVEMENTS.

A county may issue special assessment bonds in anticipation of the collection of special assessments for the cost of public improvements benefiting a district in the same manner as provided for cities under chapter 384, division IV.

Sec. 4. NEW SECTION. 331.488 JOINT AGREEMENTS FOR PUBLIC IMPROVEMENTS.

An agreement entered into between a county and a city or another county in accordance with chapter 28E with respect to a public improvement may include, but is not limited to, the following:

1. The sharing of the total cost of the public improvement among all parties to the agreement.

2. The amount of total assessments against private property within each city and within the area of each county outside a city included within the district.

3. The method of specially assessing and determining benefits.

4. The amount of funds, if any, to be contributed by each city and each county to the project other than special assessments.

5. The rates to be established and imposed upon property within the district to pay the expenses of operation and maintenance of the public improvements.

6. The reduction of the county's debt service tax levy rate against property within a city which is a party to the joint agreement.

Sec. 5. NEW SECTION. 331.489 RATES AND CHARGES RELATING TO PUBLIC IMPROVEMENTS.

A county which has created a district for a public improvement and, to the extent provided in the agreement creating a joint special assessment district, each county or city which is a party to the agreement, may establish, impose, adjust, and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of a public improvement, against property within the district and, where

appropriate, establish, impose, adjust, and provide for the collection of charges for connection to a public improvement. The rates and charges must be established by ordinance of the governing body of the county or the city imposing the rates or charges. The rates and charges established as provided in this section, if not paid as provided by the ordinance of the governing body, are a lien upon the premises served or benefited by the public improvement and may be certified to the county auditor and collected in the same manner as property taxes.

Sec. 6. NEW SECTION. 331.490 CITIES SUBJECT TO DEBT SERVICE TAX LEVY — RATES.

1. If a county and city have entered into an agreement to create a joint special assessment district and issue county general obligation bonds to fund the costs of a public improvement benefiting that district, the county's debt service tax levy for the county general obligation bonds shall not be levied against property located in any city except a city which has entered into the agreement.

2. Counties and cities entering into an agreement for a joint special assessment district may provide in the agreement for a different rate of the county's debt service tax levy against property in areas of the county outside a city and property within the cities.

Sec. 7. NEW SECTION. 331.491 AUTHORITY.

The authority of a county or a city under this part with respect to districts and the financing of public improvements is in addition to any other authority of a county or city to contract and levy special assessments and issue bonds to fund the costs.

Sec. 8.

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

Approved March 30, 1990

CHAPTER 1116

VEHICLE CERTIFICATE OF TITLE REASSIGNMENT RECIPROCITY

S.F. 2235

AN ACT relating to reassignment of certificates of title and providing an effective date.

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

Section 1. Section 321.24, unnumbered paragraph 4, Code Supplement 1989, is amended to read as follows:

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 licensed in this state or in another state if the state in which the dealer is licensed permits Iowa licensed dealers to similarly reassign certificates of title. 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. Notwithstanding section 321.1, subsection 38, as used in this paragraph "dealer" means every person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered under this chapter.

Sec. 2. Section 321.48, subsection 2, Code 1989, is amended to read as follows:

2. A foreign registered vehicle purchased or otherwise acquired by a dealer for the purpose of resale shall be issued a certificate of title for the vehicle by the county treasurer of the dealer's residence upon proper application as provided in this chapter and upon payment of a fee of five dollars and the dealer is exempt from the payment of any and all registration fees for the vehicle. The application for certificate of title shall be made within fifteen days after the vehicle comes within the border of the state. However, a dealer acquiring a vehicle registered in another state which permits Iowa dealers to reassign that state's certificates of title shall not be required to obtain a new registration or a new certificate of title and upon transferring title or interest to another person shall execute an assignment upon the certificate of title for the vehicle to the person to whom the transfer is made and deliver the assigned certificate of title to the person.

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

Approved March 30, 1990

CHAPTER 1117

VETERINARY MEDICINE LICENSE

S.F. 2262

AN ACT relating to licensure to practice veterinary medicine.

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

Section 1. Section 169.8, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. Based upon an applicant's education, experience, and training, the board may grant a limited license to an applicant to perform a restricted range of activities within the practice of veterinary medicine, as specified by the board.

Sec. 2. Section 169.10, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

169.10 LICENSE BY ENDORSEMENT.

1. The board may issue a license to practice veterinary medicine in this state without written examination to an applicant who meets all of the following requirements:

a. Has graduated from an accredited college of veterinary medicine or has received a certificate from the educational commission for foreign veterinary graduates at least five years prior to application.

b. Has actively practiced for at least two thousand hours during the five years preceding application.

c. Has not previously failed and not subsequently passed a veterinary licensing examination in this state.

d. Holds a current license to practice veterinary medicine in another state or United States territory or province of Canada.

e. Is not subject to license investigation, suspension, or revocation in any state, United States territory, or province of Canada.

f. Provides other information and proof as the board may require by rule.

2. The board may issue a license to practice veterinary medicine in this state without written or oral examination to an applicant who meets all of the following requirements:

a. Holds a current certification as a diplomate of a national specialty board or college recognized by the board by rule.

b. Is not subject to license investigation, suspension, or revocation in any state, United States territory, or province of Canada.

c. Provides other information and proof as the board may require by rule.

Approved March 30, 1990

CHAPTER 1118

HOSPITAL DEPRECIATION FUND

S.F. 2263

AN ACT authorizing a board of trustees of certain public hospitals to establish a separate fund for depreciation and providing properly related matters.

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

Section 1. Section 347A.1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board of hospital trustees may establish a fund for depreciation as a separate fund. Depreciation fund moneys may be invested in United States government bonds and the accumulation of interest on the bonds shall be used for the purposes of the depreciation fund. The moneys shall remain invested in the bonds until the board of hospital trustees determines the moneys shall be used for hospital purposes.

Sec. 2. Section 347A.3, Code 1989, is amended to read as follows:

347A.3 TAX FOR MAINTENANCE AND OPERATION.

If in any year, after payment of the accruing interest on and principal due of revenue bonds issued under chapter 331, division IV, part 4, and payable from the revenues derived from the operation of the county hospital, there is a balance of such revenues insufficient to pay the expenses of operation, ~~and~~ maintenance, and funded depreciation of the hospital, the board of hospital trustees shall certify that fact as soon as ascertained to the board of supervisors of the county, and the board of supervisors shall make the amount of the deficiency for paying the expenses of operation, ~~and~~ maintenance, and funded depreciation of the hospital available from other county funds or shall levy a tax not to exceed one dollar and eight cents per thousand dollars of assessed value in any one year on all the taxable property in the county in an amount sufficient for that purpose. However, general county funds or the proceeds of taxes shall not be used or applied to the payment of the interest on or principal of revenue bonds issued under chapter 331, division IV, part 4, but general county funds or proceeds of taxes may only be used and applied to pay expenses of operation, ~~and~~ maintenance, and funded depreciation of the hospital which cannot be paid from available revenue derived from its operation.

A tax levied under this section for paying the expenses of operation, ~~and~~ maintenance, and funded depreciation of a merged area hospital pursuant to the authority granted a merged area under section 145A.20, shall only be levied on the assessed value of property in that portion of a county which is part of the merged area, in accordance with the plan or merger established, approved, and implemented under sections 145A.3, 145A.4, 145A.5, and 145A.14.

Approved March 30, 1990

CHAPTER 1119

CANDIDATE LEAVES OF ABSENCE FOR DEPUTY SHERIFFS

H.F. 252

AN ACT relating to leave for a chief deputy sheriff, second deputy sheriff, or other officer or employee subject to civil service who becomes a candidate for elective office.

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

Section 1. Section 341A.7, Code 1989, is amended to read as follows:

341A.7 CLASSIFICATIONS.

The classified civil service positions covered by this chapter ~~shall~~ include persons actually serving as deputy sheriffs who are salaried pursuant to section 331.904, subsection 2, but do not include a chief deputy sheriff, two second deputy sheriffs in counties with a population of more than one hundred thousand, and four second deputy sheriffs in counties with a population of more than two hundred thousand. However, a chief deputy sheriff or second deputy sheriff who becomes a candidate for a partisan elective office for remuneration is subject to section 341A.18. A deputy sheriff serving with permanent rank under this chapter may be designated chief deputy sheriff or second deputy sheriff and retain ~~such~~ that rank during the period of service as chief deputy sheriff or second deputy sheriff and shall, upon termination of the duties as chief deputy sheriff or second deputy sheriff, revert to the permanent rank.

Sec. 2. Section 341A.18, unnumbered paragraph 8, Code 1989, is amended to read as follows:

~~Any~~ An officer or employee subject to civil service and a chief deputy sheriff or second deputy sheriff, who ~~shall become~~ becomes a candidate for ~~any~~ a partisan elective office for remuneration, unless running unopposed, shall automatically be given a leave of absence without pay, commencing thirty days ~~prior to~~ before the date of the primary ~~or general~~ election and continuing until ~~such~~ the person is eliminated as a candidate, ~~either voluntarily or otherwise, automatically receive leave of absence without pay~~ or wins the primary, and commencing thirty days before the date of the general election and continuing until the person is eliminated as a candidate or wins the general election, and during ~~such~~ the leave period shall not perform ~~no~~ any duties connected with the office or position so held. The officer or employee subject to civil service, or chief deputy sheriff or second deputy sheriff, may, however, use accumulated paid vacation time for part or all of the leave of absence required under this section. The county shall continue to provide health benefit coverages, and may continue to provide other fringe benefits, to any officer or employee subject to civil service, or to any chief deputy sheriff or second deputy sheriff during any leave of absence required under this section.

Approved March 30, 1990

CHAPTER 1120

LOCAL HOUSING AUTHORITIES AND SWEAT EQUITY HOUSING COOPERATIVES

H.F. 2131

AN ACT relating to housing cooperatives by authorizing the creation of local housing authorities to encourage and organize sweat equity housing cooperative associations with state financial assistance as available, and providing procedures and requirements.

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

Section 1. NEW SECTION. 499A.101 DEFINITIONS.

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

1. "Authority" means a local housing authority created pursuant to section 499A.102.

2. "Association" means a sweat equity housing cooperative association created pursuant to this subchapter.

3. "Partner" means a low-income sweat equity member of the association, and member of the sweat equity partners' committee.

4. "Advisor" means a member of the association's advisory committee.

5. "Low income" means the income of "very low-income families" as defined in section 220.1, subsection 4.

6. "Sweat equity" means any contribution made by a partner to the operations of the association, including but not limited to physical labor.

Sec. 2. NEW SECTION. 499A.102 LOCAL HOUSING AUTHORITY.

1. A local housing authority may be created to encourage and assist the formation of housing cooperatives under chapter 499A. The following persons are authorized to form an authority, separately, or in combination with other authorized persons:

a. A city.

b. A county.

c. A nonprofit community organization.

d. A nonprofit religious organization.

2. The local housing authority shall be funded from the following sources:

a. State grants, loans, or other appropriations administered by the Iowa finance authority.

b. Funds solicited from third parties by the local housing authority.

c. Local government appropriations to the local housing authority.

d. Any other available sources, including but not limited to bequests, devises, and federal moneys.

3. The Iowa finance authority may provide assistance for initial organization of local housing authorities.

Sec. 3. NEW SECTION. 499A.103 LOW-INCOME PARTICIPANTS.

The local housing authority shall recruit low-income persons to participate as sweat equity partners in a housing cooperative association organized by the local housing authority.

Sec. 4. NEW SECTION. 499A.104 SWEAT EQUITY HOUSING COOPERATIVE ASSOCIATION.

1. The local housing authority may form one or more sweat equity housing cooperative associations under this chapter. A sweat equity housing cooperative association shall operate as a multiple housing cooperative association under subchapter I, except as specifically provided otherwise under this subchapter.

2. A sweat equity housing cooperative association shall meet the following additional conditions:

a. A sweat equity partners' committee shall be established, with each partner entitled to one vote on the committee.

b. The sweat equity committee shall hold twenty-five percent of the stock of the association upon incorporation of the association.

c. An advisory committee shall be established, made up of equity investors, skill contributors, and other community representatives including, but not limited to:

(1) Tradesperson volunteers.

(2) Community college trade representatives and business educators.

(3) Financial and legal advisors to association management.

d. The advisory committee shall hold seventy-five percent of the stock of the association upon incorporation of the association.

3. The association shall be controlled by the board of directors, with representation of partners and advisors on the board proportional to each group's equity interest at the time of the last election of directors to the board.

4. An association shall do all of the following:

a. Acquire existing housing or small business building stock in need of rehabilitation.

b. Establish a rehabilitation plan, which shall include, but not be limited to all of the following elements:

(1) Statement of purpose.

(2) Financial plan.

(3) Construction timetable.

(4) Materials schedule.

(5) Construction training program schedule for partners. The program shall involve, to the greatest extent possible, persons participating as dislocated workers under the federal Job Training Partnership Act as provided in section 7B.1. If a contract is executed with a person to perform skilled labor or to supervise skilled work, the person must be certified by an organization recognized as representing a membership of persons with common skills.

(6) Financial and managerial training program for partners.

(7) Bylaws of the association.

(8) A contract between the partners and advisors including the terms of transfer of stock from the advisory committee to the partners' committee.

c. Establish a program to ensure that partners are equipped with skills necessary for full participation in society.

d. Encourage participation by partners in the activities of the community.

Sec. 5. NEW SECTION. 499A.105 ASSOCIATION FINANCING.

1. ORGANIZATIONAL AND CONSTRUCTION PHASE. Upon incorporation, and after adoption of a rehabilitation plan pursuant to section 499A.104, the association may apply to the Iowa finance authority or other sources for financial assistance. The Iowa finance authority shall review the rehabilitation plan, and subject to the availability of moneys, may approve for the association state grants, loans, or other appropriations administered by the Iowa finance authority.

2. STOCK TRANSFER. Advisory committee stock shall be transferred to the partners' committee for distribution to partners in accordance with the terms of the rehabilitation plan contract.

3. OPERATIONAL PHASE. Upon completion of the rehabilitation plan and implementation of the contract, the association shall be wholly owned by partners. The partners shall rent space only to other association partners. New partners may be admitted subject to completion of required partner training programs and sweat equity contributions, as required by the association's bylaws. Partners shall make mortgage payments in proportion to their equity interest in the property, with total payments sufficient to repay the mortgage loan, maintain the property, and accumulate a capital reserve fund for future repairs and improvements. The capital reserve fund and enforcement of partner obligations is the responsibility of the board of directors.

Sec. 6. NEW SECTION. 499A.106 REIMBURSEMENT OF SWEAT EQUITY CONTRIBUTION.

The association shall establish criteria for the reimbursement of a partner terminating membership in the association, in accordance with the partner's sweat equity contribution.

Sec. 7. The Code editor shall codify this Act as subchapter II of chapter 499A.

Approved March 30, 1990

CHAPTER 1121

CITY STREET CONSTRUCTION REPORTS AND FUNDS

H.F. 2142

AN ACT relating to reporting requirements for certain cities receiving road use tax funds, and providing an effective date.

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

Section 1. Section 312.12, Code 1989, is amended to read as follows:

312.12 PROGRAM SUBMITTED.

Cities which receive funds from road use tax funds and which have a population of at least five thousand shall prepare, adopt, and ~~submit~~ deliver to the department on or before ~~December~~ May 1 of each fiscal year a comprehensive program of street construction and reconstruction. Such program shall be prepared for a period of five fiscal years subsequent to the fiscal year in which the program is submitted, based upon the construction funds estimated to be available for each fiscal year. ~~At the close of each fiscal year, as a part of the five-year plan, the city shall include a statement of the progress made toward the completion of each project contained in the approved program. Such cities which have a population of less than five thousand and greater than one thousand shall prepare and submit annually by December 31 of each year to the department for examination and review, a program of proposed street construction and reconstruction for its total system of streets for the ensuing fiscal year. Nothing in this~~ This section ~~shall~~ does not prohibit a city of less than five thousand from adopting by resolution a comprehensive five-year plan.

Sec. 2. Section 312.14, Code 1989, is amended to read as follows:

312.14 CITIES TO SUBMIT REPORT.

Cities in the state which receive allotments of funds from road use tax funds shall prepare and ~~submit by~~ deliver on or before September ~~10~~ 30 each year to the department an annual report showing all street receipts and expenditures for the city for the previous fiscal year.

Sec. 3. Section 312.15, Code 1989, is amended to read as follows:

312.15 WHEN FUNDS NOT ALLOCATED.

Funds shall not be allocated to any city until such city shall have complied with the provisions of sections 312.11, 312.12 and 312.14.

If a city has not complied with the provisions of section 312.14, the treasurer of state shall withhold funds allocated to the city until the city complies. If a city has not complied with the provisions of section 312.14 by December 31 following the date the report was required, funds shall not be allocated to the city until the city has complied and all funds withheld under this paragraph shall revert to the street construction fund of the cities.

The department shall notify the treasurer of state if any city fails to comply with the provisions of sections 312.11, 312.12 and 312.14.

Sec. 4. Any funds not allocated to cities under the provisions of section 312.15 during the fiscal year ending June 30, 1990 shall be restored to the cities affected from the street construction fund of the cities.

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

Approved March 30, 1990

CHAPTER 1122

STATE GROUP INSURANCE PLAN MEMBERSHIP BY GENERAL ASSEMBLY MEMBERS AND PART-TIME EMPLOYEES

H.F. 2156

AN ACT relating to membership of members and part-time employees of the general assembly in the state group insurance plan, and providing effective and retroactive applicability dates.

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

Section 1. Section 2.40, subsection 1, paragraph d, Code Supplement 1989, is amended to read as follows:

d. The premium rate shall be the same as the premium rate paid by a state employee for the plan selected.

A member of the general assembly may elect to become a member of a state group insurance plan. 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~~ following each election of that member in a general or special election, 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. In the event of the death of a former member of the general assembly who has elected to continue to be a member of a state health or medical group insurance plan, the surviving spouse of the former member whose insurance would otherwise terminate because of the death of the former member may elect to 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 the death of the former member. The surviving spouse of the former member shall pay the total premium for the state plan and shall have the same rights to change programs or coverage as state employees.

Sec. 2. Section 2.40, subsection 2, Code Supplement 1989, is amended to read as follows:

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.~~

b. The part-time employee shall pay the total premium.

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. (1) 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.

(2) 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~~ payment of the total annual premium through direct payment of the monthly premium for the plan selected to the state group insurance plan provider.

(3) 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.

f. A part-time employee of the general assembly who elects membership in a state life insurance plan shall authorize payment of the premium through a total of two payments during each annual period made to the department of personnel on dates prescribed by the department.

Sec. 3.

This Act, being deemed of immediate importance, takes effect upon enactment, and is retroactively applicable to the payments of premiums of part-time employees of the general assembly who elected membership in a state group insurance plan on or after January 1, 1990.

Approved March 30, 1990

CHAPTER 1123

IMMEDIATE INCOME WITHHOLDING OF CHILD SUPPORT PAYMENTS

H.F. 2437

AN ACT relating to child support payments by providing for immediate withholding of an obligor's income and providing a penalty.

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

Section 1. NEW SECTION. 252D.8 PERSONS SUBJECT TO IMMEDIATE INCOME WITHHOLDING.

1. In a support order issued or modified on or after November 1, 1990, for which services are being provided by the child support recovery unit, the income of a support obligor is subject to withholding, on the effective date of the order, regardless of whether support payments by the obligor are in arrears. The child support recovery unit may enter an ex parte order for an immediate withholding of income or may directly implement immediate withholding of

income if authorizing language is contained in the court order. The income of the obligor is subject to such automatic withholding unless one of the following occurs:

a. One of the parties demonstrates and the court or child support recovery unit finds there is good cause not to require immediate withholding.

b. A written agreement is reached between both parties which provides for an alternative arrangement.

2. If the support payments have been assigned to the department of human services pursuant to chapter 234 or 239, or a comparable statute of another jurisdiction, the department shall be considered a party to the support order, and a written agreement pursuant to this section to waive immediate withholding is void unless approved by the child support recovery unit. Any existing agreement is void at the time an assignment of support to the state is made.

3. For an order not requiring immediate withholding, income of an obligor is subject to immediate withholding, without regard to whether there is an arrearage, on the earliest of the following:

a. The date the obligor requests that the withholding begin.

b. The date the custodial parent or party to the proceeding requests that the withholding begin, if the child support recovery unit approves the request.

Sec. 2. NEW SECTION. 252D.9 SUMS SUBJECT TO IMMEDIATE WITHHOLDING.

Specified sums shall be deducted from the obligor's earnings, trust income, or other income sufficient to pay the support obligation. The amount withheld pursuant to an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 3. NEW SECTION. 252D.10 NOTICE OF ASSIGNMENT.

The notice requirements of section 252D.3 do not apply to this subchapter. An order for support entered after November 1, 1990, shall contain the notice of immediate income withholding. However, this subchapter is sufficient notice for implementation of immediate income withholding without any further notice.

Sec. 4. NEW SECTION. 252D.11 MOTION TO QUASH.

1. Grounds for contesting a withholding order under this subchapter are any of the following:

a. A mistake of fact, which for purposes of this section means an error in the amount of current or overdue support or the identity of the alleged obligor.

b. The conditions for exception to immediate income withholding as defined under section 252D.8 existed at the time of implementation of the withholding.

2. The clerk of the district court shall schedule a hearing on the motion to quash for a time not later than seven days after the filing of the motion to quash and the notice of the motion to quash. The clerk shall mail to the parties copies of the motion to quash, the notice of the motion to quash, and the order scheduling the hearing.

3. The payor shall withhold and transmit the amount specified in the order of assignment to the clerk of the district court or the collection services center, as appropriate, until the notice that a motion to quash has been granted is received.

Sec. 5. NEW SECTION. 252D.12 NOTICE TO EMPLOYER OR INCOME PAYOR.

A notice of immediate income withholding shall be sent to the employer, trustee, or other payor by certified mail. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the notice by certified mail.

Sec. 6. NEW SECTION. 252D.13 PRIORITY.

The assignment of income has priority over a garnishment or an assignment for a purpose other than support of the dependents in the court order being enforced.

Sec. 7. NEW SECTION. 252D.14 MODIFICATION OR REVOCATION OF IMMEDIATE INCOME WITHHOLDING.

The child support recovery unit or the district court, upon the application of any party, may modify the assignment of income by ex parte order if current child support has terminated,

or may revoke the assignment of income upon the termination of parental rights, emancipation, death, majority of the child, or upon change of custody.

Sec. 8. NEW SECTION. 252D.18 DUTIES OF THE PAYOR — LIABILITY.

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252D.1, subsection 3, or subchapter II, shall deliver, on the next working day, a copy of the order to the person named in the order. The payor may deduct not more than two dollars from each payment from the employee's wages as a reimbursement for the payor's costs relating to the assignment. The payor's compliance with the order of assignment satisfies the payor's obligation to the person for the amount of income withheld and transmitted to the clerk of the district court.

2. An employer who willfully discharges an employee or refuses to hire a person because of the entry of an order of assignment under this chapter is guilty of a simple misdemeanor.

3. An employer, trustee, or other payor who receives an order of assignment pursuant to section 252D.1, subsection 2, or subchapter II, is liable for the amount which the employer, trustee, or other payor willfully fails to withhold from amounts due the person named in the order, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the employer, trustee, or other payor.

Sec. 9. NEW SECTION. 252D.19 OTHER REMEDIES.

The remedies provided in this chapter do not exclude the use of other civil or criminal remedies in enforcing support obligations.

Sec. 10. NEW SECTION. 252D.20 ADMINISTRATION OF INCOME WITHHOLDING PROCEDURES.

The child support recovery unit is designated as the entity of the state to administer income withholding in accordance with the procedures specified for keeping adequate records to document, track, and monitor support payments on cases subject to Title IV-D of the federal Social Security Act. The clerks of the district court are designated as the entities for administering income withholding on cases which are not subject to Title IV-D.

Sec. 11. NEW SECTION. 252D.21 PENALTY FOR MISREPRESENTATION.

A person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact in order to secure an assignment of income against another person and to receive support payments or additional support payments pursuant to this chapter, is guilty, upon conviction, of a serious misdemeanor.

Sec. 12. NEW SECTION. 252D.22 RULES.

The department shall adopt the administrative rules necessary to implement the provisions of this chapter as they pertain to the operations of the child support recovery unit.

Sec. 13. Section 598.22, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. An assignment of periodic income may also be entered under the terms and conditions of chapter 252D.

Sec. 14. Sections 252D.4 through 252D.7, Code 1989, are repealed.

Sec. 15. CODIFICATION.

1. The Code editor shall entitle chapter 252D as "Child Support Payments — Assignment of Income and Immediate Income Withholding."

2. The Code editor shall codify sections 252D.1 through 252D.3 as subchapter I, entitled "Delinquent Support Payments — Assignment of Income."

3. The Code editor shall codify new sections 252D.8 through 252D.14 as subchapter II entitled "Immediate Income Withholding."

4. The Code editor shall codify sections 252D.18 through 252D.22 as subchapter III, entitled "General Provisions."

5. If necessary or appropriate, the Code editor may codify and entitle this Act in a different manner than prescribed by this section.

Approved March 30, 1990

CHAPTER 1124

CRIMINAL AND JUVENILE JUSTICE PLANNING

H.F. 2468

AN ACT relating to the establishment of the division of criminal justice planning and providing an effective date.

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

Section 1. Section 601K.131, Code 1989, is amended to read as follows:

601K.131 DEFINITIONS.

For the purpose of this subchapter, unless the context otherwise requires:

1. "Council" means the criminal and juvenile justice planning advisory council.

2. "Division" means the division of criminal and juvenile justice planning.

3. "Administrator" means the administrator of the division of criminal and juvenile justice planning.

Sec. 2. Section 601K.132, Code 1989, is amended to read as follows:

601K.132 COUNCIL ESTABLISHED — TERMS — COMPENSATION.

A criminal and juvenile justice planning advisory council is established consisting of ~~thirteen~~ twenty-two members. The governor shall appoint seven members each for a four-year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

1. Three persons, each of whom is a county supervisor, county sheriff, mayor, city chief of police, or county attorney.

2. Two persons who represent the general public and are not employed in any law enforcement, judicial, or corrections capacity.

3. Two persons who are knowledgeable about Iowa's juvenile justice system.

The departments of ~~human rights,~~ human services, corrections, and public safety, the division on the status of blacks, the division of substance abuse of the Iowa department of public health, the chairperson of the board of parole, the attorney general, the state public defender, and the chief justice of the supreme court shall each designate a person to serve on the council.

The chief justice of the supreme court shall appoint two additional members currently serving as district judges. Two members of the senate and two members of the house of representatives shall be ex officio members and shall be appointed by the majority and minority leaders of the senate and the speaker and minority leader of the house of representatives pursuant to section 69.16. Members appointed pursuant to this paragraph shall serve for four-year terms beginning and ending as provided in section 69.19 unless the member ceases to serve as a district court judge or as a member of the senate or of the house of representatives.

Members of the council shall receive reimbursement from the state for actual and necessary expenses incurred in the performance of their official duties. Members may also be eligible to receive compensation as provided in section 7E.6.

Sec. 3. Section 601K.133, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Maintain an Iowa correctional policy project as provided in section 601K.137.

Sec. 4. Section 601K.136, Code 1989, is amended* to read as follows:

601K.136 STATISTICAL ANALYSIS CENTER.

The division shall maintain an Iowa statistical analysis center for the purpose of coordinating with data resource agencies to provide data and analytical information to federal, state, and local governments, and assist agencies in the use of criminal and juvenile justice data. The division of criminal and juvenile justice planning and the statistical analysis center are considered criminal justice agencies for the purposes of receiving criminal history data.

Sec. 5. NEW SECTION. 601K.137 CORRECTIONAL POLICY PROJECT.

The division shall maintain an Iowa correctional policy project for the purpose of conducting analyses of major correctional issues affecting the criminal and juvenile justice system. The council shall identify and prioritize the issues and studies to be addressed by the division through this project and shall report project plans and findings annually along with the report required in section 601K.135. Issues and studies to be considered by the council shall include, but are not limited to a review of the information systems available to assess corrections trends and program effectiveness, the development of an evaluation plan for assessing the impact of corrections expenditures, a study of the desirability and feasibility of changing the state's sentencing practices, a public opinion survey to assess the public's view of possible changes in current corrections practices, and the development of parole guidelines.

The division may form subcommittees for the purpose** addressing major correctional issues affecting the criminal and juvenile justice system. The division shall establish a subcommittee to address issues specifically affecting the juvenile justice system.

Sec. 6.

The term of a member of the council which expires April 30, 1990, shall continue until the effective date of this Act.

Sec. 7.

Section 6 of this Act, deemed of immediate importance, takes effect upon enactment.

Approved March 30, 1990

CHAPTER 1125

LIMITS ON STATE FINANCIAL ASSISTANCE FOR ECONOMIC DEVELOPMENT

H.F. 2531

AN ACT to require a business, as a condition of the receipt of state financial assistance for economic development purposes, to meet certain requirements relating to federal and state environmental protection laws and the disposal of solid and hazardous waste.

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

Section 1. Section 15A.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. In addition to the requirements of subsection 2, a state agency shall not provide a grant, loan, or other financial assistance to a private person or on behalf of a private person unless the business for whose benefit the financial assistance is to be provided meets, to the satisfaction of the state agency, all of the following:

a. The business makes a report detailing the circumstances of its violations, if any, of a federal or state environmental protection statute, regulation, or rule within the previous five years. The state agency shall take into consideration before allowing financial assistance this report of the business.

*Amendment stricken before passage of Act; no change in text

**According to enrolled Act

b. If the business generates solid or hazardous waste, that the business conducts in-house audits and management plans to reduce the amount of the waste and to safely dispose of the waste. For purposes of this paragraph, a business may, in lieu of conducting in-house audits, authorize the waste management authority of the department of natural resources or the Iowa waste reduction center established under section 268.4 to provide the audits.

Approved March 30, 1990

CHAPTER 1126

REAL ESTATE LICENSEES INSURANCE REQUIREMENT

H.F. 730

AN ACT relating to the adoption of rules by the real estate commission imposing certain requirements on real estate brokers and salespersons, and providing an effective date.

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

Section 1. Section 117.29, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 9. Noncompliance with insurance requirements under section 117.47.

Sec. 2. NEW SECTION. 117.47 INSURANCE REQUIREMENT.

1. The real estate commission shall adopt rules requiring as a condition of licensure that all real estate licensees, except those who hold inactive licenses, carry errors and omissions insurance covering all activities contemplated under this chapter. The rules shall provide for administration of the insurance requirements of this section within the multiyear licensing structure required by section 117.28. However, the rules shall require licensees to submit evidence of compliance with this section at least annually and shall provide for review and determination of compliance on an annual basis.

2. Except as otherwise provided in subsection 7, the commission shall contract with an insurance provider for a group policy under which coverage is available to all licensees. The contract shall be solicited by competitive, sealed bid.

3. The group policy shall be made available to all licensees and shall not include any right on the part of the insurance provider to cancel coverage for a licensee.

4. A licensee shall have the option of obtaining insurance independently, if the coverage contained in an independently obtained policy complies with the minimum requirements adopted by rule of the commission.

5. The commission shall determine the terms and conditions of coverage required by subsection 1, including but not limited to the minimum limits of coverage, the permissible deductible, and the permissible exceptions.

6. Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty days prior to the license renewal date or the anniversary of the license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, must be filed with the commission by the license renewal date or the anniversary of the license renewal date by each licensee who elects not to participate in the group insurance program administered by the commission.

Sec. 3. NEW SECTION. 117.54 DISCLOSURE OF RELATIONSHIP.

The real estate commission shall adopt rules requiring that each real estate broker or salesperson in a real estate transaction disclose in writing the broker's or salesperson's agency relationship with the buyer or seller in the transaction.

Sec. 4. FEES. In setting the fees for real estate broker's licenses and real estate salesperson's licenses pursuant to section 117.27, the real estate commission shall take into account the anticipated costs of implementing this Act and shall increase the fees accordingly.

Sec. 5. EFFECTIVE DATES. This Act, being deemed of immediate importance, takes effect upon enactment for purposes of rulemaking, administrative preparation, and competitive bidding procedures, and on July 1, 1991, for all other purposes.

Approved March 30, 1990

CHAPTER 1127

INJURY TO OR INTERFERENCE WITH A POLICE SERVICE DOG
S.F. 148

AN ACT prohibiting certain actions against police service dogs, and providing penalties.

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

Section 1. NEW SECTION. 717.6 INJURY OR INTERFERENCE WITH A POLICE SERVICE DOG.

1. A person who knowingly, and willfully or maliciously torments, strikes, administers a nonpoisonous desensitizing substance to, or otherwise interferes with a police service dog, without inflicting serious injury on the dog, commits a simple misdemeanor.

2. A person who knowingly, and willfully or maliciously tortures, injures so as to disfigure or disable, kills, or administers poison to a police service dog, commits a serious misdemeanor.

3. As used in this section, "police service dog" means a dog used by a peace officer in the performance of the officer's duties, whether or not the dog is on duty.

4. This section does not apply to a peace officer or veterinarian who terminates the life of such a dog for the purpose of relieving the dog of undue pain or suffering, or to a person who justifiably acts in defense of self or another.

Approved April 3, 1990

CHAPTER 1128

PURPLE HEART REGISTRATION PLATES
H.F. 2338

AN ACT relating to special motor vehicle registration plates for recipients of the purple heart medal.

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

Section 1. Section 321.34, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. PURPLE HEART 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 was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States,

may upon written application to the department and presentation of satisfactory proof of the award of the purple heart medal, order special registration plates. The design of the plates shall include a representation of a purple heart medal and ribbon centered on the left side of the plate and the words "Combat Wounded" centered on the bottom of the plate. The plates shall be numbered in sequence beginning with 00001. The application is subject to approval by the department in consultation with the adjutant general. The special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the purple heart plates shall be twenty-five dollars which shall be 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.

Approved April 3, 1990

CHAPTER 1129

STATE HOSPITAL-SCHOOLS TRAINING PROGRAMS AND EMPLOYEE RECORDS

H.F. 2177

AN ACT relating to the operation of state hospital-schools under the control of the department of human services by authorizing the offering of goods and services to the public as part of client training programs and by deleting the requirement of maintaining daily records of time worked by institutional staff.

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

Section 1. Section 23A.2, subsection 10, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. The offering of goods and services to the public as part of a client training program operated by a state hospital-school under the control of the department of human services provided that all of the following conditions are met:

(1) Any off-campus vocational or employment training program developed or operated by the department of human services for clients of a state hospital-school is a supported vocational training program or a supported employment program offered by a community-based provider of services or other employer in the community.

(2) (a) If a resident of a state hospital-school is to participate in an employment or training program which pays a wage in compliance with the federal Fair Labor Standards Act, the state hospital-school shall develop a community placement plan for the resident. The community placement plan shall identify the services and supports the resident would need in order to be discharged from the state hospital-school and to live and work in the community. The state hospital-school shall make reasonable efforts to implement the community placement plan including referring the resident to community-based providers of services.

(b) If a community-based provider of services is unable to accept a resident who is referred by the state hospital-school, the state hospital-school shall request and the provider shall indicate in writing to the state hospital-school the provider's reasons for its inability to accept the resident and describe what is needed to accept the resident.

(c) A resident who cannot be placed in a community placement plan with a community-based provider of services may be placed by the state hospital-school in an on-campus or off-campus vocational or employment training program. However, prior to placing a resident in an on-campus vocational or employment training program, the state hospital-school shall seek an off-campus vocational or employment training program offered by a community-based provider who serves the county in which the state hospital-school is based or the counties contiguous

to the county, provided that the resident will not be required to travel for more than thirty minutes one way to obtain services.

If off-campus services cannot be provided by a community-based provider, the state hospital-school shall offer the resident an on-campus vocational or employment training program. The on-campus program shall be operated in compliance with the federal Fair Labor Standards Act. At least semiannually, the state hospital-school shall seek an off-campus community-based vocational or employment training option for each resident placed in an on-campus program. The state hospital-school shall not place a resident in an off-campus program in which the cost to the state hospital-school would be in excess of the provider's actual cost as determined by purchase of service rules or if the service would not be reimbursed under the medical assistance program.

(3) The price of any goods and services offered to anyone other than a state agency or a political subdivision shall be at a minimum sufficient to cover the cost of any materials and supplies used in the program and to cover client wages as established in accordance with the federal Fair Labor Standards Act.

(4) Nothing in this paragraph shall be construed to prohibit a state hospital-school from providing a service a resident needs for compliance with accreditation standards for intermediate care facilities for the mentally retarded.

Sec. 2. Section 218.18, Code 1989, is repealed.

Approved April 3, 1990

CHAPTER 1130

PRESCRIPTION DRUG INSURANCE RESTRICTION

H.F. 2436

AN ACT restricting the conditions under which a third-party payor of medical benefits may limit coverage for prescription drugs.

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

Section 1. NEW SECTION. 514C.5 PRESCRIPTION DRUG BENEFIT RESTRICTIONS.

1. A group policy or contract providing for third-party payment or prepayment for prescription drugs shall not require a person covered under the policy or contract to obtain prescription drugs from a mail order pharmacy as a condition of obtaining benefits for prescription drugs if the pharmacy selected by the covered person agrees to provide pharmaceutical services under the same terms and conditions as those provided by the mail order pharmacy.

2. Group third-party payor policies or contracts delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1990, are subject to this section, including but not limited to the following classes:

a. A group accident and sickness insurance policy.

b. A group hospital or medical service contract.

c. A group health maintenance organization contract.

d. A group medicare supplemental policy.

Approved April 3, 1990

CHAPTER 1131

ODOMETER STATEMENTS

H.F. 2461

AN ACT relating to motor vehicle odometer requirements.

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

Section 1. Section 321.71, subsections 7 and 9, Code 1989, are amended to read as follows:

7. ~~As to~~ A certificate of title shall not be issued for a motor ~~vehicles~~ vehicle less than ~~eleven~~ ten model years old which ~~were~~ is equipped with an odometer by the manufacturer, ~~no certificate of title shall be issued~~ unless an odometer statement which is in compliance with federal law and regulations has been made by the transferor of ~~a~~ the vehicle and is furnished with the application for certificate of title. The new certificate of title shall record on its face the odometer reading and ~~if~~ the word "actual" if the true mileage is known. If the odometer reading is not the true mileage or the true mileage is unknown, ~~then~~ the ~~word "unknown"~~ words "not actual" shall be recorded. If the odometer reading is greater than the odometer can mechanically count, the words "exceeds the mechanical limits" shall be recorded. However, a certificate of title may be issued for a motor vehicle to a person who moves into this state if the person acquired ownership of the motor vehicle prior to moving to this state. This subsection does not apply ~~to motor vehicles transferred by operation of law pursuant to section 321.47 nor~~ to motor vehicles having a registered gross vehicle weight rating of more than sixteen thousand pounds.

9. An Iowa licensed motor vehicle dealer shall not have in possession as inventory for sale a used motor vehicle acquired by the dealer after the ~~eleventh~~ tenth model year prior to the current registration year, for which the dealer does not possess an odometer statement by the transferor which is in compliance with federal law and regulations unless a certificate of title has been issued for the vehicle in the name of the dealer. Transfer of a new motor vehicle with an ownership document which is a manufacturer's statement of origin requires an odometer statement only when transferred at retail.

Sec. 2. Section 321.71, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. The department may adopt rules which shall be in compliance with the federal Truth in Mileage Act of 1986, Pub. L. No. 99-579.

Approved April 3, 1990

CHAPTER 1132

RAILWAY TRACKS REMOVAL FROM CROSSINGS

H.F. 2465

AN ACT relating to the removal of railway track from a grade crossing once the railway corporation has abandoned the line or permitted interim use for the establishment of a trail.

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

Section 1. NEW SECTION. 327G.24 REMOVAL OF TRACKS FROM CROSSINGS.

Upon consummation of an abandonment of a railway line authorized under 49 U.S.C. § 10903 adopted as of a specific date by rule by the department, or upon interim use of railroad rights-of-way to establish appropriate trails pursuant to 16 U.S.C. § 1247(d) adopted as of a specific date by rule by the department, if the railway tracks adjacent to a crossing have been removed,

but the railway tracks in the crossing have not been removed, the city, county, or other jurisdiction having authority over the highway, street, or alley containing the crossing may remove the tracks from the crossing. However, this section shall not be construed as reducing the obligation or liability of a railway corporation to remove the railway tracks from the crossing.

Approved April 3, 1990

CHAPTER 1133

PESTICIDE INGREDIENT STATEMENTS

S.F. 2113

AN ACT relating to reporting ingredients of pesticides, making penalties applicable, and providing penalties.

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

Section 1. Section 206.12, subsection 2, paragraph c, Code 1989, is amended to read as follows:

c. An ingredient statement in which the accepted common name and percentage by weight of each active ingredient is listed as well as the percentage of inert ingredients in the pesticides. A separate inert ingredient statement containing the common name of each inert ingredient listed in rank order according to weight of each inert ingredient in the pesticide shall also be submitted to the secretary. Except as required by subsection 4, the registrant is not required to state the percentage composition or specific weight of any inert ingredient within a pesticide. The information required by this paragraph shall be submitted in a manner and according to procedures specified by the secretary.

Upon written request by the director of the department of natural resources, the secretary shall provide a copy of the ingredient statement and inert ingredient statement to the department. Upon written request by the director of the center for health effects of environmental contamination, the secretary shall provide a copy of the ingredient statement and inert ingredient statement to the center.

The identity of a specific inert ingredient in a specific pesticide shall be treated as a confidential trade secret if the following two conditions are met: the registrant states, at the time of registration, that the inert ingredient is a confidential trade secret; and three or fewer registrants are using a particular active ingredient in a registered pesticide. The secretary, the director of the department of natural resources, and the director of the center for health effects of environmental contamination shall treat the presence of any inert ingredient in a particular pesticide that meets the two conditions as confidential. This section does not prohibit research or monitoring of any aspect of any inert ingredient. This section does not prohibit the public disclosure of research, monitoring, or data relative to any inert ingredient so long as such disclosure does not link an inert ingredient to a particular brand of pesticide registered in this state.

Sec. 2. SPECIAL REPORTS.

A person registering a pesticide under section 206.12 shall, by January 1, 1991, report to the department, pursuant to section 206.12, subsection 2, paragraph "c", information relating to inert ingredients contained in pesticides distributed, sold, or offered for sale by the person during 1985 and during each year after 1985. If the information is unavailable, the person must obtain a waiver from this requirement from the secretary. A person violating this section is subject to the penalty provided in section 206.22, subsection 2. A person who uses or reveals information relative to formulae of products acquired under the authority of this section is subject to the penalty provided in section 206.22, subsection 3.

Approved April 3, 1990

CHAPTER 1134

WAGE DEDUCTIONS, AND NON-ENGLISH SPEAKING EMPLOYEE SERVICES

S.F. 2169

AN ACT relating to actions by employers by prohibiting employers from taking certain deductions from employees' wages, requiring employers to provide certain services for non-English speaking employees, requiring certain practices upon recruitment of employees from out-of-state locations, and providing penalties.

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

Section 1. Section 91A.5, subsection 2, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. Costs of personal protective equipment, other than items of clothing or footwear which may be used by an employee during nonworking hours, needed to protect an employee from employment-related hazards, unless provided otherwise in a collective bargaining agreement.

NEW PARAGRAPH. f. Costs of more than twenty dollars for an employee's relocation to the place of employment. This paragraph shall apply only to an employer as defined in section 91E.1.

Sec. 2. NEW SECTION. 91E.1 DEFINITIONS.

As used in this chapter:

1. "Commissioner" means the commissioner of the division of labor services of the department of employment services.

2. "Employee" means a natural person who is employed in this state for wages paid on an hourly basis by an employer. An employee does not include a person engaged in agriculture as defined in section 91A.2 or a person engaged in agriculture on a seasonal basis. However, this exemption shall not apply to farm owners who hire workers to work on cropland other than their own.

3. "Employer" means a person, as defined in chapter 4, who in this state employs for wages, paid on an hourly basis, one hundred or more natural persons. An employer does not include a client, patient, customer, or other person who obtains professional services from a licensed person who provides the services on a fee service basis or as an independent contractor, or the state, or an agency or governmental subdivision of the state.

4. "Non-English speaking employee" means an employee who does not speak, read, write, or understand English to the degree necessary for comprehension of the terms, conditions, and daily responsibilities of employment.

5. "Farm owner" does not include a person who uses cropland for research or experimental purposes, testing, developing, or producing seeds or plants for sale or resale.

Sec. 3. NEW SECTION. 91E.2 NON-ENGLISH SPEAKING EMPLOYEES – EMPLOYER OBLIGATIONS.

If more than ten percent of an employer's employees are non-English speaking and speak the same non-English language, the employer shall provide all of the following:

1. An interpreter available at the work site for each shift during which non-English speaking employees are employed.

If a Spanish-speaking interpreter is needed, the employer shall select an interpreter from a list of interpreters developed by the department of employment services, drawn from the Spanish-speaking peoples commission's statewide list of interpreters qualified to serve Iowa courts and administrative agencies.

2. A person employed by the employer whose primary responsibility is to serve as a referral agent to community services.

Sec. 4. NEW SECTION. 91E.3 EMPLOYER RECRUITING PRACTICES.

1. An employer or a representative of an employer who actively recruits non-English speaking residents of other states more than five hundred miles from the place of employment, for employment as employees for wages paid on an hourly basis in this state, must have on file, a copy of which must be provided to the employee, a written statement signed by the employer and the employee which provides relevant information regarding the position of employment, including but not limited to the following information:

a. The minimum number of hours the employee can expect to work on a weekly basis.

b. The hourly wages of the position of employment including the starting hourly wage.

c. A description of the responsibilities and tasks of the position of employment.

d. The health risks, known to the employer, to the employee involved in the position of employment.

2. If an employee who resigns from employment with an employer within four weeks of the employee's initial date of employment requests, within three business days of termination, transportation to return to the location from which the employee was recruited and the location from which the employee was recruited is five hundred or more miles from the place of employment, the employer shall provide the employee with transportation at no cost to the employee.

Sec. 5. NEW SECTION. 91E.4 PENALTIES FOR VIOLATION OF RECRUITMENT PRACTICE REQUIREMENTS.

1. An employer who violates section 91E.3 is subject to a civil penalty of up to one thousand dollars.

2. A corporate officer of an employer who, through repeated violation of section 91E.3, demonstrates a pattern of abusive recruitment practices commits a serious misdemeanor.

3. An employer who, through repeated violation of section 91E.3, demonstrates a pattern of abusive recruitment practices may be ordered to pay punitive damages.

Sec. 6. NEW SECTION. 91E.5 DUTIES AND AUTHORITY OF THE COMMISSIONER.

1. The commissioner shall adopt rules to implement and enforce this chapter and shall provide further exemptions from the provisions of this chapter where reasonable.

2. In order to carry out the purposes of this chapter, the commissioner or the commissioner's representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

a. Inspect employment records relating to the total number of employees and non-English speaking employees, and the services provided to non-English speaking employees.

b. Interview an employer, owner, operator, agent, or employee, during working hours or at other reasonable times.

Sec. 7. NEW SECTION. 91E.6 COLLECTIVE BARGAINING AGREEMENTS.

Compliance with the minimum standards required in this chapter shall not be subject to or considered in collective bargaining.

Approved April 3, 1990

CHAPTER 1135

FRAUDULENT PRACTICE IN PROCURING ECONOMIC DEVELOPMENT ASSISTANCE
S.F. 2186

AN ACT relating to the receipt of assistance under certain economic development programs and providing criminal penalties for certain violations.

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

Section 1. NEW SECTION. 28.171 PUBLIC ECONOMIC DEVELOPMENT ASSISTANCE – VIOLATIONS – CRIMINAL PENALTIES.

A person who engages in deception and knowingly makes or causes to be made, directly or indirectly, a false statement in writing, for the purpose of procuring economic development assistance from a state agency or political subdivision, for the benefit of the person or for whom the person is acting, is guilty of a fraudulent practice in the first degree as defined in section 714.9. For purposes of this section, "deception" means deception as defined in section 702.9.

Approved April 3, 1990

CHAPTER 1136

LABOR LAWS
S.F. 2159

AN ACT relating to this state's labor laws administered by the labor commissioner by amending provisions of the Code regulating occupational safety and health, amusement ride and boiler inspections, asbestos removal and encapsulation, the division of labor services, wage payment collection, and construction contractors, and providing a penalty.

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

Section 1. Section 88.3, subsection 5, Code 1989, is amended to read as follows:

5. "Employee" means an employee of an employer who is employed in a business of the employer. "Employee" also means an inmate as defined in section 85.59, when the inmate works in connection with the maintenance of the institution, in an industry maintained in the institution, or while otherwise on detail to perform services for pay. "Employee" also means a volunteer involved in responses to hazardous waste incidences. The employer of a volunteer is that entity which provides or which is required to provide workers' compensation coverage for the volunteer.

Sec. 2. Section 88A.1, subsection 7, Code 1989, is amended to read as follows:

7. "Concession booth" means a structure, or enclosure, used at more than one fair or carnival, or at one fair or carnival for more than seven consecutive days, from which amusements are offered to the public.

Sec. 3. Section 88B.2, Code Supplement 1989, is amended to read as follows:

88B.2 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 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. 4. Section 89.7, subsection 1, Code 1989, is amended to read as follows:

1. The inspection required by this chapter shall not be made by the commissioner if an owner or user of equipment specified by this chapter obtains an inspection by a representative of a reputable insurance company and obtains a policy of insurance upon the equipment from that insurance company. The representative conducting the inspection shall be commissioned by the commissioner as a special inspector for the year during which the inspection occurs and shall meet such other requirements as the commissioner may by rule establish. The commission shall be valid for one year and the special inspector shall pay a fee for the issuance of the commission. The commissioner shall establish the amount of the fee by rule. The commissioner shall establish rules for the issuance and revocation of special inspector commissions. The rules are subject to the requirements of chapter 17A.

Sec. 5. Section 89.7, subsection 5, Code 1989, is amended by striking the subsection.

Sec. 6. NEW SECTION. 89.13 CIVIL PENALTY ALLOWED.

If upon notice and hearing the commissioner determines that an owner has operated a facility in violation of a safety order, the commissioner may assess a civil penalty against the owner in an amount not exceeding five hundred dollars, as determined by the commissioner. An order assessing a civil penalty is subject to appeal to the employment appeal board and to judicial review. The commissioner may commence an action in the district court to enforce payment of a civil penalty. Revenue from the penalty provided in this section shall be remitted to the treasurer of state for deposit in the general fund of the state.

Sec. 7. Section 91A.5, subsection 2, paragraph c, Code 1989, is amended to read as follows:

c. Losses due to breakage, ~~lost or stolen property, unless such tools and equipment are specifically assigned to and their receipt acknowledged in writing by the employee from whom the deduction is made,~~ damage to property, default of customer credit, or nonpayment for goods or services rendered so long as such losses are not attributable to the employee's willful or intentional disregard of the employer's interests.

Sec. 8. Section 91A.5, subsection 2, Code 1989, is amended by adding the following new paragraph and relettering the subsequent paragraph:

NEW PARAGRAPH. d. Lost or stolen property, unless the property is equipment specifically assigned to, and receipt acknowledged in writing by, the employee from whom the deduction is made.

Sec. 9. Section 91A.10, subsection 2, Code 1989, is amended to read as follows:

2. The commissioner, with the assistance of the office of the attorney general if the commissioner requests such assistance, shall, unless a settlement is reached under this subsection, commence a civil action in any court of competent jurisdiction to recover for the benefit of any employee any wage, expenses, and liquidated damages' claims that have been assigned to the commissioner for recovery. The commissioner may also request reasonable and necessary attorneys' fees. With the consent of the assigning employee, the commissioner may also settle a claim on behalf of the assigning employee. Proceedings under this subsection and subsection 1 that precede commencement of a civil action shall be conducted informally without any party having a right to be heard before the commissioner. The commissioner may join various assignments in one claim for the purpose of settling or litigating their claims.

Sec. 10. Section 91C.2, subsection 1, Code 1989, is amended to read as follows:

1. The contractor shall be in compliance with the laws of this state relating to workers' compensation insurance and shall provide evidence of workers' compensation insurance coverage annually, of relief from the insurance requirement pursuant to section 87.11, ~~or of compliance~~

~~with the notice provision of section 87.2~~ or a statement that the contractor is not required to carry workers' compensation coverage. Notice of a policy's cancellation shall be provided to the labor commissioner by the insurance company.

Sec. 11. Section 91C.3, subsection 1, Code 1989, is amended to read as follows:

1. The name, principal place of business ~~in this state~~, address, and telephone number of the contractor.

Sec. 12. Section 91C.4, Code 1989, is amended to read as follows:

91C.4 FEES.

The labor commissioner shall prescribe the fee for registration, which fee shall not exceed ~~twelve~~ twenty-five dollars ~~and fifty cents~~ every two years. All fees collected shall be deposited in the general fund of the state.

Sec. 13. Section 91C.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The labor commissioner shall revoke a registration number when the contractor fails to maintain compliance with the conditions necessary to obtain a registration. The labor commissioner shall provide a fact-finding interview to assure that the contractor is not in compliance before revoking any registration. Hearings on revocation of registrations shall be held in accordance with section 91C.8.

Sec. 14. Section 91C.6, Code 1989, is amended to read as follows:

91C.6 RULES.

The labor commissioner shall adopt rules, pursuant to chapter 17A, determined to be reasonably necessary for ~~the administration and enforcement of~~ phasing in, administering, and enforcing the system of contractor registration established by this chapter.

Sec. 15. Section 103A.20, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

However, a permit, certificate, authorization, or other required document for the construction of a building shall not be issued to a contractor who is required and fails to obtain a contractor registration number pursuant to chapter 91C.

Sec. 16. Section 91.14, Code 1989, is repealed.

Approved April 3, 1990

CHAPTER 1137

BRIDGE BEAM CONSTRUCTION CONTRACTS

S.F. 2245

AN ACT relating to bids for certain specialized bridge construction projects.

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

Section 1. NEW SECTION. 313.11 BIDS — SPECIALIZED CONSTRUCTION.

The department may contract for specialized construction work for beam straightening, beam replacement, and beam repair on bridges, without advertising for bids as required under section 313.10, if all of the following conditions are met:

1. The work is of a specialized type in which fewer than five contractors engage.

2. The department solicits written bids from all available contractors engaged in the specialized type of work.

3. The work can be done for less than forty thousand dollars.

Approved April 3, 1990

CHAPTER 1138

VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE

S.F. 2385

AN ACT establishing a new agricultural products and processes program and creating a state fund to support the program.

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

Section 1. CODIFICATION.

Sections 2 and 3 of this Act are created as a separate division of chapter 28.

Sec. 2. NEW SECTION. 28.111 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE PROGRAM.

1. Contingent on the availability of funding for this program, the department may establish a value-added agricultural products and processes financial assistance program. The purpose of the program is to foster the development of new innovative products, practices, and processes related to agriculture through specialized financial or technical assistance to facilitate the acquisition of capital. Financial assistance may be in the form of a loan, loan guarantee, grant, or a combination of financial assistance.

2. A person is eligible to apply for assistance under this section, if the person satisfies the following requirements:

a. The person is a resident of this state, or the person's principal place of business is located in this state.

b. The person applies to the department of economic development in a manner and according to procedures required by the department.

c. The person submits a business plan which demonstrates managerial and technical expertise.

d. The person operates for profit or not-for-profit and under a single management, and either employs fewer than twenty employees or has an annual gross income of less than three million dollars computed as the average of the three preceding fiscal years.

3. The department of economic development may grant financial or technical assistance to a person eligible to receive assistance under this section, upon review of the person's application by the agricultural products advisory council as established in section 15.203. The council shall make recommendations to approve or disapprove an application to the department. The department shall consider the recommendations in granting or denying assistance. The department shall not approve an application for assistance under this section to refinance an existing loan, or to finance traditional agricultural operations. An application is eligible for consideration if the application seeks assistance for any of the following purposes:

a. The development of value-added agricultural processes not commonly available in this state which are to be carried out by the person in this state.

b. The development of an innovative or diversified agricultural product not commonly produced in this state which is to be carried out by the person in this state.

c. The development of an innovative processing, packaging, marketing, or management practice not commonly available in this state which is to be carried out by the person in this state.

4. Assistance by the department granted to an eligible person shall be subject to the following restrictions:

a. The person shall not receive financial assistance totaling more than eighty thousand dollars under this program.

b. Interest on a loan shall not exceed the current fair market interest rate. A loan shall not exceed fifty thousand dollars.

c. A loan guarantee shall not exceed eighty thousand dollars. A loan guarantee shall guarantee not more than eighty percent of a conventionally obtained loan.

d. A grant shall not exceed twenty-five thousand dollars. A grant shall be made only to provide leverage for a conventionally obtained loan. The conventionally obtained loan must be for an amount significantly larger than the amount of the grant.

5. Notwithstanding restrictions contained in subsection 4, the department may use up to five thousand dollars to contract for technical assistance in order to aid a person having a pending or approved application under this section.

Sec. 3. NEW SECTION. 28.112 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE FUND.

1. The department may establish a value-added agricultural products and processes financial assistance fund. The fund shall be a revolving fund composed of any money appropriated by the general assembly for that purpose, any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund, and any earned interest. Except as otherwise provided in subsection 2, the assets of the fund shall be used by the department only for carrying out the purposes of section 28.111.

2. The department may use moneys in the fund to do any of the following:

a. Contract, sue and be sued, and adopt administrative rules necessary to carry out the provisions of this section and section 28.111, but the department shall not in any manner directly or indirectly pledge the credit of the state.

b. Authorize payment from the fund, from any income received by investments of moneys in the fund for costs, commissions, attorney fees, and other reasonable expenses related to and necessary for insuring or guaranteeing loans under section 28.111, and for the recovery of loan moneys insured or guaranteed or the management of property acquired in connection with such loans.

c. Section 8.33 shall not apply to moneys in the fund.

Approved April 3, 1990

CHAPTER 1139

PROTECTION OF INDIVIDUAL RIGHTS

S.F. 2197

AN ACT relating to violations of an individual's rights, by prohibiting acts of assault and criminal mischief, providing victims actionable civil relief against offenders, establishing a program to monitor rights violations, and providing a penalty.

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

Section 1. NEW SECTION. 80.40 CRIME INFORMATION.

The department shall establish a program to collect, classify, and disseminate information relating to violations of section 729.5. Planning for this project shall be completed and data collection shall commence no later than January 1, 1991.

Sec. 2. Section 729.5, Code 1989, is amended to read as follows:

729.5 PROHIBITING VIOLATIONS OF AN INDIVIDUAL'S ~~CIVIL~~ RIGHTS — PENALTIES.

1. Persons within the state of Iowa have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, ~~or~~ sex, sexual orientation, age, or disability.

2. A person, who acts alone, or who conspires with another person or persons, to injure, oppress, threaten, or intimidate or interfere with any citizen in the free exercise or enjoyment of any right or privilege secured to that person by the constitution or laws of the state of Iowa or by the constitution or laws of the United States, and assembles with one or more persons for the purpose of teaching or being instructed in any technique or means capable of causing property damage, bodily injury or death when the person or persons intend to employ those techniques or means in furtherance of the conspiracy, is on conviction, guilty of a class "D" felony.

A person intimidates or interferes with another person if the act of the person results in any of the following:

a. Physical injury to the other person.

b. Physical damage to or destruction of the other person's property.

c. Communication in a manner, or action in a manner, intended to result in either of the following:

(1) To place the other person in fear of physical contact which will be injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(2) To place the other person in fear of harm to the other person's property, or harm to the person or property of a third person.

3. A person who maliciously and intentionally intimidates or interferes with another person because of that person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability and while doing so commits any of the following acts, is guilty of an aggravated misdemeanor:

a. Commits an assault, as defined in section 708.1, upon that person or a third person.

b. Commits an act of criminal mischief, as defined in section 716.1, upon that person or a third person.

~~3~~ 4. The fact that a person committed a felony or misdemeanor, or attempted to commit a felony, because of the victim's race, color, religion, ~~nationality, country of~~ ancestry, national origin, political affiliation, ~~or~~ sex, sexual orientation, age, or disability, shall be considered a circumstance in aggravation of any crime in imposing sentence and fine. Evidence of such fact includes, but is not limited to, the burning of crosses and other symbols, and a rebuttable presumption of the fact arises where such an act is shown to have been committed.

5. A victim who has suffered physical, emotional, or financial harm as a result of a violation of this section is entitled to injunctive relief, general and special damages, reasonable attorney fees, and costs. However, a victim who is a member of a protected class and who has suffered physical, emotional, or financial harm as a result of a violation of this section which occurred because of the victim's status as a member of a protected class, shall not be entitled to any relief or damages pursuant to this subsection unless the victim has exhausted all administrative review provided for under 601A.

Upon a finding that a discriminatory or unfair practice prohibited under chapter 601A has occurred, the remedies provided under that chapter are the exclusive remedies available to the victim.

An action brought pursuant to this subsection must be brought within two years after the date of the violation of this section. However, the filing of a complaint under chapter 601A tolls the statute of limitations for the purposes of the commencement of an action under this subsection.

~~4~~ 6. This section does not make unlawful the teaching of any technique in self-defense.

~~5~~ 7. This section does not make unlawful any activity of any of the following officials or persons:

a. Law enforcement officials of this or any other jurisdiction while engaged in the lawful performance of their official duties~~;~~.

b. Federal officials required to carry firearms while engaged in the lawful performance of their official duties~~;~~.

c. Members of the armed forces of the United States or the national guard while engaged in the lawful performance of their official duties~~; or~~.

d. Any conservation commission, law enforcement agency, or any agency licensed to provide security services, or any hunting club, gun club, shooting range, or other organization or entity whose primary purpose is to teach the safe handling or use of firearms, archery equipment, or other weapons or techniques employed in connection with lawful sporting or other lawful activity.

Sec. 3.

This Act shall not be construed to establish any new category of individual rights not currently protected by the laws of this state or federal law, or to enlarge, diminish, or impair any right guaranteed by the laws of this state or federal law.

Sec. 4.

The Code editor shall amend the title of chapter 729 by changing the word "civil" to "individual" to reflect the changes made in this Act.

Approved April 3, 1990

CHAPTER 1140

ECONOMIC DEVELOPMENT NETWORK

H.F. 705

AN ACT establishing an Iowa economic development network and related councils and centers to assist in making available economic development programs and services.

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

Section 1. Section 15.108, subsection 3, paragraph a, subparagraph (2), Code Supplement 1989, is amended by striking the subparagraph.

Sec. 2. Section 15.264, subsection 3, Code 1989, is amended by striking the subsection.

Sec. 3. NEW SECTION. 15.301 TITLE.

This part shall be known as the "Iowa Economic Development Network Act".

Sec. 4. NEW SECTION. 15.302 PURPOSE – INTENT.

1. The purpose of the Iowa economic development network is to create and stimulate economic opportunity through planning and technical assistance and support to entrepreneurs and existing business in the state.

2. It is the intent of the general assembly to make available and coordinate economic development services and programs to assist individuals, businesses, and communities through the Iowa economic development network.

Sec. 5. NEW SECTION. 15.303 ESTABLISHMENT OF IOWA ECONOMIC DEVELOPMENT NETWORK – DUTIES OF DIRECTOR.

1. The Iowa economic development network is established in the department of economic development. The director of the department of economic development is the executive director of the Iowa economic development network.

2. The director shall do all of the following:

a. Establish a primary center for economic development programs and services.

b. Establish a statewide system of regional economic development centers.

c. Establish regional coordinating councils to coordinate the regional delivery of economic development programs and services to businesses and the operation of the regional economic development centers.

d. Cooperate with the councils of governments, merged area schools, small business development centers, the center for industrial research and service, the Iowa quality coalition, other service providers, and new and existing businesses in the state to fulfill the purposes of the Iowa economic development network.

Sec. 6. NEW SECTION. 15.304 IOWA ECONOMIC DEVELOPMENT NETWORK — DUTIES.

The Iowa economic development network shall do all of the following:

1. Coordinate the delivery of economic development and community development programs and services with other local, regional, state, and federal programs and activities.

2. Provide leadership and support in the development and implementation of statewide, regional, and local economic and community development planning efforts.

3. Provide information and data to Iowa businesses, communities, and individuals through a central registry.

4. Provide coordination, assistance, and support for the operation of regional economic development centers, and regional coordinating councils.

5. Establish, in coordination with the Iowa economic development training program, a professional development training and education curriculum that will implement a certification program for administrators and employees of the regional economic development centers and which would be available to the administrators and employees of the department and other interested persons.

Sec. 7. NEW SECTION. 15.305 REGIONAL COORDINATING COUNCILS — DUTIES.

1. For purposes of the Iowa economic development network, the state is divided into fifteen regions. The boundaries of the regions are contiguous to the boundaries established for the merged areas under chapter 280A. Each region shall establish a regional coordinating council.

2. The director of the department of economic development shall contract with each regional coordinating council to provide economic development programs and services to businesses in the area. The contract shall include but is not limited to the following:

a. Establishment and operation of a regional economic development center within each region. The department may authorize and provide supplemental funding for a subcenter of the regional economic development center within the merged area upon application by the regional coordinating council. A subcenter shall be based upon demographic and geographic considerations that are adopted by the department.

b. Employment of an administrator and other personnel to operate the regional economic development center. The contract shall include responsibilities and duties of the administrator and other personnel, wage and benefit provisions, and performance measures related to the operation of the regional economic development center.

c. An annual budget for the operation of the regional economic development center including a provision to transfer funds from the department to the regional coordinating council or its designee, as agreed upon by the regional coordinating council and the director. The budget shall reflect the work plan of the regional coordinating council and the regional economic development center to implement the intent and purposes of the Iowa economic development network.

d. Authorization for a regional coordinating council to enter into agreements to obtain necessary facilities or other support services for the regional economic development center.

3. Membership of the regional coordinating council shall consist of at least twelve members who shall be representative of education, government, business and industry, labor, and service organizations in the merged area. Private sector representation shall comprise at least one-half of the membership. Service providers serving a substantial portion of the merged area may have a representative on the regional coordinating council. The appointment and terms of office of the members shall be governed by bylaws adopted by each regional coordinating council.

4. A director, officer, employee, member, trustee, or volunteer, of a regional coordinating council is not liable for the debts or obligations of the regional coordinating council and a director, officer, employee, member, trustee, or volunteer is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or known violation of the law, or for a transaction from which the person derives an improper personal benefit.

5. The regional coordinating councils shall do all of the following:

a. Adopt a multiyear regional business assistance work plan to implement the purposes of the Iowa economic development network and guide the operation of the regional economic development center in the delivery of programs and services to businesses in the region and provide annual updates. The work plan may include other activities specifically designed to meet the needs of businesses in the region. The regional coordinating council may consult with service providers within the region in the preparation and adoption of the work plan and may contract with one or more service providers in its preparation. The work plan shall be submitted to the department for review and comment before the adoption of the work plan by the regional coordinating council. Before the release of any state funds by the department for operation of a regional economic development center, the work plan shall be approved by the department.

b. Establish and operate a regional economic development center to implement the goals and objectives established in the work plan and deliver economic development programs and services to businesses in the region.

c. Cooperate with the department to promote local, regional, and statewide service delivery systems, to coordinate the delivery of economic development programs and services to businesses in the region, and to participate in the Iowa economic development network.

d. Elect annually a representative to serve on the advisory council established by the department to provide input on the review and update of the state's economic development strategic plan.

e. Conduct an annual inventory of business assistance service providers to businesses within the region and provide a matrix of available technical services to the department.

f. Meet at least quarterly with the board of directors or their designees of the merged area school, any councils of governments serving a substantial portion of the region, and representatives of any small business development center, incubator, representatives of any area quality council, and the center for industrial research and service serving the region to share information, develop plans and programs, and coordinate the delivery of services within the region.

Sec. 8. NEW SECTION. 15.306 PRIMARY CENTER FOR ECONOMIC DEVELOPMENT PROGRAMS AND SERVICES.

A primary center for economic development programs and services is established in the department of economic development. The primary center shall do all of the following:

1. Implement a comprehensive statewide economic development planning process and provide leadership, coordination, and support to regional and local economic and community development planning efforts.

2. Implement the activities of the Iowa economic development network and coordinate the delivery of economic development and community development programs and services with other local, regional, state, and federal programs and activities.

3. Coordinate planning efforts of the regional coordinating councils in the preparation of annual regional business assistance work plans and provide technical assistance and support to the regional economic development centers.

4. Collect and analyze information and data, develop databases, and perform research to keep abreast of Iowa's present economic base, changing market demands, and emerging trends including identification of targeted markets and development of marketing strategies.

5. Establish a database of products and services available from Iowa businesses to provide businesses with a source for locating buyers for or suppliers of their products and services and utilize the database to provide a noncommissioned brokerage service for facilitating trade by Iowa businesses.

6. Establish a database of community and economic information to aid local, regional, and statewide community development and economic development planning and service delivery efforts.

Sec. 9. NEW SECTION. 15.307 REGIONAL ECONOMIC DEVELOPMENT CENTERS.

1. A regional economic development center shall create and stimulate economic development by assisting and supporting entrepreneurs and businesses in the region.

2. A regional economic development center shall do all of the following:

a. Provide outreach to entrepreneurs and businesses and function as a clearinghouse and referral center for information on business assistance programs and services. The regional economic development center shall serve as a liaison between businesses in the region and the Wallace technology transfer foundation of Iowa, the internet foundation, the department, and other business assistance service providers for the purpose of fostering science and technology transfer and international trade opportunities.

b. Develop a support network to create and promote entrepreneurship, business retention, business development, and business expansion within the region.

c. Maintain ongoing communication with other business assistance service providers in the region and coordinate the delivery of programs and services between the service providers and businesses.

d. Assist the regional coordinating council in preparing and implementing the annual regional business assistance work plan and inventory of business assistance service providers.

e. Provide the regional link for the database and information systems of the Iowa economic development network and the primary center. In providing the regional link, the regional economic development center shall do all of the following:

(1) Implement and utilize the department's domestic and international trade lead programs to facilitate trade opportunities for businesses in the region, including updating information for the catalog of products and services, maintaining and updating business profiles, and providing trade lead data.

(2) Provide information and referral to individuals and businesses about available programs and services.

(3) Cooperate with service providers and the primary center in the development and maintenance of a statewide community database.

(4) Provide other information and data concerning the region to the primary center or other sources.

f. Perform other related duties and responsibilities assigned to the regional economic development center as agreed upon in the contract entered into between the department and the regional coordinating council.

Sec. 10. NEW SECTION. 15.308 COMMUNITY BUILDER PROGRAM.

1. A community builder program is established in the Iowa department of economic development. The purpose of the program is to encourage a city, cluster of cities, county, group of counties, unincorporated community or group of unincorporated communities to implement planning efforts for community, business, and economic development.

2. A city, cluster of cities, county, group of counties, unincorporated community or group of unincorporated communities which participate and receive certification under this program may be eligible for additional consideration under the following state financial assistance programs:

a. The community economic betterment account under section 99E.32.

b. The community development block grant program.

c. The rural community 2000 program under chapter 15.

d. Recycling projects under section 455D.15.

e. Revitalize Iowa's sound economy fund under chapter 315.

f. Programs administered by the Iowa finance authority under chapter 220.

g. Water, conservation, or any resource enhancement and protection program under the control of the department of natural resources.

3. A department administering a program under subsection 2 shall adopt administrative rules providing bonus points of not less than five percent and not more than twenty percent of the points available under the program for certified participants under this section.

4. A city, cluster of cities, county, group of counties, unincorporated community or group of unincorporated communities not yet certified under this section but awarded a grant or initiative from the state shall initiate a process to establish a community builder program within six months of the award, to be completed within three years of the receipt of the award.

5. A city, cluster of cities, county, group of counties, unincorporated community, or group of unincorporated communities shall submit a community builder program to the regional coordinating council for coordination, review, and comment and to the department for certification.

6. A community builder program shall include, but is not limited to, all of the following information:

a. A plan to improve infrastructure, cultural and fine arts resources, housing, primary health care services, and natural resources, conservation, and recreational facilities. The plan shall include a prioritization of identified needs.

b. A community database including an inventory and assessment of infrastructure, cultural and fine arts resources, housing, primary health care services, and natural resources, conservation and recreational facilities. The database shall also include an assessment of applicants' participation in a county or regional economic development plan.

c. A five-year community economic development strategic plan designed to meet the needs of the community.

d. A list of local community programs to encourage economic development including public and private financial resources, an analysis of current and potential local tax revenues, and tax abatement programs.

e. A county or regional survey of the available employment and labor force.

7. Contingent on the availability of funding for this purpose, the department may enter into a contract with service providers to provide technical assistance to a city, cluster of cities, county, group of counties, or unincorporated community, or group of unincorporated communities participating in a community builder program.

8. The department shall adopt administrative rules pursuant to chapter 17A to administer this division.

Sec. 11. Section 28.101, Code 1989, is repealed.

Approved April 4, 1990

CHAPTER 1141

PHASE III TEACHER PAY PLANS

H.F. 2271

AN ACT relating to phase III pay plans.

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

Section 1. Section 294A.12, unnumbered paragraph 2, Code 1989, is amended to read as follows:

It is the intent of the general assembly that school districts and area education agencies incorporate into their planning for performance-based pay plans and supplemental pay plans, implementation of recommendations from recently issued national and state reports relating to the requirements of the educational system for meeting future educational needs, especially as they relate to the preparation, working conditions, and responsibilities of teachers, including but not limited to assistance to new teachers, development of teachers as instructional leaders in their schools and school districts, using teachers for evaluation and diagnosis of other teachers' techniques, and the implementation of sabbatical leaves. It is further the intent of the general assembly that real and fundamental change in the educational system must emerge from the school site if the education system is to remain relevant and that plans funded in this program must be an integral part of a comprehensive school district or area education agency effort toward meeting identified district or agency goals or needs.

Sec. 2. Section 294A.14, unnumbered paragraphs 2, 4, and 5,* Code Supplement 1989, are amended to read as follows:

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 which provides for salary increases for teachers who demonstrate superior performance in completing assigned duties or by participating in innovative education programs or comprehensive school transformation programs, 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.

A plan shall be developed using the procedure specified under section 294A.15. The plan shall provide for the establishment of a performance-based pay plan, a supplemental pay plan, ~~or~~ a combination of the two pay plans, or comprehensive school transformation programs, and shall include a budget for the cost of implementing the plan. In addition to the costs of providing additional salary for teachers and the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under chapter 294, and payments on the additional salary, the budget may include costs associated with providing specialized or general training. Moneys received under phase III shall not be used to employ additional employees of a school district, except that phase III moneys may be used to employ substitute teachers, part-time teachers, and other employees needed to implement plans that provide innovative staffing patterns or that require that a teacher employed on a full-time basis be absent from the classroom for specified periods for fulfilling other instructional duties. However, all teachers employed are eligible to receive additional salary under an approved plan.

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. 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. 3. Section 294A.14, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

*Amendments to unnumbered paragraph 5 stricken before passage of Act; no change in text

NEW UNNUMBERED PARAGRAPH. For purposes of this section, a comprehensive school transformation plan shall include, but is not limited to, providing salary increases to teachers who implement site-based decision making, building-based goal-oriented compensation mechanisms, or approved innovative educational programs, who focus on student outcomes, who direct accountability for student achievement, accountability for organizational success, and who work to expand community or business relationships.

Sec. 4. Section 294A.16, unnumbered paragraph 1, Code Supplement 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~~ March 15 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.

Approved April 4, 1990

CHAPTER 1142

HUNTING LAW VIOLATIONS

H.F. 2355

AN ACT relating to civil damages and license revocation for illegal taking of certain animals.

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

Section 1. Section 109.130, subsection 1, Code 1989, is amended to read as follows:

1. For each elk, antelope, buffalo, or moose, ~~one~~ two thousand five hundred dollars.

Sec. 2. Section 110.21, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to other civil and criminal penalties imposed for illegally taking or possessing an elk, antelope, buffalo, or moose, the court shall revoke the hunting license of a violator. The violator shall not be allowed to procure a hunting license for the next two calendar years.

Approved April 4, 1990

CHAPTER 1143

FARM MEDIATION SERVICE

H.F. 2404

AN ACT relating to mediation assistance, by expanding the responsibilities of the farm mediation service, granting additional authority to the farm mediation service, extending the date of repeal for certain provisions, and providing an effective date.

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

Section 1. LEGISLATIVE FINDINGS AND DECLARATION.

The general assembly finds that mediation is a simple nonbureaucratic means of resolving disputes between parties. Although the overall economy of the state has improved since the enactment of the farm crisis program, 1986 Iowa Acts, chapter 1214, the agricultural sector still suffers from financial stress. Therefore the general assembly declares that it is necessary to extend programs enacted in 1986 to provide legal assistance to farmers suffering financial distress and to provide farmer-creditor mediation services.

The general assembly also finds that the independence and isolation of farm residents poses special obstacles in dispute resolution. Legal proceedings may be a costly, time-consuming, and inefficient means of settling disputes in which a farm resident is a party. Disputes may be better resolved in an informal setting where understanding and accommodation may replace a formal and adversarial proceeding. Therefore the general assembly declares that farm mediation should be expanded to include more disputes between farm residents and opposing parties.

Sec. 2.

Sections 3 through 6 and section 8 of this Act, and sections 13.20 through 13.24 are created as a separate subchapter of chapter 13.

Sec. 3. NEW SECTION. 13.11 FARM ASSISTANCE PROGRAM COORDINATOR.

1. The attorney general or the attorney general's designee shall serve as the farm assistance program coordinator. The coordinator has the powers and duties specified in this subchapter.

2. The farm assistance program coordinator shall contract with a nonprofit organization chartered in this state to provide mediation services as provided in chapters 654A and 654B. The contract shall be awarded to the organization by July 1, 1990. The contract may be terminated by the coordinator upon written notice and for good cause. The organization awarded the contract is designated as the farm mediation service for the duration of the contract. The organization may, upon approval by the coordinator, provide mediation services other than as provided by law. The farm mediation service is not a state agency for the purposes of chapters 19A, 20, and 25A.

Sec. 4. NEW SECTION. 13.12 CONFIDENTIALITY.

1. Meetings of the farm mediation service are closed meetings and are not subject to chapter 21.

2. 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, is a confidential communication. 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.

3. Confidentiality is also protected as provided in section 654A.13.

Sec. 5. NEW SECTION. 13.13 RULES AND FORMS – FEES.

The farm mediation service shall recommend rules to the farm assistance coordinator. The coordinator shall adopt rules pursuant to chapter 17A to set the compensation of mediators and to implement this subchapter and chapters 654A and 654B.

The rules shall 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.

The compensation of a mediator shall be no more than twenty-five dollars per hour, and all parties shall contribute an equal amount of the cost.

The coordinator shall adopt voluntary mediation application and mediation request forms.

Sec. 6. NEW SECTION. 13.14 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 for 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 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 a member of a board for the service until completion of the mediation process.

Sec. 7. Section 13.20, Code 1989, is amended to read as follows:

13.20 AUTHORITY TO CONTRACT FOR LEGAL ASSISTANCE PROGRAM.

The farm ~~crisis~~ assistance program coordinator, provided in ~~section 654A.2~~ this subchapter, shall contract with an eligible nonprofit organization to provide legal assistance to financially distressed farmers. The contract shall be awarded within thirty days after May 30, 1986. The contract may be terminated by the coordinator upon written notice and for good cause.

Sec. 8. NEW SECTION. 13.25 REPEAL OF FARM MEDIATION AND LEGAL ASSISTANCE PROVISIONS.

This subchapter is repealed on July 1, 1993.

Sec. 9. Section 654A.1, subsection 2, Code 1989, is amended to read as follows:

2. "Coordinator" means the farm ~~crisis~~ assistance program coordinator provided in section ~~654A.2~~ 13.11.

Sec. 10. Section 654A.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 6. "Farm mediation service" means the organization selected pursuant to section 13.11.

NEW SUBSECTION. 7. "Participate" or "participation" means attending a mediation meeting, and discussing issues, stating a position regarding restructuring, and exchanging information, relating to any of the following: a debt against agricultural property which is real estate under chapter 654; a forfeiture of a contract to purchase agricultural property under chapter 656; a secured interest in agricultural property under chapter 554; or a garnishment, levy, execution, seizure, or attachment of agricultural property; all as referenced in section 654A.6.

Sec. 11. Section 654A.11, subsection 3, Code Supplement 1989, is amended to read as follows:

3. a. If the borrower waives mediation, or if a mediation agreement is not reached, the borrower and the creditors may sign a statement prepared by the mediator that mediation was waived or that the parties did not reach an agreement. If any party does not sign the statement, the mediator shall sign the statement. The statement constitutes a mediation release. ~~Unless the borrower waives mediation, a creditor shall not receive a mediation release until the creditor has participated in at least one mediation meeting.~~

b. The mediator shall issue a mediation release unless the creditor fails to participate in at least one mediation meeting. The mediator shall issue a mediation release if the borrower waives or fails to participate in at least one mediation meeting, regardless of participation by the creditor. The creditor or borrower may be represented by another person, if the person participates in mediation and has authority to discuss the debt on behalf of the creditor or

borrower. This section does not require the creditor or borrower to reach an agreement, including restructuring a debt in order to receive a mediation release.

Sec. 12. Section 654A.11, subsection 4, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. The mediator shall promptly notify a creditor by certified mail of a denial to issue a mediation release and the reasons for the denial. The notice shall state that the creditor has seven days from the date that the notice is delivered to appeal the mediator's decision to the administrative head of the mediation service, pursuant to procedures adopted by the service. The notice shall state that the creditor may also request another mediation meeting. The action for judicial review shall be brought in equity, and the action shall be limited to whether, based on clear and convincing evidence, the decision of the administrative head is an abuse of discretion. The action may be brought either in the district court of Polk county or in the district court in which the farmer or creditor resides. Upon reversing the decision by the service, the court shall order that the service issue the mediation release.

Sec. 13. Section 654A.13, subsection 2, Code Supplement 1989, is amended by striking the subsection.

Sec. 14. Section 654A.13, subsection 3, unnumbered paragraph 1, Code Supplement 1989, is amended by striking the paragraph.

Sec. 15. NEW SECTION. 654A.16 REPEAL OF CHAPTER.

This chapter is repealed on July 1, 1993.

Sec. 16. NEW SECTION. 654B.1 DEFINITIONS.

1. "Care and feeding contract" means an agreement, either oral or written, between a farm resident and the owner of livestock, under which the farm resident agrees to act as a feeder by promising to care for and feed the livestock on the farm resident's premises.

2. "Dispute" means a controversy between a person who is a farm resident and another person, which arises from a claim eligible to be resolved in a civil proceeding in law or equity, if the claim relates to either of the following:

a. The performance of either person under a care and feeding contract, if both persons are parties to the contract.

b. An action of one person which is alleged to be a nuisance interfering with the enjoyment of the other person.

3. "Farmland" means agricultural land that is principally used for farming as defined in section 172C.1.

4. "Farm mediation service" means the organization selected pursuant to section 13.11.

5. "Farm resident" means a person holding an interest in farmland, in fee, under a real estate contract, or under a lease, if the person manages farming operations on the land. A farm resident includes a natural person, or any corporation, trust, or limited partnership as defined in section 172C.1.

6. "Mediation release" means an agreement or statement signed by all parties or by less than all the parties and the mediator pursuant to section 654B.8.

7. "Nuisance" means an action injurious to health, indecent, or offensive to the senses, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property, including but not limited to nuisances defined in section 657.2, subsections 1 through 5, and 7.

8. "Other party" means any person having a dispute with a farm resident.

9. "Participate" or "participation" means attending a mediation meeting, and having knowledge about and discussing issues concerning a subject relating to a dispute.

Sec. 17. NEW SECTION. 654B.2 VOLUNTARY MEDIATION PROCEEDINGS.

A farm resident or other party may request mediation of a dispute by applying to the farm mediation service. The farm mediation service shall make voluntary mediation application forms

available. The farm mediation service shall evaluate each request and may direct a mediator to meet with the farm resident and other party to assist in mediation.

Sec. 18. NEW SECTION. 654B.3 MANDATORY MEDIATION PROCEEDINGS.

1. A person who is a farm resident, or other party desiring to initiate a civil proceeding to resolve a dispute, shall file a request for mediation with the farm mediation service. The person shall not begin the proceeding until the person receives a mediation release, or until the court determines after notice and hearing that one of the following applies:

a. The time delay required for the mediation would cause the person to suffer irreparable harm.

b. The dispute involves a claim which has been brought as a class action.

2. Upon receipt of the request for mediation, the farm mediation service shall conduct an initial consultation with each party to the dispute privately and without charge. Mediation may be waived after the initial consultation, if the parties agree.

3. Unless mediation is waived by the parties to the dispute, the parties shall file with the farm mediation service information required by the service to conduct mediation.

Sec. 19. NEW SECTION. 654B.4 INITIAL MEDIATION MEETING.

1. Unless both parties to the dispute waive mediation, within twenty-one days after receiving a mediation request, the farm mediation service shall send a mediation meeting notice to all parties to the dispute setting a time and place for an initial mediation meeting between the parties and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one days of the issuance of the mediation meeting notice.

2. If a person receives a mediation meeting notice under this section, the person shall not continue civil proceedings based on a claim relating to a dispute subject to this chapter, unless the court determines after notice and hearing that one of the following applies:

a. The time delay required for the mediation would cause the person to suffer irreparable harm.

b. The dispute involves a claim which has been brought as a class action.

3. At the meeting, a party to the dispute may be represented by counsel or appear with a consultant to assist the party in mediation.

Sec. 20. NEW SECTION. 654B.5 DUTIES OF THE MEDIATION SERVICE.

1. The farm mediation service, with the assistance of knowledgeable persons, shall provide a program to train mediators to assist in the mediation of nuisance disputes.

2. At the initial mediation meeting and subsequent meetings, the mediator shall:

a. Listen to all involved parties.

b. Attempt to mediate between all involved parties.

c. Encourage compromise and workable solutions.

d. Advise, counsel, and assist the parties in attempting to arrive at an agreement for the future conduct of relations among them.

Sec. 21. NEW SECTION. 654B.7 MEDIATION PERIOD.

The mediator may call mediation meetings during the mediation period, which is up to forty-two days after the farm mediation service received the mediation request. However, if all parties consent, mediation may continue after the end of the mediation period.

Sec. 22. NEW SECTION. 654B.8 MEDIATION RELEASE.

1. If an agreement is reached between all parties, the mediator shall draft a written mediation agreement, have it signed by the parties, and submit the agreement to the farm mediation service.

2. a. The mediator shall issue a mediation release unless the other party desiring to initiate a civil proceeding to resolve the dispute fails to participate in at least one mediation meeting. The mediator shall issue a mediation release if the farm resident waives or fails to participate in at least one mediation meeting, regardless of participation by the other party. A party

to a dispute may be represented by another person, if the person participates in mediation and has authority to discuss the dispute on behalf of the party being represented. This section does not require a party to reach an agreement. This section does not require a person to change a position, alter an activity which is a subject of the dispute, or restructure a contract in order to receive a mediation release.

b. The mediator shall promptly notify a party by certified mail of a denial to issue a mediation release and the reasons for the denial. The notice shall state that the party has seven days from the date that the notice is delivered to appeal the mediator's decision, pursuant to procedures adopted by the service. After a final decision by the farm mediation service, the party may seek an action for judicial review pursuant to section 654B.10.

3. The parties to the mediation agreement may enforce the mediation agreement as a legal contract. The agreement constitutes a mediation release.

4. If the parties waive mediation, or if a mediation agreement is not reached, the parties may sign a statement prepared by the mediator that mediation was waived or that the parties did not reach an agreement. If any party does not sign the statement, the mediator shall sign the statement. The statement constitutes a mediation release. Unless the farm resident waives mediation, the department shall not receive a mediation release until the party has participated in at least one mediation meeting.

Sec. 23. NEW SECTION. 654B.9 EXTENSION OF DEADLINES.

Upon petition by all parties, the farm mediation service may, for good cause, extend a deadline imposed by section 654B.4 or section 654B.7 for up to thirty days.

Sec. 24. NEW SECTION. 654B.10 JUDICIAL REVIEW.

An action for judicial review shall be brought in equity, and the action shall be limited to whether, based on clear and convincing evidence, the decision by the administrative head of the mediation service is an abuse of discretion. The action may be brought in either the district court of Polk county or in the district court in which the affected farm resident resides. Upon reversing the decision by the service, the court shall order that the service issue a mediation release.

Sec. 25. NEW SECTION. 654B.11 EFFECT OF MEDIATION.

An interest in property, or rights and obligations under a contract are not affected by the failure of a person to obtain a mediation release regardless of its validity.

Time periods relating to a claim, including applicable statutes of limitations, shall be suspended upon filing a mediation request. Time periods affecting a claim in a civil proceeding shall be suspended upon filing a mediation request. The suspension shall terminate upon signing a mediation release.

Sec. 26. NEW SECTION. 654B.12 REPEAL OF CHAPTER.

This chapter is repealed on July 1, 1993.

Sec. 27. NEW SECTION. 657.10 MEDIATION NOTICE.

Notwithstanding this chapter, a person, required under chapter 654B to participate in mediation, shall not begin a proceeding subject to this chapter until the person receives a mediation release under section 654B.8, or until the court determines after notice and hearing that one of the following applies:

a. The time delay required for the mediation would cause the person to suffer irreparable harm.

b. The dispute involves a claim which should be resolved as a class action.

Sec. 28.

Section 554.9501, subsection 6, is amended by striking the subsection.

Sec. 29. FUTURE REPEALS.

1. Sections 654.2C and 656.8, Code 1989, are repealed.

2. Section 657.10 as created in this Act is repealed.

Sec. 30. REPEALS.

1. Sections 654A.2 and 654A.3, Code 1989, are repealed.

2. Sections 654A.14 and 654A.15, Code Supplement 1989, are repealed.

3. 1986 Iowa Acts, chapter 1214, section 29, as amended by 1989 Iowa Acts, chapter 108, section 1, is repealed.

Sec. 31. EXISTING FARM MEDIATION SERVICE CONTRACTS.

This Act does not affect any agreement with the organization selected by the farm crisis program coordinator to be the farm mediation service pursuant to section 654A.3, Code 1989.

Sec. 32. EFFECTIVE DATE.

1. Except as provided in subsection 2, all sections of this Act, being deemed of immediate importance, take effect upon enactment.

2. Sections 28 and 29 of this Act take effect on July 1, 1993.

Approved April 4, 1990

CHAPTER 1144

FINANCING E911 TELEPHONE SERVICE

H.F. 2512

AN ACT altering the statutory monetary limitation on the local option E911 emergency telephone service surcharge, authorizing the Iowa finance authority to issue bonds and notes secured by certain designated sources to finance E911 service nonrecurring and recurring expenses, providing related procedures and conditions, and providing an effective date.

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

Section 1. Section 477B.6, subsection 1, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

"Should enhanced 911 emergency telephone service be funded, in whole or in part, by a monthly surcharge of (an amount determined by the local joint E911 service board of up to ~~twenty-five cents~~ one dollar) ~~per month per~~ on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within (description of the proposed E911 service area)?"

Sec. 2. Section 477B.7, subsection 1, paragraph a, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

To encourage local implementation of E911 service, one source of funding for E911 emergency telephone communication systems shall come from a surcharge ~~of twenty-five cents~~ per month, per access line on each access line subscriber, except as provided in subsection 5, equal to the lowest amount of the following:

One dollar.

An amount less than one dollar, which would fully pay both recurring and nonrecurring costs of the E911 service system within five years from the date the maximum surcharge is imposed.

The maximum monetary limitation approved by referendum.

PARAGRAPH DIVIDED. The surcharge shall be imposed by order of the administrator as follows:

Sec. 3. Section 477B.7, subsection 5, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

5. USE OF MONEYS IN FUND – PRIORITY AND LIMITATIONS ON EXPENDITURE.

a. Moneys deposited in the E911 service fund shall be used for the repayment of any bonds issued for the benefit of or loan made to the joint E911 service board pursuant to sections 477B.20 through 477B.22, and as long as any such bond or loan remains unpaid the surcharge shall not be reduced or eliminated. Moneys deposited in the fund shall be subject to such terms and conditions as may be contained in the relevant bond documents, trust indenture, resolution, loan agreement, or other instrument pursuant to which bonds are issued or a loan is made, without regard to any limitation otherwise provided by law. The surcharge may be increased, but shall not exceed the maximum allowed in subsection 1, upon approval of the authority upon such terms and conditions as may be contained in the relevant bond documents, trust indenture, resolution, loan agreement, or other instrument pursuant to which bonds are issued or a loan is made, as deemed necessary or prudent by the authority to secure repayment and assure marketability or a reasonable interest rate.

b. Moneys deposited in the E911 service fund shall be used for the following, in order of priority if paragraph "a" does not apply:

(1) Money shall first be spent for actual recurring costs of operating the E911 service plan.

(2) If money remains in the fund after fully paying for recurring costs incurred in the preceding year, the remainder may be spent to pay for nonrecurring costs, not to exceed actual nonrecurring costs as approved by the administrator.

(3) If money remains in the fund after fully paying obligations under subsections 1 and 2, the remainder may be accumulated in the fund as a carryover operating surplus. If the surplus is greater than twenty-five percent of the approved annual operating budget for the next year, the administrator shall reduce the surcharge by an amount calculated to result in a surplus of no more than twenty-five percent of the planned annual operating budget. After nonrecurring costs have been paid, if the surcharge is less than the maximum allowed and the fund surplus is less than twenty-five percent of the approved annual operating budget, the administrator shall, upon application of the joint E911 service board, increase the surcharge in an amount calculated to result in a surplus of twenty-five percent of the approved annual operating budget. The surcharge may only be adjusted once in a single year, upon one hundred days' prior notice to the provider.

Sec. 4. Section 477B.7, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a local option E911 service surcharge was approved by referendum prior to the effective date of this Act, the maximum E911 service surcharge monetary limitation may be amended up to a total of one dollar, per month, per access line, by another referendum as provided in section 477B.6. A joint E911 service board may adjust its E911 service surcharge within the monetary limitation approved by referendum as provided under this subsection by a simple majority vote of the voting members. As a result of the adjustment, the E911 service surcharge, per month, per access line, on each access line subscriber, except as provided in subsection 5, shall not exceed the lowest amount of the following:

a. One dollar.

b. An amount less than one dollar, which would fully pay both recurring and nonrecurring costs of the E911 service system within five years from the date of the adjustment.

c. The maximum monetary limitation approved by referendum.

Sec. 5. NEW SECTION. 220.161 AUTHORITY TO ISSUE E911 PROGRAM BONDS AND NOTES.

The authority shall assist the department of public defense as provided in chapter 477B, subchapter II and the authority shall have all of the powers delegated to it by a joint E911 service board or the department of public defense in a chapter 28E agreement with respect

to the issuance and securing of bonds or notes and the carrying out of the purposes of chapter 477B.

Sec. 6. NEW SECTION. 477B.20 E911 FINANCING PROGRAM — DEFINITIONS — FUNDING — BONDS AND NOTES.

1. As used in this subchapter, unless the context otherwise requires, "authority" means the Iowa finance authority.

2. The authority shall cooperate with the department of public defense in the creation, administration, and funding of the E911 program established in subchapter I.

3. The authority may issue its bonds and notes for the purpose of funding E911 nonrecurring and recurring costs of one or more E911 service areas.

4. The authority may issue its bonds and notes for the purposes of this chapter and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the authority or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amount payable under the loan agreements or any other instruments securing the debt obligations under the loan agreements.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreement or other instrument.

d. Other terms and conditions as deemed necessary or appropriate by the authority.

5. The powers granted the authority under this section are in addition to other powers contained in chapter 220. All other provisions of chapter 220, except section 220.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section, except to the extent they are inconsistent with this section.

6. All bonds or notes issued by the authority in connection with the program are exempt from taxation by this state and the interest on the bonds or notes is exempt from state income tax, both personal and corporate.

Sec. 7. NEW SECTION. 477B.21 SECURITY — RESERVE FUNDS — PLEDGES — NONLIABILITY — IRREVOCABLE CONTRACTS.

1. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 477B.20 that the principal of, premium, and interest on the bonds or notes are payable from any of the following and may pledge the same to its bonds and notes:

a. The income and receipts or other moneys derived from the projects financed with the proceeds of the bonds or notes.

b. The income and receipts or other money derived from designated projects whether or not the projects are financed in whole or in part with the proceeds of the bonds or notes.

c. The amounts on deposit in the E911 service fund of a joint E911 service board, including, but not limited to revenues from a local option E911 service surcharge.

d. The amounts payable to the authority by jurisdictions within service areas pursuant to loan agreements with service areas.

e. Any other funds or accounts established by the authority in connection with the program or the sale and issuance of its bonds or notes.

2. The authority may establish reserve funds to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this subsection, the proceeds of the sale of its bonds or notes and other money which is made available from any other source.

3. A pledge made in respect of bonds or notes is valid and binding from the time the pledge is made. The money or property so pledged and received after the pledge by the authority is immediately subject to the lien of the pledge without physical delivery or further act. The lien of the pledge is valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, or any other instrument by which a pledge is created needs to be recorded, filed, or perfected under chapter 554, to be valid, binding, or effective against all persons.

4. The members of the authority or persons executing the bonds or notes are not personally liable on the bonds or notes and are not subject to personal liability or accountability by reason of the issuance of the bonds or notes.

5. The state pledges to and agrees with the holders of bonds or notes issued under this subchapter that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds or notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

Sec. 8. NEW SECTION. 477B.22 RULES.

The authority shall adopt rules pursuant to chapter 17A to implement this subchapter.

Sec. 9.

The Code editor shall codify sections 477B.1 through 477B.19 as subchapter I of chapter 477B, entitled, "local option E911 service surcharge and E911 service".

Sec. 10.

The Code editor shall codify sections 477B.20 through 477B.29 as subchapter II of chapter 477B, entitled, "E911 program debt financing".

Sec. 11.

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

Approved April 4, 1990

CHAPTER 1145

MOTOR VEHICLE SERVICE CONTRACTS

H.F. 2516

AN ACT regulating motor vehicle service and repair and certain motor vehicle service contracts and establishing an annual fee.

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

Section 1. Section 321I.1, subsection 1, Code 1989, is amended to read as follows:

1. "Motor vehicle service contract" or "service contract" means a contract or agreement given for consideration over and above the lease or purchase price of a new or used motor vehicle having a gross vehicle weight rating of less than sixteen thousand pounds that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, but does not include mechanical breakdown insurance or maintenance agreements providing scheduled repair and maintenance services for leased vehicles.

Sec. 2. Section 321I.2, Code 1989, is amended to read as follows:

321I.2 INSURANCE REQUIRED.

1. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the provider of the service contract is insured under a motor vehicle service contract reimbursement insurance policy issued by an insurer authorized to do business in this state.

2. The issuer of a reimbursement insurance policy shall not cancel a reimbursement insurance policy unless a written notice has been received by the insurance division and by each applicable provider, including automobile dealers and third-party administrators, which notice shall fix the date of cancellation at a date no earlier than ten days after receipt of the notice by the insurance division and by the applicable provider. The notice may be made in person or by mail and a post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice.

Sec. 3. Section 321I.3, Code 1989, is amended to read as follows:

321I.3 FILING AND FEE REQUIREMENTS.

1. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless a true and correct copy of the service contract and the provider's reimbursement insurance policy have been filed with the commissioner.

2. In addition to any other required filings, a true and correct copy of the service contract and the provider's reimbursement insurance policy, the consent to service of process on the commissioner, and such other information as the commissioner requires, shall be filed annually no later than the first day of August. If the first day of August falls on a weekend or a holiday, the date for filing shall be the next business day. The annual filing shall be accompanied by a filing fee determined by the commissioner which shall be sufficient to defray the costs of administering this chapter.

Sec. 4. Section 321I.5, Code 1989, is amended to read as follows:

321I.5 DISCLOSURE TO SERVICE CONTRACT HOLDERS — CONTRACT PROVISIONS.

1. A motor vehicle service contract shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the service contract reimbursement policy, and unless the contract conspicuously states the name and address of the issuer of the reimbursement policy.

2. A motor vehicle service contract shall be written in clear, understandable language and the entire contract shall be printed or typed in easy-to-read type, size, and style, and shall not be issued, sold, or offered for sale in this state unless the contract does all of the following:

a. Clearly and conspicuously states that the obligations of the provider to the service contract holder are guaranteed under a service contract reimbursement insurance policy.

b. Clearly and conspicuously states the name and address of the issuer of the reimbursement insurance policy.

c. Identifies the motor vehicle service contract provider, the seller of the motor vehicle, and the service contract holder.

d. Sets forth the total purchase price and the terms under which the purchase price is to be paid.

e. Sets forth the procedure for making a claim, including a telephone number.

f. Clearly and conspicuously states the existence of a deductible amount, if any.

g. Specifies the merchandise or services, or both, to be provided and clearly states any and all limitations, exceptions, or exclusions.

h. Sets forth the conditions on which substitution of services will be allowed.

i. Sets forth all of the obligations and duties of the service contract holder, including but not limited to the duty to protect against any further damage to the motor vehicle, and the obligation to notify the provider in advance of any repair, if any.

j. Sets forth any and all terms, restrictions, or conditions governing transferability of the service contract, if any.

k. Describes or references any and all applicable provisions of the Iowa consumer credit code, chapter 531.

l. States the name and address of the commissioner.

m. Sets forth any and all conditions on which the service contract may be canceled and any and all terms and conditions for the refund of any portion of the purchase price.

Sec. 5. Section 321I.8, Code 1989, is amended to read as follows:

321I.8 EXEMPTION.

This chapter does not apply to a motor vehicle service ~~contracts~~ contract issued by ~~a motor vehicle~~ the manufacturer or importer of the motor vehicle covered by the service contract or to any third-party administrator acting on the manufacturer's behalf in connection with that service contract.

Sec. 6. NEW SECTION. 321I.9 ADMINISTRATION.

The commissioner or the deputy administrator shall administer this chapter. In the absence of the commissioner, due to a vacancy in office, absence, physical disability, or other cause, the deputy administrator appointed under section 502.601 shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the commissioner. The commissioner may from time to time delegate to the deputy administrator any or all of the functions assigned to the commissioner.

Sec. 7. NEW SECTION. 321I.10 MISREPRESENTATIONS OF STATE APPROVAL.

It is unlawful for any motor vehicle service contract provider to represent or imply in any manner that the provider has been sponsored, recommended, or approved or that the provider's abilities or qualifications have in any respect been passed upon by the securities department, the insurance division, or the state of Iowa.

Sec. 8. NEW SECTION. 321I.11 PROHIBITED ACTS — UNFAIR OR DECEPTIVE TRADE PRACTICES.

1. MISREPRESENTATIONS, FALSE ADVERTISING, AND UNFAIR PRACTICES.

a. Unless licensed as an insurance company, a motor vehicle service contract provider shall not use in its name, contracts, or literature, the words "insurance", "casualty", "surety", "mutual", or any other words descriptive of the insurance, casualty, or surety business or deceptively similar to the name or description of any insurance or surety corporation, or any other motor vehicle service contract provider.

b. A motor vehicle service contract provider shall not, without the written consent of the purchaser, knowingly charge a purchaser for duplication of coverage or duties required by

state or federal law, a warranty expressly issued by a manufacturer or seller of a product, or an implied warranty enforceable against the lessor, seller, or manufacturer of a product.

c. A motor vehicle service contract provider shall not make, permit, or cause a false or misleading statement, either oral or written, in connection with the sale, offer to sell, or advertisement of a motor vehicle service contract.

d. A motor vehicle service contract provider shall not permit or cause the omission of a material statement in connection with the sale, offer to sell, or advertisement of a motor vehicle service contract, which under the circumstances should have been made in order to make the statement not misleading.

e. A motor vehicle service contract provider shall not make, permit, or cause to be made a false or misleading statement, either oral or written, about the benefits or services available under the motor vehicle service contract.

f. A motor vehicle service contract provider shall not make, permit, or cause to be made a statement of practice which has the effect of creating or maintaining a fraud.

g. A motor vehicle service contract 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, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio or television station or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with respect to the motor vehicle service contract industry or with respect to a motor vehicle service contract provider which is untrue, deceptive, or misleading.

h. A bank, savings and loan association, credit union, insurance company, or other lending institution shall not require the purchase of a motor vehicle service contract as a condition of a loan.

2. DEFAMATION. A motor vehicle service contract provider shall not make, publish, disseminate, or circulate, directly or indirectly, or aid, abet, or encourage the making, publishing, disseminating, or circulating of an oral or written statement or a pamphlet, circular, article, or literature which is false or maliciously critical of or derogatory to the financial condition of a person, and which is calculated to injure the person.

3. BOYCOTT, COERCION, AND INTIMIDATION. A motor vehicle service contract provider shall not enter into an agreement to commit, or by a concerted action commit, an act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the service contract industry.

4. FALSE STATEMENTS. A motor vehicle service contract provider shall not knowingly file with a supervisory or other public official, or knowingly make, publish, disseminate, circulate, or deliver to a person, or place before the public, or knowingly cause directly or indirectly to be made, published, disseminated, circulated, delivered to a person, or placed before the public, a false material statement of fact as to the financial condition of a person.

5. FALSE ENTRIES. A motor vehicle service contract provider shall not knowingly make a false entry of a material fact in a book, report, or statement of a person or knowingly fail to make a true entry of a material fact pertaining to the business of the person in a book, report, or statement of the person.

6. VIOLATIONS OF SECTION 714.16.

a. A violation of this chapter or rules adopted by the commissioner pursuant to this chapter is an unfair practice as defined in section 714.16.

b. An enforcement agreement between the commissioner and a motor vehicle service contract provider does not bar the attorney general from bringing an action against the provider under section 714.16 as to allegations that a violation of this chapter constitutes a violation of section 714.16.

Sec. 9. NEW SECTION. 321I.12 RECORDS.

A motor vehicle service contract provider shall keep accurate accounts, books, and records concerning transactions regulated under this chapter.

1. A motor vehicle service contract provider's accounts, books, and records shall include all of the following:

a. Copies of all service contracts.

b. The name and address of each service contract holder.

c. The dates, amounts, and descriptions of all receipts, claims, and expenditures related to service contracts.

2. A motor vehicle service contract provider shall retain all required accounts, books, and records pertaining to a service contract holder for at least two years after the specified period of coverage has expired. A provider discontinuing business in this state shall maintain its records until the provider furnishes the commissioner satisfactory proof that the provider has discharged all obligations to contract holders in this state.

3. Motor vehicle service contract providers shall make all accounts, books, and records concerning transactions regulated under the chapter available to the commissioner for the purpose of examination.

Sec. 10. NEW SECTION. 321I.13 SERVICE OF PROCESS.

The commissioner shall be the agent for service of process upon a motor vehicle service contract provider and an issuer of a reimbursement insurance policy.

Sec. 11. NEW SECTION. 321I.14 ORDERS, INVESTIGATIONS, EXAMINATIONS, AND SUBPOENAS.

1. The administrator of this chapter may take actions which are necessary or appropriate for the protection of service contract holders or to administer this chapter. The administrator may make private and public investigations and examinations as the administrator deems necessary to determine whether any person has violated or is about to violate this chapter or a rule or order adopted or issued pursuant to this chapter.

2. For the purpose of an investigation or proceeding under this chapter, the administrator or any officer designated by the administrator may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator deems relevant or material to an inquiry.

3. A person is not excused from attending and testifying or from producing a document or record before the administrator or in obedience to a subpoena of the administrator or an officer designated by the administrator, or in a proceeding instituted by the administrator, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or subject the person to a penalty or forfeiture. However, a person shall not be prosecuted or subjected to any penalty or forfeiture due to a transaction or matter about which the person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise. The person testifying, however, is not exempt from prosecution and punishment for perjury or contempt committed while testifying.

Sec. 12. NEW SECTION. 321I.15 AUDITS.

The commissioner may examine or cause to be examined the books, papers, records, memoranda, or documents of a motor vehicle service contract provider for the purpose of verifying compliance with this chapter. The commissioner may require, by a subpoena, the attendance of the provider, or the provider's representative, and any other witness whom the commissioner deems necessary or expedient, and the production of books, papers, records, memoranda, or documents relating in any manner to compliance with this chapter if a provider or witness fails or refuses to produce the documents for examination when requested by the commissioner.

Sec. 13. Section 537B.2, subsection 2, as enacted by 1990 Iowa Acts, Senate File 81, is amended to read as follows:

2. "Motor vehicle" means a motor vehicle as defined in section 321.1 which is subject to registration. However, "motor vehicle" does not include a motor vehicle, as defined in section 321.1, with a registered gross vehicle weight rating of more than twelve thousand pounds.

Sec. 14. Section 537B.4, subsection 1, paragraph b, as enacted by 1990 Iowa Acts, Senate File 81, is amended to read as follows:

b. "Motor vehicle" means a motor vehicle as defined in section 321.1 which is subject to registration.

Approved April 4, 1990

CHAPTER 1146

FEDERAL JURISDICTION

S.F. 368

AN ACT relating to procedures for accepting offers from federal agencies for full or partial cession or retrocession of federal jurisdiction over lands in federal enclaves within the state.

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

Section 1. NEW SECTION. 1.17 CESSION OR RETROCESSION OF FEDERAL JURISDICTION.

By appropriate executive order, the governor may accept on behalf of the state full or partial cession or retrocession of federal jurisdiction, criminal or civil, over any lands, except Indian lands, in federal enclaves within the state where such cession or retrocession has been offered by appropriate federal authority. An executive order accepting a cession or retrocession of jurisdiction shall be filed in the office of the secretary of state and in the office of the recorder of the county in which the affected real estate is located.

Approved April 5, 1990

CHAPTER 1147

FIREARMS REGULATION

H.F. 2321

AN ACT relating to the acquisition and possession of firearms, increasing penalties for certain offenses, and providing an effective date.

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

Section 1. Section 724.10, Code 1989, is amended to read as follows:

724.10 APPLICATION FOR PERMIT TO CARRY WEAPONS — CRIMINAL HISTORY CHECK REQUIRED.

~~No~~ A person shall not be issued a permit to carry weapons unless the person has completed and signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall state the full name, social security number (optional), residence, and age of the applicant, and shall state whether the applicant has ever been convicted

of a felony, whether the person is addicted to the use of alcohol or any controlled substance, and whether the person has any history of mental illness or repeated acts of violence. The applicant shall also display an identification card that bears a distinguishing number assigned to the card holder, the full name, date of birth, sex, residence address, and a brief description and colored photograph of the card holder. Upon notification that criminal history data is available but not later than July 1, 1991, the sheriff shall conduct immediately a criminal history check concerning each applicant by obtaining criminal history data from the department of public safety. ~~Any~~ A person who knowingly makes a false statement of material fact on ~~such~~ the application commits ~~an aggravated misdemeanor~~ a class "D" felony.

Sec. 2. Section 724.15, subsection 1, paragraph f, Code 1989, is amended to read as follows:

f. The person has never been adjudged mentally ~~defective~~ incompetent.

Sec. 3. Section 724.15, subsection 2, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. The person has obtained a valid permit to carry weapons, as provided in section 724.11.

NEW PARAGRAPH. e. The person transferring the pistol or revolver and the person acquiring the pistol or revolver are related to one another within the second degree of consanguinity or affinity unless the person transferring the pistol or revolver knows that the person acquiring the pistol or revolver would be ineligible to obtain a permit.

Sec. 4. Section 724.16, Code 1989, is amended to read as follows:

724.16 ANNUAL PERMIT TO ACQUIRE REQUIRED — TRANSFER PROHIBITED.

1. ~~Any~~ Except as otherwise provided in section 724.15, subsection 2, a person who acquires ownership of a pistol or revolver without a valid annual permit to acquire pistols or revolvers or ~~any~~ a person who transfers ownership of a pistol or revolver to a person who does not have in the person's possession a valid annual permit to acquire pistols or revolvers is guilty of a simple misdemeanor.

2. A person who transfers ownership of a pistol or revolver to a person that the transferor knows is prohibited by section 724.15 from acquiring ownership of a pistol or revolver commits a class "D" felony.

Sec. 5. Section 724.17, Code 1989, is amended to read as follows:

724.17 APPLICATION FOR ANNUAL PERMIT TO ACQUIRE — CRIMINAL HISTORY CHECK REQUIRED.

The application for an annual permit to acquire pistols or revolvers may be made to the sheriff of the county of the applicant's residence and shall be on a form prescribed and published by the commissioner of public safety. The application shall state the full name of the applicant, the social security number of the applicant, the residence of the applicant, and the age of the applicant. The applicant shall also display an identification card that bears a distinguishing number assigned to the card holder, the full name, date of birth, sex, residence address, and brief description and colored photograph of the cardholder, or other identification as specified by rule of the department of public safety. Upon notification that criminal history data is available but not later than July 1, 1991, the sheriff shall conduct a criminal history check concerning each applicant by obtaining criminal history data from the department of public safety.

Sec. 6. Section 724.21, Code 1989, is amended to read as follows:

724.21 GIVING FALSE INFORMATION WHEN ACQUIRING WEAPON.

A person who gives a false name or presents false identification, or otherwise knowingly gives false material information to one from whom the person seeks to acquire a pistol or revolver, commits ~~an aggravated misdemeanor~~ a class "D" felony.

Sec. 7. Section 724.22, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. ACCESS TO LOADED FIREARMS BY CHILDREN RESTRICTED – PENALTY. It shall be unlawful for any person to store or leave a loaded firearm which is not secured by a trigger lock mechanism, placed in a securely locked box or container, or placed in some other location which a reasonable person would believe to be secure from a minor under the age of fourteen years, if such person knows or has reason to believe that a minor under the age of fourteen years is likely to gain access to the firearm without the lawful permission of the minor's parent, guardian, or person having charge of the minor, the minor lawfully gains access to the firearm without the consent of the minor's parent, guardian, or person having charge of the minor, and the minor exhibits the firearm in a public place in an unlawful manner, or uses the firearm unlawfully to cause injury or death to a person. This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person. A violation of this section is punishable as a serious misdemeanor.

Sec. 8. Section 724.26, Code 1989, is amended to read as follows:

724.26 RECEIPT, TRANSPORTATION, AND ~~POSSESSION~~ DOMINION AND CONTROL OF FIREARMS AND ~~DESTRUCTIVE DEVICES~~ OFFENSIVE WEAPONS BY FELONS.

~~Any~~ A person who is convicted of a felony in ~~any~~ a state or federal court and who ~~subsequently possesses~~ knowingly has under the person's dominion and control, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of ~~an aggravated misdemeanor~~ a class "D" felony.

Sec. 9. NEW SECTION. 724.28 PROHIBITION OF REGULATION BY POLITICAL SUBDIVISIONS.

A political subdivision of the state shall not enact an ordinance regulating the ownership, possession, legal transfer, lawful transportation, registration, or licensing of firearms when the ownership, possession, transfer, or transportation is otherwise lawful under the laws of this state. An ordinance regulating firearms in violation of this section existing on or after the effective date of this Act is void.

Sec. 10. NEW SECTION. 724.29 FIREARM DEVICES.

A person who sells or offers for sale a manual or power-driven trigger activating device constructed and designed so that when attached to a firearm increases the rate of fire of the firearm is guilty of an aggravated misdemeanor.

Sec. 11.

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

Approved April 5, 1990

CHAPTER 1148

FRATERNAL BENEFIT SOCIETIES

S.F. 2100

AN ACT relating to fraternal benefit societies, imposing penalties, and providing an effective date.

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

SUBCHAPTER I
STRUCTURE AND PURPOSE

Section 1. NEW SECTION. 512B.1 SCOPE OF CHAPTER.

Except as otherwise provided in this chapter, societies are governed by this chapter and are exempt from all other insurance laws of this state unless expressly included in this chapter, or unless specifically made applicable by this chapter.

Sec. 2. NEW SECTION. 512B.2 DEFINITIONS.

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

1. "Alien society" means an association organized under the laws of another country.
2. "Benefit contract" means the agreement for provision of benefits authorized by section 512B.16, as that agreement is described in section 512B.19, subsection 1.
3. "Benefit member" means an adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.
4. "Certificate" means the document issued as written evidence of the benefit contract.
5. "Commissioner" means the commissioner of insurance or the commissioner's designee.
6. "Domestic society" means an association organized under the laws of this state.
7. "Foreign society" means an association organized under the laws of another state or territory of the United States.
8. "Laws" means the society's articles of incorporation, constitution, and bylaws, however designated.
9. "Lodge" means a subordinate member unit of the society, whether known as a camp, court, council, branch, or by any other designation.
10. "Premium" means a premium, rate, dues, or other required contribution by whatever name known, which is payable under the certificate.
11. "Regulations" means all regulations, or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.
12. "Society" means a fraternal benefit society, unless otherwise indicated.

Sec. 3. NEW SECTION. 512B.3 FRATERNAL BENEFIT SOCIETIES – DEFINED.

An incorporated society, order, or supreme lodge, without capital stock, including one exempted under section 512B.36, subsection 1, paragraph b, whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with a ritualistic form of work, having a representative form of government, and which provides benefits in accordance with this chapter, is a fraternal benefit society.

Sec. 4. NEW SECTION. 512B.4 LODGE SYSTEM.

1. A society is operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated, or admitted in accordance with its laws, regulations, and ritual. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once in each month in furtherance of the purposes of the society.
2. A society may organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges shall not be required of children, nor shall children have a voice or vote in the management of the society.

Sec. 5. NEW SECTION. 512B.5 REPRESENTATIVE FORM OF GOVERNMENT.

A society has a representative form of government if all of the following apply:

1. It has a supreme governing body constituted in one of the following ways:

a. Assembly. The supreme governing body is an assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates must constitute a majority of the delegates in number and have not less than two-thirds of the votes and not less than the number of votes required to amend the society's laws. The assembly must be elected and meet at least once every four years and must elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws. The board of directors may appoint the officers of the society if authorized to do so by the articles or bylaws of the society. A board of directors elected by an assembly shall have such powers authorized the board by the articles or bylaws of the society, and may or may not be a supreme governing body as described in paragraph "b", depending upon the powers authorized by the articles or bylaws.

b. Direct election. The supreme governing body is a board of directors composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member must not exceed four years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. The elected board members must constitute a majority of the board members in number and have not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board must meet at least quarterly to conduct the business of the society.

2. The officers of the society are elected by the supreme governing body or board of directors.

3. Only benefit members are eligible for election to the supreme governing body, board of directors, or any intermediate assembly.

4. Each voting member has one vote.

5. A voting member is not entitled to cast a vote by proxy.

Sec. 6. NEW SECTION. 512B.6 PURPOSES AND POWERS.

1. A society shall operate for the benefit of members and their beneficiaries by fulfilling both of the following purposes:

a. Providing benefits as specified in section 512B.16.

b. Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purposes for the benefit of its members, which may also be extended to others.

The purposes listed in this subsection may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

2. A society may adopt laws and regulations for the government of the society, the admission of its members, and the management of its affairs. A society may amend its laws and regulations, and has other powers as necessary and incidental to carrying into effect the objects and purposes of the society.

SUBCHAPTER II
MEMERSHIP

Sec. 7. NEW SECTION. 512B.7 QUALIFICATIONS FOR MEMBERSHIP.

1. In its laws or regulations, a society shall at minimum specify all of the following:

a. Eligibility standards for each membership class. If benefits are provided on the lives of children, the minimum age for adult membership shall be set at not less than age fifteen and not greater than age twenty-one.

b. The process for admission to membership for each membership class.

c. The rights and privileges of each membership class. Only benefit members shall have the right to vote on the management of the insurance affairs of the society.

2. A society may also admit social members. A social member shall have no voice or vote in the management of the insurance affairs of the society.

3. Membership rights in a society are personal to the member and are not assignable.

Sec. 8. NEW SECTION. 512B.8 LOCATION OF OFFICE, MEETINGS, COMMUNICATIONS TO MEMBERS, GRIEVANCE PROCEDURES.

1. The principal office of a domestic society shall be located in this state. The meetings of its supreme governing body may be held anywhere the society has at least one subordinate lodge, or in another location as determined by the supreme governing body, and all business transacted at a meeting held out of state shall be as valid in all respects as if the meeting were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in the English language.

2. a. A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. Such required reports, notices, and statements shall be printed conspicuously in the publication. If the records of a society show that two or more members have the same mailing address, an official publication mailed to one member is deemed to be mailed to all members at the same address unless a member requests a separate copy.

b. Not later than June 1 of each year, a synopsis of the society's annual statement providing an explanation of the facts concerning the condition of the society disclosed in the annual statement shall be printed and mailed to each benefit member of the society or, in lieu of mailing, the synopsis may be published in the society's official publication.

3. A society may provide in its laws or regulations for grievance or complaint procedures for members.

Sec. 9. NEW SECTION. 512B.9 PERSONAL LIABILITY.

1. The officers and members of the supreme governing body or any subordinate body of a society are not personally liable for any benefits provided by a society.

2. A person may be indemnified and reimbursed by a society for expenses reasonably incurred by, and liabilities imposed upon, the person in connection with or arising out of a proceeding, whether civil, criminal, administrative, or investigative, or a threat of action in which the person is or may be involved by reason of the person being a director, officer, employee, or agent of the society or of any other legal entity or position which the person served in any capacity at the request of the society. However, a person shall not be so indemnified or reimbursed for either of the following:

a. In relation to any matter to which the person is finally adjudged to be or have been guilty of breach of a duty as a director, officer, employee, or agent of the society.

b. In relation to any matter which has been made the subject of a compromise settlement. However, if the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society and, in addition, in a criminal proceeding, had no reasonable cause to believe that the conduct was unlawful, paragraphs "a" and "b" do not apply.

The determination whether the conduct of the person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in paragraph "a" or "b" may only be made by the supreme governing body by a majority vote of a quorum consisting of persons who were not parties to the proceeding or by a court of competent jurisdiction. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to a person, does not in itself create a conclusive presumption that the person met or did not meet the standard of conduct required in order to justify indemnification and reimbursement. The right of indemnification and reimbursement is not exclusive of other rights to which a person may be entitled as a matter of law and shall inure to the benefit of the person's heirs, executors, and administrators.

3. A society may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the society, or who is or was serving at the request of the society as a director, officer, employee, or agent of any other legal entity affiliated with the society against any liability asserted against the person and incurred by the person in any such capacity or arising out of the person's status in relation to the society, whether or not the society would have the power to indemnify the person against such liability under this section.

4. A volunteer serving without compensation, a director, officer, employee, or member of a society, is not liable, and no cause of action may be brought, for damages resulting from the exercise of judgment or discretion in connection with the duties or responsibilities of that person for the society unless the act or omission alleged to be an exercise of judgment or discretion involved willful or wanton misconduct.

Sec. 10. NEW SECTION. 512B.10 WAIVER.

The laws of the society may provide that a subordinate body, or any of its subordinate officers or members, do not have the power or authority to waive any of the provisions of the laws of the society. A waiver prohibition provision is binding on the society and every member and beneficiary of a member.

SUBCHAPTER III
GOVERNANCE

Sec. 11. NEW SECTION. 512B.11 ORGANIZATION.

A domestic society organized on or after the effective date of this Act shall be formed as follows:

1. Seven or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may sign and file with the secretary of state and commissioner of insurance an original or copy of a document containing, at minimum, the following:

a. The proposed corporate name of the society, which shall not so closely resemble the name of any other society or insurance company as to be misleading or confusing.

b. The purposes for which the society is being formed and the mode in which its corporate powers are to be exercised. The purposes shall not include more liberal powers than are granted by this chapter.

c. The names and residences of the incorporators.

d. The names, residences, and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which officers shall be elected by the supreme governing body, or board of directors, which election shall be held not later than one year from the date of issuance of the permanent certificate of authority.

2. The articles of incorporation, duly certified copies of the society's regulations and laws, copies of all proposed forms of certificates, applications, and circulars to be issued by the society, and a bond conditioned upon the return to applicants of the advance premiums if the organization is not completed within one year shall be filed with the commissioner of insurance, who may require further information as the commissioner deems necessary. The bond with sureties approved by the commissioner shall be in an amount, not less than three hundred thousand dollars nor more than one million five hundred thousand dollars, as required by the commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation, and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members as provided in this chapter.

3. A preliminary certificate of authority granted under this section is not valid after one year from its date or after a further period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the five hundred applicants required in this

section have been secured and the organization has been completed as provided in this chapter. The articles of incorporation and all other proceedings become void in one year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society has completed its organization and received a certificate of authority to do business as provided in this chapter.

4. Upon receipt of a preliminary certificate of authority from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates, and shall issue to each applicant a receipt for the amount so collected. A society shall not incur a liability other than for the return of advance premiums, shall not issue a certificate, nor pay, allow, offer, or promise to pay or allow, a benefit to any person until all of the following conditions are satisfied:

a. Actual bona fide applications for benefits have been secured on not less than five hundred applicants, and any necessary evidence of insurability has been furnished to and approved by the society.

b. At least ten subordinate lodges have been established into which the five hundred applicants have been admitted.

c. A list of the applicants has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, giving the applicants' names and addresses, the date each applicant was admitted, the name and number of the subordinate lodge of which each applicant is a member, the amount of benefits to be granted, and the premiums for the benefits.

d. It has been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of the society, that at least one thousand applicants have each paid in cash at least one regular monthly premium, which premiums in the aggregate shall amount to at least three hundred thousand dollars. Advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within the time permitted by this section, each premium shall be returned to the respective applicant.

5. The commissioner may make an examination and require further information as the commissioner deems advisable. Upon presentation of satisfactory evidence that the society has complied with all applicable provisions of law, the commissioner shall issue to the society a certificate of authority and the society is then authorized to transact business pursuant to this chapter. A certificate of authority is prima facie evidence of the existence of the society at the date of the certificate. The commissioner shall cause a record of each certificate of authority to be made. A certified copy of the record shall be accepted in evidence with like effect as the original certificate of authority.

6. An incorporated society authorized to transact business in this state on the effective date of this Act is not required to reincorporate. A certified copy of the current articles of incorporation of an existing society shall be filed with the commissioner and the commissioner may request additional records as the commissioner deems necessary before issuing a certificate of authority to an existing society.

Sec. 12. NEW SECTION. 512B.12 AMENDMENTS TO LAWS.

1. A domestic society may amend its laws in accordance with the provisions of its laws by action of its supreme governing body at any regular or special meeting or, if its laws so provide, by referendum. A referendum may be held in accordance with the provisions of the society's laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members, or by the vote of local lodges. A society may provide for voting by mail. An amendment submitted for adoption by referendum shall not be adopted unless, within six months from the date of submission of the referendum, a majority of the members voting have signified their consent to the amendment by one of the methods specified in this subsection.

2. An amendment to the laws of a domestic society shall not take effect unless approved by the commissioner. The commissioner shall approve an amendment if the commissioner finds

that it has been duly adopted and is not inconsistent with the laws of this state or with the character, objects, and purposes of the society. An amendment shall be considered approved, unless the commissioner disapproves the amendment in writing, within thirty days after the filing of the amendment. The disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. If the commissioner disapproves an amendment, the reasons for disapproval shall be stated in the written notice.

3. Within ninety days from the approval of an amendment by the commissioner, the amendment, or a synopsis of it, shall be furnished to all members of the society either by mail or by publication in full in the official publication of the society. The affidavit of an officer of the society or of anyone authorized by the society to mail an amendment or synopsis of an amendment, stating facts which demonstrate compliance with this subsection, is prima facie evidence that the amendment or synopsis has been furnished to the addressees.

4. A foreign or alien society authorized to do business in this state shall file with the commissioner a duly certified copy of all amendments of its laws within ninety days after their enactment.

5. Printed copies of the laws as amended, certified by the secretary, or corresponding officer of the society, are prima facie evidence of the legal adoption of the laws and amendments.

Sec. 13. NEW SECTION. 512B.13 INSTITUTIONS.

A society may create, maintain, and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by section 512B.5, subsection 1, paragraph "b". The institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held, or leased by the society for this purpose shall be reported in every annual statement. A not-for-profit institution so established is a charitable institution with all the rights, benefits, and privileges given to charitable institutions under the constitution and laws of this state. The commissioner may adopt appropriate rules and reporting requirements.

Sec. 14. NEW SECTION. 512B.14 REINSURANCE.

1. A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make such reinsurance agreements and authorized to do business in this state, or if not so authorized, one which is approved by the commissioner; but a society shall not reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on ceded risks to the extent reinsured, but credit shall not be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this Act, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

2. Notwithstanding the limitation in subsection 1, a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under section 512B.15.

Sec. 15. NEW SECTION. 512B.15 CONSOLIDATIONS AND MERGERS.

1. A domestic society may consolidate or merge with a domestic society, foreign society, or society chartered under the laws of Canada or a Canadian province or territory, by complying with this section. The society shall file with the commissioner all of the following:

a. A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger.

b. A sworn statement by the president and secretary, or corresponding officers of each society, showing the financial condition of the society on a date fixed by the commissioner.

c. A certificate of each officer submitting a sworn statement pursuant to paragraph "b", duly verified, that the consolidation or merger contract has been approved by a two-thirds

vote of the supreme governing body of each society, the vote having been conducted at a regular or special meeting of each such body, or, if the society's laws so permit, by mail.

d. Evidence that at least sixty days prior to the action of the supreme governing body of each society to approve the consolidation or merger contract, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official publication of each society.

2. If the commissioner finds that the contract is in conformity with this section, that the financial statements are correct, and that the consolidation or merger is just and equitable to the members of each society, the commissioner shall approve the contract and issue a certificate to that effect. Upon the commissioner's approval, the contract shall be in full force and effect unless a society which is a party to the contract is incorporated under the laws of another state, Canada, or Canadian province or territory. In that event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of the other state and a certificate of approval has been filed with the commissioner of this state or, if the laws of the other state contain no equivalent provision for issuing a certificate of consolidation or merger, then the consolidation or merger shall not become effective unless and until it has been approved by the commissioner of the other state and a certificate conforming with the laws of this state has been filed with the commissioner. If the contract is not approved it shall be inoperative, and the fact of submission and its contents shall not be disclosed by the commissioner.

3. Upon the consolidation or merger becoming effective, all the rights, franchises, and interests of the consolidated or merged societies in and to every kind of property, real, personal, or mixed, belonging to the societies shall be vested in the successor society without any other instrument, except that conveyances of real property may be evidenced by proper deeds. The title to real property or an interest in real property, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the successor society.

4. The affidavit of an officer of the society or of a person authorized by the society to mail a notice or document, stating that the notice or document has been duly addressed and mailed, is prima facie evidence that the notice or document has been furnished the addressees.

Sec. 16. NEW SECTION. 512B.15A CONVERSION OF FRATERNAL BENEFIT SOCIETY INTO A MUTUAL LIFE INSURANCE COMPANY.

A domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the requirements of the general insurance laws for mutual life insurance companies. A plan of conversion shall be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds of all members of the supreme governing body at a regular or special meeting is necessary for the approval of the plan of conversion. A conversion shall not take effect unless and until approved by the commissioner. The commissioner may give approval for the conversion if the commissioner finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

SUBCHAPTER IV
CONTRACTUAL BENEFITS

Sec. 17. NEW SECTION. 512B.16 BENEFITS.

1. A society may provide any or all of the following contractual benefits in any form:

a. Death benefits.

b. Endowment benefits.

c. Annuity benefits.

d. Temporary or permanent disability benefits.

e. Hospital, medical, or nursing benefits.

f. Monument or tombstone benefits to the memory of deceased members.

g. Other benefits authorized for life insurers and which are not inconsistent with this chapter.

2. A society shall specify in its regulations those persons who may be issued, or covered by, the contractual benefits in subsection 1, consistent with providing benefits to members and their dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person.

Sec. 18. NEW SECTION. 512B.17 BENEFICIARIES.

1. The owner of a benefit contract may change the beneficiary or beneficiaries in accordance with the laws or regulations of the society unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or regulations, limit the scope of beneficiary designations and shall provide that a revocable beneficiary shall not have or obtain a vested interest in the proceeds of a certificate until the certificate has become due and payable in conformity with the benefit contract.

2. A society may make provision for the payment of funeral benefits to the extent of the portion of a payment under a certificate which reasonably appears to be due to a person equitably entitled to the benefit by reason of having incurred expense occasioned by the burial of the member. However, the portion so paid shall not exceed the sum of one thousand dollars.

3. If, at the death of a person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds are payable, the amount of the benefit, except to the extent that funeral benefits may be paid pursuant to subsection 2, shall be payable to the estate of the deceased insured the same as other property not exempt. However, if the owner of the certificate is other than the insured, the proceeds are payable to the owner.

Sec. 19. NEW SECTION. 512B.18 BENEFITS NOT ATTACHABLE.

Money or other benefit, charity, relief, or aid to be paid, provided, or rendered by a society, is not liable to attachment, garnishment, or other process, or to be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay a debt or liability of a member or beneficiary, or any other person who may have a derivative right, either before or after payment by the society, except as provided in sections 627.11 and 627.12.

Sec. 20. NEW SECTION. 512B.19 THE BENEFIT CONTRACT.

1. A society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided pursuant to the benefit contract. The certificate, together with any riders or endorsements attached to the certificate, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments, constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall so state. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate. Statements on the application are representations and not warranties. A waiver of this provision is void.

2. Additions or amendments to the laws of a society duly made or enacted subsequent to the issuance of the certificate, bind the owner and the beneficiaries, and govern and control the benefit contract in all respects the same as though the additions or amendments had been made before and were in force at the time of the application for insurance, except that an addition or amendment shall not destroy or diminish benefits which the society contracted to give the owner as of the date of issuance.

3. A person upon whose life a benefit contract is issued before the person attains the age of majority is bound by the terms of the application and certificate and by all the laws and regulations of the society to the same extent as though the person had attained the age of majority at the time of application.

4. A society shall provide in its laws that if its reserves as to all or any class of certificates become impaired, its supreme governing body or board of directors may require that there be paid by the owners to the society the amount of the owners' equitable proportion of the deficiency as ascertained by its governing body or board, and that if the payment is not made either of the following will apply:

a. The required payment or assessment shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates.

b. In lieu of or in combination with paragraph "a", the owner may accept a proportionate reduction in benefits under the certificate.

The society may specify the manner of the election and which alternative is to be presumed if no election is made.

5. Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions of the documents.

6. A certificate shall not be delivered or issued for delivery in this state unless a copy of the form has been filed with the commissioner in the manner provided for like policies issued by life insurers in this state. A life, accident, health, or disability insurance certificate and an annuity certificate issued on or after one year from the effective date of this Act shall meet the standard contract provision requirements not inconsistent with this chapter for like policies issued by life insurers in this state, except that a society may provide for a grace period for payment of premiums of one full month in its certificates. The certificate shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or regulations in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, may maintain the certificate in force by continuing payment of the required premium.

7. A benefit contract issued on the life of a person below the society's minimum age for adult membership may provide for transfer of control of ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer, and may provide in all other respects for the regulation, government, and control of such certificates and the rights, obligations, and liabilities incident to, or connected with, the benefit contract. Ownership rights prior to a transfer shall be specified in the certificate.

8. A society may specify the terms and conditions on which benefit contracts may be assigned.

Sec. 21. NEW SECTION. 512B.20 NONFORFEITURE BENEFITS, CASH SURRENDER VALUES, CERTIFICATE LOANS, AND OTHER OPTIONS.

1. For certificates issued before the effective date of this Act, the value of every paid-up nonforfeiture benefit and the amount of any cash surrendered value, loan, or other option granted shall comply with chapter 512, Code 1989.

2. For certificates issued on or after the effective date of this Act for which reserves are computed on the commissioner's 1980 standard mortality table, or any more recent table made applicable to life insurers, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan, or other option granted shall not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits based upon the same tables.

SUBCHAPTER V
FINANCIAL REQUIREMENTS

Sec. 22. NEW SECTION. 512B.21 INVESTMENTS.

A society shall invest its funds only as authorized by the laws of this state for the investment of assets of life insurers and subject to the same limitations. A foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state or nation in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds. A society organized under the laws of this

state shall deposit securities as required of life insurance companies pursuant to section 511.8, subsection 16.

Sec. 23. NEW SECTION. 512B.22 FUNDS.

1. All assets shall be held, invested, and disbursed for the use and benefit of the society and a member or beneficiary shall not have or acquire individual rights in the society's assets or become entitled to an apportionment on the surrender of any part of the society's assets, except as provided in the benefit contract.

2. A society may create, maintain, invest, disburse, and apply any special fund or funds necessary to carry out any purpose permitted by the laws of the society.

3. A society may, pursuant to resolution of its supreme governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the law regulating life insurers establishing equivalent accounts and issuing equivalent contracts. To the extent the society deems it necessary in order to comply with any applicable federal or state laws, regulations, or rules, the society may adopt special procedures for the conduct of the business and affairs of a separate account; may, for persons having beneficial interests in the account, provide special voting and other rights, including without limitation, special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants, and selection of a committee to manage the business and affairs of the account; and may issue contracts on a variable basis to which section 512B.19, subsections 2 and 4 shall not apply.

SUBCHAPTER VI
REGULATION

Sec. 24. NEW SECTION. 512B.23 VALUATION.

1. Standards of valuation for certificates issued before the effective date of this Act are those provided by chapter 512, Code 1989.

2. The minimum standards of valuation for certificates issued on or after the effective date of this Act shall be based on the following tables:

a. For certificates of life insurance, the commissioner's 1980 standard ordinary mortality table or any more recent table made applicable to life insurers.

b. For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for noncancellable accident and health benefits, the tables authorized for use by life insurers in this state.

Paragraphs "a" and "b" are under valuation methods and standards, including interest assumptions, in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

3. The commissioner may, in the commissioner's discretion, accept another standard for valuation if the commissioner finds that the reserves produced by the other standard will not be less in the aggregate than reserves computed in accordance with the minimum valuation standards prescribed by subsection 2. The commissioner may, in the commissioner's discretion, vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

4. A society, with the consent of the commissioner of insurance of the state of domicile of the society and under conditions which the commissioner may impose, may establish and maintain reserves on its certificates in excess of the reserves otherwise required, but the contractual rights of a benefit member shall not be affected by the excess reserves.

Sec. 25. NEW SECTION. 512B.24 REPORTS.

Reports shall be filed in accordance with this section.

1. A society transacting business in this state, on or before March 1 annually, unless for cause shown the time has been extended by the commissioner, shall file with the commissioner a true statement of its financial condition, transactions, and affairs for the preceding calendar year and shall pay a fee of twenty-five dollars. The statement shall be in general form and

content as approved by the national association of insurance commissioners for fraternal benefit societies and shall be supplemented by additional information as adopted by rule of the commissioner.

2. As part of the annual statement, a society shall, on or before March 1, file with the commissioner of insurance a valuation of its certificates in force on the last preceding December 31. However, the commissioner may, for cause shown, extend the time for filing the valuation for not more than two calendar months. The valuation shall be done in accordance with the standards specified in section 512B.23. The valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

3. A society failing to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars for each day during which the default continues, and, upon notice by the commissioner to that effect, the society's authority to do business in this state shall cease while the default continues.

Sec. 26. NEW SECTION. 512B.25 ANNUAL LICENSE.

A society which is authorized to transact business in this state on the effective date of this Act, and a society licensed on or after the effective date of this Act, may continue in business until April 30, 1991. The authority of the society may thereafter be renewed annually. A license terminates on the succeeding April 30. However, a license issued shall continue in full force and effect until a new license is issued or specifically refused. For each license or renewal the society shall pay the commissioner a fee of twenty-five dollars. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

Sec. 27. NEW SECTION. 512B.26 EXAMINATION OF SOCIETIES — NO ADVERSE PUBLICATIONS.

1. The commissioner, or the commissioner's designee, may examine a domestic, foreign, or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of a domestic, foreign, or alien insurer. Requirements of notice and an opportunity to respond before findings are made public as provided in the laws regulating insurers are also applicable to the examination of a society.

2. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

Sec. 28. NEW SECTION. 512B.27 FOREIGN OR ALIEN SOCIETY — ADMISSION.

A foreign or alien society shall not transact business in this state without a license issued by the commissioner. A society desiring admission to this state shall substantially comply with the requirements and limitations of this chapter applicable to domestic societies. A society may be licensed to transact business in this state upon filing with the commissioner all of the following:

1. A duly certified copy of its articles of incorporation.

2. A copy of its bylaws, certified by its secretary or a corresponding officer.

3. A power of attorney to the commissioner of insurance as prescribed in section 512B.33.

4. A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its state of domicile, satisfactory to the commissioner.

5. Certification from the proper official of its state of domicile that the society is legally incorporated and licensed to transact business in that state.

6. Copies of its certificate forms.

7. Other information the commissioner requires.

8. A showing that its assets are invested in accordance with this chapter.

Sec. 29. NEW SECTION. 512B.28 INJUNCTION – LIQUIDATION – RECEIVERSHIP OF DOMESTIC SOCIETY.

1. When the commissioner upon investigation finds that a domestic society has exceeded its powers; failed to comply with a provision of this chapter; failed to fulfill a contract in good faith; failed to maintain a membership of not less than four hundred after an existence of one year or more; or conducted business fraudulently or in a manner hazardous to its members, creditors, the public, or the business, the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for the commissioner's dissatisfaction. The commissioner shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected. After the notice of deficiency the society has a thirty-day period in which to comply with the commissioner's request for correction, and if the society fails to comply the commissioner shall notify the society of a finding of noncompliance and require the society to show cause on or before a date named why it should not be enjoined from carrying on any business until the violation complained of has been corrected, or why an action seeking other legal or equitable relief should not be commenced against the society.

2. If by the date named to show cause the society does not present good and sufficient reasons why it should not be so enjoined or why an action should not be commenced, the commissioner may present the facts relating to the society to the attorney general who shall commence an action to enjoin the society from transacting business or other action requested by the commissioner.

3. The court in which an action is commenced pursuant to subsection 2 shall notify the officers of the society of a hearing. If after a full hearing it appears that the society should be enjoined or liquidated or a receiver appointed, or other legal or equitable relief awarded, the court shall enter the necessary order. A society so enjoined does not have the authority to do business unless and until all of the following conditions are satisfied:

a. The commissioner finds that the violation complained of has been corrected.

b. The costs of the action, including reasonable attorney fees for the state's attorneys and expenses related to the case in which the injunction was entered, have been paid by the society if the court finds that the society was in default as alleged.

c. The court has dissolved its injunction.

d. The commissioner has reinstated the certificate of authority of the society.

4. If the court orders the society liquidated, it shall be enjoined from carrying on any further business, and the receiver of the society shall proceed at once to take possession of the books, papers, money, and other assets of the society and, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled to them.

5. If a receiver is to be appointed for a domestic society, the court shall appoint the commissioner of insurance as the receiver.

6. The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction, and receivership are applicable to a society which voluntarily determines to discontinue business.

Sec. 30. NEW SECTION. 512B.29 SUSPENSION, REVOCATION, OR REFUSAL OF LICENSE OF FOREIGN OR ALIEN SOCIETY.

1. When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this state has exceeded its powers; failed to comply with a provision of this chapter; failed to fulfill a contract in good faith; or conducted its business fraudulently or in a manner hazardous to its members or creditors or the public, the commissioner shall notify the society of the deficiency or deficiencies and state in writing the alleged facts or circumstances constituting a deficiency. The commissioner shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected on or before thirty days from entry of the notice of deficiency. After notice the society has a thirty-day period in which to comply with the commissioner's request for correction, and if the society fails to comply the commissioner shall notify the society of a finding of noncompliance and require the society to show cause on or before a date named why its license should

not be suspended, revoked, or refused. If, on or before the date named, the society does not present good and sufficient reason why its license to do business in this state should not be suspended, revoked, or refused, the commissioner may suspend or refuse the license of the society to do business in this state until evidence satisfactory to the commissioner is furnished to the commissioner that the suspension or refusal should be withdrawn or the commissioner may revoke the license of the society to do business in this state.

2. A society whose license to do business in this state is suspended, revoked, or refused pursuant to subsection 1 shall continue in good faith all contracts made in this state during the time the society was legally authorized to transact business in this state. Lack of authority to transact business within the state is not a defense to an action by a person against the society to enforce a contract entered into by the society without compliance with this chapter, or prior applicable law.

Sec. 31. NEW SECTION. 512B.30 STANDING.

A petition or complaint for injunction against a domestic, foreign, or alien society, or lodge shall not be recognized in a court of this state unless made by the attorney general upon request of the commissioner.

Sec. 32. NEW SECTION. 512B.31 LICENSING OF AGENTS.

1. Agents of societies shall be licensed in accordance with chapter 522 regulating the licensing, revocation, suspension, or termination of license of resident and nonresident agents, but persons who were agents of a society on or before July 1, 1970, are not required to take an examination.

2. An examination or license shall not be required of a regular salaried officer, employee, or member of a licensed society who devotes substantially all of the person's services to activities other than the solicitation of fraternal insurance contracts from the public, and who does not receive for the solicitation of such contracts a commission or other compensation directly dependent upon the amount of business obtained.

Sec. 33. NEW SECTION. 512B.32 UNFAIR METHODS OF COMPETITION AND UNFAIR AND DECEPTIVE ACTS AND PRACTICES.

A society is subject to chapter 507B relating to unfair insurance trade practices. However, chapter 507B does not apply to or affect the right of a society to determine its eligibility requirements for membership, and does not apply to or affect the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of a society.

SUBCHAPTER VII
MISCELLANEOUS

Sec. 34. NEW SECTION. 512B.33 SERVICE OF PROCESS.

1. A foreign or alien society authorized to do business in this state shall appoint in writing the commissioner to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in the written consent to process that any lawful process against it which is served on the commissioner shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the appointment, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original may be admitted.

2. Service of process shall only be made upon the commissioner, or if absent, upon the person in charge of the commissioner's office. Service shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, the commissioner shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer of the society. Service shall not require a society to file its answer, pleading, or defense in less than thirty days

from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner provided in this section.

Sec. 35. NEW SECTION. 512B.34 REVIEW.

All decisions and findings of the commissioner made under this chapter are subject to review pursuant to chapter 17A.

Sec. 36. NEW SECTION. 512B.35 PENALTIES.

1. A person who knowingly makes a false or fraudulent statement or representation in or relating to an application for membership or for the purpose of obtaining money from or a benefit in a society, is guilty of a fraudulent practice.

2. A person who willfully makes a false or fraudulent statement in a verified report or declaration under oath required or authorized by this chapter, or of a material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate, is guilty of perjury.

3. A person who solicits membership for, or in any manner assists in procuring membership in, a society not licensed to do business in this state, is guilty of a serious misdemeanor.

4. A person guilty of a willful violation of, or neglect or refusal to comply with, a provision of this chapter for which a penalty is not otherwise prescribed, is guilty of a simple misdemeanor.

Sec. 37. NEW SECTION. 512B.36 EXEMPTION OF CERTAIN SOCIETIES.

1. This chapter does not affect or apply to any of the following:

a. Grand or subordinate lodges of societies, orders, or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges.

b. Orders, societies, or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the spouses' societies or spouses' auxiliaries to such orders, societies, or associations.

c. Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house, or corporation which provide for a death benefit of not more than four hundred dollars or disability benefits of not more than three hundred fifty dollars to any person in any one year, or both.

d. Domestic societies or associations of a purely religious, charitable, or benevolent description, which provide for a death benefit of not more than four hundred dollars or for disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both.

2. A society or association described in subsection 1, paragraph "a" or "d", which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph "d" which has more than one thousand members, is not exempt from this chapter but shall comply with all requirements of this chapter.

3. A society which is exempt from the requirements of this chapter, except a society described in subsection 1, paragraph "b", shall not give or allow, or promise to give or allow to any person any compensation for procuring new members.

4. A society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits, has all of the privileges and is subject to all the applicable provisions of this chapter and rules adopted by the commission pursuant to this chapter except that the provisions relating to medical examination, valuations of benefit certificates, and incontestability, do not apply to such a society.

5. The commissioner may require from a society, by examination or otherwise, information that will enable the commissioner to determine whether the society is exempt from this chapter.

6. A society exempt under this section, is also exempt from all other provisions of the general insurance laws of this state.

Sec. 38. Chapter 512, Code 1989, is repealed.

Sec. 39.

This Act is effective January 1, 1991.

Sec. 40.

The Code editor shall make conforming amendments to the Code as required to correct internal references to chapter 512 and designate instead new chapter 512B.

Approved April 6, 1990

CHAPTER 1149

AGRICULTURAL EXTENSION COUNCILS

S.F. 2163

AN ACT relating to the composition and election of county agricultural extension councils, enacting transitional provisions, and providing an effective date.

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

Section 1. Section 176A.5, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

176A.5 COUNTY AGRICULTURAL EXTENSION COUNCIL.

There shall be elected in each extension district an extension council consisting of nine members. Each member of the extension council shall be a resident qualified elector of the extension district.

Sec. 2. Section 176A.6, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

176A.6 ELECTIONS.

An election shall be held biennially at the time of the general election in each extension district for the election of members of the extension council. All qualified electors of the extension district are entitled to vote in the election.

Sec. 3. Section 176A.7, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

176A.7 TERMS – MEETINGS.

1. Except as otherwise provided pursuant to law for members elected in 1990, the term of office of an extension council member is four years. The term shall commence on the first day of January following the date of the member's election which is not a Sunday or legal holiday.

2. Each extension council shall meet during the months of January and July each year and at other times during the year as the council determines. The date, time, and place of each meeting shall be fixed by the council.

Sec. 4. Section 176A.8, subsections 2 and 4, Code 1989, are amended to read as follows:

2. To and shall each year at the meeting ~~at which the date, time, and place of the holding of township election meetings is fixed and determined~~ preceding the election of council members, appoint from their own number one member whose term does not expire as of December 31 following ~~said meeting~~ the election to act as temporary chairperson of the first meeting of the extension council to be held in January ~~following that member's appointment~~ after the election, and one to act as temporary secretary of ~~said extension council~~ the meeting.

4. To ~~and shall fix the date, time and place in each of the townships of the extension district for the holding of township election meetings during the period provided for the holding of them for the election of members of the extension council, and call the township election meetings in each of the townships of the extension district for the election of the members of the extension council and~~ cause notice of the date, time, and place of the election to be published

as provided in section 331.305 ~~prior to the date fixed for the holding of the meetings~~ in a newspaper having general circulation in ~~each~~ the extension district~~, and the~~. The cost of publishing the notice shall be paid by the extension council. ~~The township election meeting to elect a member of the extension council from the township may, by designation of the extension council, be held in another township of that county. However, the extension council shall not designate that over four of those township elections may be combined into one election. All the provisions of this chapter referring to township election meetings in the townships shall apply equally to the election meetings held at the other place in the county.~~

Sec. 5. Section 176A.8, subsection 5, Code 1989, is amended by striking the subsection.

Sec. 6. Section 176A.8, subsections 6 and 12, Code 1989, are amended to read as follows:

6. To and shall, at least ninety days prior to the date ~~fixed for the holding of the election meetings in the several townships of the district~~ fixed for the election of council members, appoint ~~in each of the townships in which a township election meeting is to be held~~ a nominating committee consisting of ~~three members~~ four persons who are not council members and designate the chairperson ~~thereof, which~~. The membership of the nominating committee shall be gender balanced. The nominating committee shall ~~nominate at least two~~ consider the geographic distribution of potential nominees in nominating one or more resident qualified ~~voters~~ electors of the extension district as candidates for election to ~~membership in the extension council, which committee shall certify the names of the nominees and deliver said certificate to the person designated as chairperson of the township election meeting on or before the date fixed for the holding thereof~~ each office to be filled at the election. To qualify for the election ballot, each nominee shall file a nominating petition signed by at least twenty-five qualified electors of the district with the county commissioner of elections at least sixty-nine days before the date of election.

The council shall also provide for the nomination by petition of candidates for election to membership on the extension council. A nominating petition shall be signed by at least twenty-five qualified electors of the extension district and shall be filed with the county commissioner of elections at least sixty-nine days before the date of the election.

12. To fill all vacancies in its membership to serve for the unexpired term of the member creating ~~such~~ the vacancy by ~~electing~~ appointing a resident qualified ~~voter from the township of the residence of the member creating such vacancy~~ elector of the extension district. ~~If for any reason a township election meeting is not held pursuant to call and published notice and no one is elected from said township as a member of the extension council of the district, there shall be a vacancy in such membership on the extension council.~~ However, if an unexpired term in which the vacancy occurs has more than seventy days to run after the date of the next pending election and the vacancy occurs seventy-four or more days before the election, the vacancy shall be filled at the next pending election.

Sec. 7. Section 176A.16, Code 1989, is amended to read as follows:

176A.16 GENERAL ELECTION LAW ~~NOT~~ APPLICABLE.

The provisions of chapter 49 ~~shall not be applicable~~ apply to the elections held pursuant to ~~sections 176A.5, 176A.6, 176A.8 and 176A.15~~ this chapter, and the county commissioner of elections ~~shall have no~~ has responsibility for the conducting of those elections.

Sec. 8. Section 39.21, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. County agricultural extension council members as provided in section 176A.6.

Sec. 9. TRANSITION.

1. Each extension council in existence on the effective date of this Act shall perform duties as set forth in this Act with respect to preparations for and conduct of the election to be held in 1990.

2. The five council members receiving the largest number of votes at the 1990 election are elected to initial terms of four years. The remaining members are elected to an initial term

of two years and are eligible for reelection to a four-year term.

3. The terms of all members of extension councils in existence on the effective date of this Act shall expire on December 31, 1990.

Sec. 10. EFFECTIVE DATE.

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

Approved April 6, 1990

CHAPTER 1150

LEGAL EXPENSE INSURANCE

S.F. 332

AN ACT relating to legal expense insurance by regulating the sale of contracts providing reimbursement for legal expenses in consideration of a specified payment for a period of time, establishing a premium tax, and providing penalties.

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

Section 1. NEW SECTION. 515F.1 PURPOSES.

This chapter shall be liberally interpreted in order to do the following:

1. Encourage the development of effective and economically sound methods for making legal services more readily available.

2. Protect the interests of the users of legal services and of the public of this state with a minimum of restriction on experimentation with new forms of organization, administration, or benefits.

3. Place the risk inherent in experimentation by new plans on promoters rather than on the consumers.

4. Permit and encourage the provision of legal services through persons other than professional insurers subject to practical and reasonable financial and regulatory requirements.

5. Permit and encourage fair and effective competition among the various systems of financing legal services.

6. Maintain a high level of quality and conformity to professional standards in the performance of legal services.

Sec. 2. NEW SECTION. 515F.2 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Commissioner" means the commissioner of insurance.

2. "Insurer" means any person who obtains a certificate of authority under this chapter.

3. "Legal insurance" means the assumption of a contractual obligation to provide specified legal services or reimbursements for legal expenses in consideration of a specified payment for an interval of time, regardless of whether the payment is made by the beneficiaries individually or by a third person for the beneficiaries, in such a manner that the total cost incurred by assuming the obligation is to be spread directly or indirectly among a group of persons. "Contractual obligation" as used in this subsection includes any arrangement giving rise to a reasonable expectation of an enforceable right. "Legal insurance" does not include the provision of or reimbursement for legal services incidental to other insurance coverages.

The following are not considered insurance or legal insurance under the insurance laws of this state:

a. A retainer contract made with an individual client with the fee based on an estimate of the nature and amount of services that will be provided to the specific client, or a similar

contract made with a group of clients involved in the same or closely related legal matter, such as a class action.

b. A plan providing limited benefits on simple legal matters on an informal basis, not involving a legally binding promise, in the context of an employment, educational, or similar relationship.

c. Legal services provided through unions or employee associations to their members in matters relating to simple legal matters on an informal basis.

d. Legal services provided through an agency of the federal or state government or governmental subdivision to its employees.

Sec. 3. NEW SECTION. 515F.3 AUTHORIZATION REQUIRED.

1. A person shall not transact the business of legal insurance in this state without first obtaining a certificate of authority from one of the following sources:

a. Under this chapter.

b. Under the general laws pertaining to insurance.

2. A person may apply to the commissioner for and obtain a certificate of authority to transact the business of legal insurance in compliance with this chapter. This section does not by itself enlarge the powers of any corporation given by its articles of incorporation or charter, but does authorize a corporation formed under the general business, insurance, or general nonprofit corporation laws of this state to include in its powers the authority to transact legal insurance.

3. An application shall be in a form prescribed by the commissioner. If the applicant is not domiciled in this state, the application must be accompanied by a power of attorney duly executed by the applicant appointing the commissioner, and the commissioner's duly authorized deputies, as the true and lawful attorneys of the applicant in and for this state, upon whom all lawful process in any legal action or proceeding against the applicant on a cause of action arising in this state may be served.

Sec. 4. NEW SECTION. 515F.4 CONDITIONS FOR ISSUING CERTIFICATE OF AUTHORITY.

Upon receipt of an application for a certificate of authority, the commissioner shall issue or deny a certificate pursuant to this chapter within thirty days of the application, which may be extended for an additional thirty days by notice to the applicant prior to the expiration of the first thirty days. A certificate of authority shall be issued upon payment of the application fee prescribed in section 515F.18 of this chapter, if the commissioner is satisfied that all of the following conditions are met:

1. The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and of good reputation.

2. The applicant demonstrates the willingness and ability to assure that the promised benefits can be provided. In making this determination the commissioner shall consider so far as applicable all of the following:

a. The adequacy of capital and surplus considered in relation to the other items in this section.

b. Any agreement with lawyers for the provision of legal services.

c. The financial soundness of the applicant's arrangements for legal services and the schedule of rates proposed to be used in connection with the arrangements for legal services.

d. Any agreement with another person authorized under this chapter, an insurer licensed under the general insurance laws to do business in this state, a reinsurer eligible under the laws or rules of this state to provide reinsurance, or an agency of the federal or state government for insuring the payment of the cost of legal services or the provision for automatic applicability of an alternative coverage if the insurer is unable to perform its obligations.

e. Any surety bond or deposit of cash or securities as a guarantee that the obligations will be duly performed.

f. If the applicant is licensed as an insurer under other insurance laws of this state, whether the applicant has complied with the requirements of those laws.

Sec. 5. NEW SECTION. 515F.5 REGULATION OF POLICY FORMS AND RATES.

1. a. A contractual obligation for legal insurance shall be evidenced by a policy or master policy. Legal insurance may be written on an individual, group, blanket, or franchise basis. Each person insured under a group policy must be issued a certificate of coverage. A legal insurance policy or certificate of any kind shall not be issued or delivered in this state unless and until a copy of the policy or master policy and certificate of coverage has been filed with and approved by the commissioner.

b. The policy or master policy and certificate of coverage must meet all of the following requirements:

(1) A policy or master policy must contain a detailed list and description of the legal services promised or the legal matters for which expenses are to be reimbursed and the amount of reimbursement.

(2) A policy or certificate under a master policy must indicate prominently the name of the insurer and the full address of its principal place of business.

(3) A certificate issued under a group policy may summarize the terms of the master contract but must contain a full and clear statement of the benefits provided.

c. The commissioner may disapprove the form of a policy, master policy, or certificate of coverage if the commissioner finds that it fails any of the following:

(1) Does not meet the requirements of subsection "b".

(2) Is unfair, unfairly discriminatory, misleading, obscure, or encourages misrepresentation or misunderstanding of the contract, including cases where the form does any of the following:

(a) Provides coverage or benefits that are too restricted to achieve the purposes for which the policy is designed.

(b) Fails to attain a reasonable degree of readability, simplicity, and conciseness.

(c) Is misleading, deceptive, or obscure because of its physical aspects such as format, typography, style, color, or organization.

(3) Provides coverage or benefits or contains other provisions that would endanger the solvency of the insurer.

(4) Is contrary to law.

2. a. Rate filing and rate review procedures applicable to this chapter shall be those set out in chapter 515A and supporting rules.

b. The rates of a legal expense insurer must meet all of the following requirements:

(1) The rates must be established and justified in accordance with generally accepted insurance principles, including but not limited to the experience or judgment of the insurer making the rate filing or actuarial computations.

(2) The rates shall not be excessive, inadequate, or unfairly discriminatory. Rates are not unfairly discriminatory because they are averaged broadly among persons insured under group, franchise, or blanket policies.

c. The commissioner may by written order, suspend, or modify the requirements of filing for any risk, group, or class of risk, the rates for which cannot practically be filed before they are used.

3. If the commissioner determines that a form reviewed under subsection 1 or a schedule of rates reviewed under subsection 2 complies with the requirements of this section, the commissioner shall approve the form or schedule within thirty days, which may be extended for an additional thirty days, by notice in writing to the person making the filing prior to the expiration of the first thirty days. If the commissioner disapproves a filing the commissioner shall notify the person making the filing in writing specifying the reasons for disapproval. A hearing shall be granted within thirty days after a request in writing by any person aggrieved by the decision of the commissioner. The commissioner may, after notice and hearing, disapprove any rate that has been previously approved.

4. The commissioner may require the submission of any information deemed by the commissioner to be relevant and reasonably necessary to determine whether to approve or disapprove a filing made pursuant to subsection 1, 2, or 4.

Sec. 6. NEW SECTION. 515F.6 SEPARATE ACCOUNTS.

Except for employee welfare benefit plans regulated under the federal Employee Retirement Income Security Act, a person transacting the business of legal insurance and any business other than insurance shall transact legal insurance wholly through a segregated account in accordance with all of the following requirements:

1. The segregated account must satisfy the financial requirements for issuance of a certificate of authority.

2. Except as provided in subsections 6 and 7, the income and assets attributable to the segregated account shall always remain identifiable within the account but unless the commissioner so orders, the assets need not be kept physically separate from other assets of the person. The income, gains, and losses, whether or not realized, from assets attributable to the segregated account shall be credited to or charged against the account without regard to other income, gains, or losses of the person.

3. Except as provided in subsection 4, assets attributable to a segregated account shall not be chargeable with any liabilities arising out of any other business of the person, nor shall any assets not attributable to the account be chargeable with any liabilities arising out of the account.

4. The segregated account shall be deemed an insurer within the meaning of chapter 507C. Claims remaining unpaid after completion of the liquidation under section 507C.42 shall be liens on the interests of shareholders, if any, in all of the person's assets that are not liquidated.

5. Assets allocated to segregated accounts are the property of the person, which is not and shall not hold itself out to be a trustee of the assets.

6. A person may allocate a portion or part of a particular asset to the segregated account.

7. The person may by an identifiable act transfer assets to or from the segregated account if both of the following conditions are satisfied:

a. The terms are fair and reasonable.

b. The books, accounts, and records of each party are maintained so as to clearly and accurately disclose the precise nature and details of the transaction.

Sec. 7. NEW SECTION. 515F.7 MANAGEMENT AND EXCLUSIVE CONTRACTS.

1. An insurer shall not enter into any exclusive agency contract or management contract, unless the contract is first filed with the commissioner and not disapproved under this section within thirty days after filing, or such reasonable extended period as the commissioner may specify by notice within the thirty days.

2. The commissioner shall disapprove a contract under subsection 1 if the commissioner finds that any of the following conditions exist:

a. The contract subjects the insurer to excessive charges.

b. The contract extends for an unreasonable period of time.

c. The contract does not contain fair and adequate standards of performance.

d. The persons empowered under the contract to manage the insurer are not sufficiently trustworthy, competent, experienced, or free from conflict of interest to manage the insurer with due regard for the interests of its insureds, creditors, or the public.

e. The contract contains provisions which impair the interests of the insurer's insureds, creditors, or the public in this state.

Sec. 8. NEW SECTION. 515F.8 ANNUAL REPORT.

An insurer shall annually, on or before the first day of March, file with the commissioner a report verified by at least two principal officers. The report shall be on forms prescribed by the commissioner and shall include all of the following:

1. A financial statement of the insurer's legal insurance business including all of the following:

a. Its balance sheet.

b. Its receipts and disbursements for the preceding year.

2. Any material changes in the information submitted pursuant to section 515F.4.

3. Information about the number of persons protected and terminated as may be required by the commissioner.

4. Other information relating to the performance of the insurer as is necessary to enable the commissioner to enforce and administer this chapter.

Sec. 9. NEW SECTION. 515F.9 RESERVES.

An insurer must maintain the reserves necessary for the sound operation of the business including unearned premium reserves. The amount and manner of calculating these reserves shall be determined by rule by the commissioner in accordance with section 515F.17.

Sec. 10. NEW SECTION. 515F.10 INVESTMENT OF ASSETS.

The investable funds generated through the transaction of the business of legal insurance by a person who is not licensed to transact other lines of insurance shall be invested in securities or other investments permitted by the laws of this state for the investment of assets of life insurance or in such other securities or investments as the commissioner permits.

Sec. 11. NEW SECTION. 515F.11 TRADE PRACTICES.

Chapter 507B applies to persons transacting the business of legal insurance except as the chapter is inconsistent with an express provision of this chapter.

Sec. 12. NEW SECTION. 515F.12 LICENSING OF AGENTS.

The commissioner may, in accordance with section 515F.17 adopt reasonable rules to provide for the licensing of agents transacting or selling legal expense insurance.

Sec. 13. NEW SECTION. 515F.13 EXAMINATIONS.

1. The commissioner shall make an examination of the affairs of any insurer as often as deemed necessary for the protection of the interest of the people of this state.

2. Section 507.8 shall apply to examinations conducted pursuant to subsection 1.

Sec. 14. NEW SECTION. 515F.14 PROFESSIONAL ETHICS.

The commissioner shall report to the Iowa state bar association committee on professional ethics and conduct pursuant to the provisions of supreme court rule 118 any information which the commissioner considers to be of substance, relating to possible violations of the code of professional responsibility.

Sec. 15. NEW SECTION. 515F.15 REVOCATION OF CERTIFICATE OF AUTHORITY.

The commissioner may suspend, revoke, or refuse to renew any certificate of authority to a person transacting the business of legal insurance pursuant to section 522.3.

Sec. 16. NEW SECTION. 515F.16 SUPERVISION, REHABILITATION, AND LIQUIDATION.

Chapter 507C shall apply to a person transacting the business of legal insurance under the provisions of this chapter.

Sec. 17. NEW SECTION. 515F.17 ADOPTION OF RULES.

The commissioner may adopt pursuant to chapter 17A such reasonable rules as are necessary or proper to carry out the provisions of this chapter.

Sec. 18. NEW SECTION. 515F.18 FEES.

A person subject to this chapter shall pay to the commissioner the fees required by sections 511.24 and 515.128.

Sec. 19. NEW SECTION. 515F.19 TAXATION.

Legal insurance premiums shall be taxable under the provisions of section 432.1.

Sec. 20. NEW SECTION. 515F.20 PUBLIC DOCUMENTS.

An application, filing, or report required under this chapter is a public document.

Sec. 21. NEW SECTION. 515F.21 UNAUTHORIZED INSURANCE.

Subject to the provisions of this chapter, chapter 507A shall apply to a person transacting the business of legal insurance.

Sec. 22. NEW SECTION. 515F.22 APPLICABILITY OF GENERAL INSURANCE LAW TO INSURANCE COMPANIES.

The provisions of the state's general insurance laws apply generally to legal insurance offered by an insurer licensed to write other kinds of insurance; provided that legal insurance sold by such an insurer under a certificate of authority obtained under this chapter shall be regulated by the provisions of sections 515F.1 through 515F.5, 515F.7, 515F.12, 515F.14, 515F.17, and 515F.19 instead of the corresponding sections of the general insurance law.

Sec. 23. NEW SECTION. 515F.23 APPLICABILITY OF GENERAL INSURANCE LAW TO ALL LEGAL INSURERS – HEARINGS AND APPEALS.

1. An order or rule of the commissioner issued under this chapter shall be subject to the provisions of the state's general insurance laws and the provisions of the administrative procedures Act, chapter 17A, relating to hearings and appeals.

2. Except as otherwise provided in this chapter, the provisions of the general insurance law shall not apply to insurers authorized to transact the business of legal insurance under this chapter.

Sec. 24. NEW SECTION. 515F.24 TRANSITION PROVISION.

A person transacting the business of legal insurance as of the effective date of this Act shall submit an application for a certificate of authority under section 515F.4 within ninety days of the effective date of this Act and the applicant may continue to operate until the commissioner acts upon the application. If an application is denied under section 515F.4, the applicant shall be treated as a legal insurer whose certificate of authority has been revoked.

Approved April 6, 1990

CHAPTER 1151

HANDICAPPED PARKING

S.F. 2244

AN ACT relating to parking fines, handicapped parking spaces, and handicapped identification devices and providing an effective date.

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

Section 1. Section 321.34, subsection 7, Code Supplement 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, or who is the parent or guardian of a child who resides with the parent or guardian owner and who is a handicapped person, as defined in section 321L.1, may, upon written application to the department, order handicapped registration plates designed by the department bearing the international symbol of accessibility. The 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 or the applicant's child's handicap and such additional information as required by rules

adopted by the department, including proof of residency of a child who is a handicapped person. If the application is approved by the department the handicapped registration plates shall be issued to the applicant in exchange for the previous registration plates issued to the person. The fee for the handicapped plates is five dollars which is in addition to the regular annual registration fee. The department shall validate the handicapped plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee. However, the handicapped plates shall not be renewed without the applicant furnishing evidence to the department that the owner of the motor vehicle or the owner's child is still a handicapped person as defined in section 321L.1, unless the applicant has previously provided satisfactory evidence to the department that the owner of the vehicle or the owner's child is permanently handicapped in which case the furnishing of additional evidence shall not be required for renewal. However, an owner who has a child who is a handicapped person shall provide satisfactory evidence to the department that the handicapped child continues to reside with the owner. The handicapped registration plates shall be surrendered in exchange for regular registration plates when the owner of the motor vehicle or the owner's child no longer qualifies as a handicapped person as defined in section 321L.1 or when the owner's child who is a handicapped person no longer resides with the owner.

Sec. 2. Section 321.236, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. May be charged and collected upon a simple notice of a fine not exceeding five dollars payable to the city clerk or clerk of the district court, if authorized by ordinance. Violations of section 321L.4, subsection 2, may be charged and collected upon a simple notice of a twenty-five dollar fine payable to the city clerk or clerk of the district court, if authorized by ordinance. No costs or other charges shall be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 3. Section 321L.1, Code Supplement 1989, is amended by adding the following new subsection immediately following unnumbered paragraph 1:

NEW SUBSECTION. 1. "Business district" means that territory defined by city ordinance as required under section 321L.5.

Sec. 4. Section 321L.1, subsection 3, Code Supplement 1989, is amended to read as follows:

3. "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 or for 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.

Sec. 5. Section 321L.2, subsection 1, Code Supplement 1989, is amended to read as follows:

1. a. 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, or a physician or chiropractor licensed to practice in a contiguous state, 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.

b. The department may issue permanent handicapped identification hanging devices to the following in accordance with rules adopted by the department:

(1) An organization which has a program for transporting the handicapped or elderly.

(2) A person in the business of transporting the handicapped or elderly.

One handicapped identification hanging device may be issued for each vehicle used by the organization or person for transporting the handicapped or elderly. A handicapped identification hanging device issued under this paragraph shall be surrendered to the department if the organization or person is no longer providing the service for which the device was issued. Notwithstanding section 321L.4, a person transporting handicapped or elderly in a motor vehicle for which a handicapped identification hanging device has been issued under this paragraph may display the device in the motor vehicle and may use a handicapped parking space while the motor vehicle is displaying the device. A handicapped identification hanging device issued under this paragraph shall be of a distinctively different color from the handicapped identification hanging devices issued under paragraph "a".

c. 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.

Sec. 6. Section 321L.5, subsections 2 and 3, Code Supplement 1989, are amended to read as follows:

2. A handicapped parking space designated after July 1, ~~1981~~ 1990, 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~~ in accordance with the dimension requirements of 36 C.F.R. § 1190.31. However, these dimension requirements do not apply to ~~metered~~ parallel on-street parking spaces.

3. a. The state ~~and any~~ or a political subdivision of the state which provides off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent of the total parking spaces in each parking facility as handicapped parking spaces ~~as stipulated in the table below~~, rounded to the nearest whole number of handicapped parking spaces. However, such parking facilities having ten or more parking spaces shall set aside at least one handicapped parking space.

b. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing handicapped parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for handicapped parking spaces in a facility exceeds sixty percent during normal business hours, the entity shall provide additional handicapped parking spaces as needed.

c. An entity providing off-street nonresidential parking as a lessor shall provide a handicapped parking space to an individual requesting to lease a parking space, if that individual possesses a permanent handicapped identification device issued in accordance with section 321L.2.

d. ~~In addition, any~~ A new nonresidential ~~entity~~ facility in which construction has been completed on or after July 1, 1991, 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

e. 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.

Sec. 7. Section 321L.5, subsection 4, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. Cities which provide on-street parking areas within a business district shall by ordinance define and establish a business district or districts and shall designate not less than two percent of the total parking spaces within each business district as handicapped parking spaces.

b. Upon petition by an individual possessing a permanent handicapped identification device issued in accordance with section 321L.2, the city shall review utilization and location of existing handicapped parking spaces for a one-month period but not more than once every twelve months. If, upon review, the average occupancy rate for handicapped parking spaces exceeds sixty percent during normal business hours, the city shall provide additional handicapped parking spaces as needed.

Sec. 8. Section 321L.5, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A handicapped parking review committee may be established by the state and each political subdivision of the state which is required to provide handicapped parking spaces in off-street public parking facilities according to subsection 3 and in political subdivisions required to provide handicapped parking spaces for on-street parking within a business district according to subsection 4. The handicapped parking review committee shall consist of five members who are handicapped persons as defined in section 321L.1 and five members who are officials of the state or political subdivision. The handicapped parking review committee shall have the discretion to increase or decrease the numbers of handicapped parking spaces required by this section. A decision to change the numbers or location of handicapped parking spaces shall be based upon the needs of the community, the percentage of use of the present handicapped parking spaces, and the past experience of the state or political subdivision regarding handicapped parking.

An individual may request the handicapped parking review committee to review the amounts and locations of handicapped parking spaces. The handicapped parking review committee shall investigate each individual's request and shall act upon such request if the investigation substantiates the individual's complaint.

Sec. 9. Section 805.8, subsection 2, paragraph a, Code Supplement 1989, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars. However, violations charged by a city upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 111.38 or 321.362 the scheduled fine is ten dollars. For a parking violation under section 321L.4, subsection 2, the scheduled fine is twenty-five dollars.

Sec. 10. EFFECTIVE DATE.

The provisions in section 5 of this Act which authorize the department to issue permanent handicapped identification devices to an organization transporting the handicapped or elderly and to a person in the business of transporting the handicapped or elderly take effect January 1, 1991.

Approved April 6, 1990

CHAPTER 1152

NUTRITION GUIDELINES FOR SCHOOLS

S.F. 2326

AN ACT requiring the department of education to develop and maintain nutrition guidelines for food and beverages sold on public school grounds.

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

Section 1. Section 256.9, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 39. Establish by July 1, 1991, a six-month pilot project to develop and maintain nutrition guidelines which are consistent with the dietary guidelines for Americans recommended dietary allowances established by the national research council and regulations adopted by the United States department of agriculture for school lunches and breakfasts, and for all food and beverages sold on public school grounds or the grounds of a nonpublic school receiving funds under section 283A.10, which are in addition to the requirements imposed under the federal child nutrition program regulations. The nutrition guidelines shall include guidelines for fat, saturated fat, sugar, sodium, fiber, and cholesterol; shall encourage that where comparable food products of equal nutritional value are available, the food product lower in fat, saturated fat, sugar, sodium, or cholesterol shall be used; and shall provide that each meal is to contain at least one-third of the recommended dietary allowance established by the national research council in effect on January 1, 1990. If, however, dietary guidelines for children are published by the United States department of agriculture and department of health and human services, the nutrition guidelines used in the pilot project shall conform to the new federal dietary guidelines for children. The department shall, through establishment of the pilot project, determine the feasibility of extending the nutrition guidelines established in the project to other schools and school districts in the state. In determining the feasibility of extending the nutrition guidelines, the department shall consult with school food service directors in the state. The department shall submit a report to the general assembly outlining and describing the proposed pilot project, including the proposed pilot project guidelines, by January 1, 1991, and shall submit, at the conclusion of the pilot project, a report, along with any recommendations, relating to the modification of those guidelines and the feasibility of extending the guidelines to other schools and school districts.

NEW SUBSECTION. 40. Provide educational resources and technical assistance to schools relating to the implementation of the nutritional guidelines for food and beverages sold on public school grounds or on the grounds of nonpublic schools receiving funds under section 283A.10.

Sec. 2. Section 283A.1, Code 1989, is amended to read as follows:

283A.1 DEFINITIONS.

For the purpose of this chapter:

1. "Nutritionally adequate meal" means a lunch or breakfast which meets the guidelines established by the department of education.

2. "School" means a public school of high school grade or under.

~~1~~ 3. "School board" means a board of school directors regularly elected by the qualified voters of a school corporation or district of the state of Iowa.

~~2. "School" means a public school of high school grade or under.~~

~~3~~ 4. "School lunch program" means a program under which lunches are served by any public school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

Sec. 3. Section 283A.2, Code 1989, is amended to read as follows:

283A.2 SCHOOL BOARDS — RULES.

School boards ~~shall have power to~~ may operate or provide for the operation of school lunch programs in schools under their jurisdiction, and may use ~~therefor~~ funds disbursed to them under the provisions of this chapter, gifts, funds received from sale of school lunches under such programs, and any other funds legally available for that purpose.

All school districts shall operate or provide for the operation of school lunch programs at all public schools in each district, ~~which~~. The programs shall provide students with nutritionally adequate meals and shall be operated in compliance with the rules of the ~~department of public instruction~~ state board of education and pertinent federal rules, for all students in each district who attend public school four or more hours each school day and wish to participate in a school lunch program, ~~and school~~. School districts may provide ~~such~~ school lunch programs for other students.

Sec. 4. Section 283A.5, Code 1989, is amended to read as follows:

283A.5 ACCOUNTS, RECORDS, REPORTS, AND OPERATIONS.

The director of the department of education shall prescribe regulations for the keeping of accounts and records and the making of reports by or under the supervision of school boards. Such accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five years, as the director may lawfully prescribe. The director shall conduct or cause to be conducted such audits and inspections with respect to school lunch programs as may be necessary to determine whether its agreement with school boards and regulations made pursuant to this chapter are being complied with, and to insure that school lunch programs are effectively administered and nutritionally adequate meals are served.

Sec. 5. Section 283A.10, Code 1989, is amended to read as follows:

283A.10 SCHOOL LUNCH IN NONPUBLIC SCHOOLS.

The authorities in charge of nonpublic schools may operate or provide for the operation of school lunch programs in schools under their jurisdiction and may use funds appropriated to them by the general assembly, gifts, funds received from sale of school lunches under such programs, and any other funds available to the nonpublic school. However, school lunch programs shall not be required in nonpublic schools. The department of education shall direct the disbursement of state funds to nonpublic schools for school lunch programs in the same manner as state funds are disbursed to public schools. If a nonpublic school receives state funds

for the operation of a school lunch program, meals served under the program shall be nutritionally adequate meals, as defined in section 283A.1.

Approved April 6, 1990

CHAPTER 1153

EARTHEN WASTE SLURRY STORAGE BASINS

S.F. 2379

AN ACT relating to earthen waste slurry storage basins, making penalties applicable, and providing for applicability of the Act.

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

Section 1. Section 455B.131, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. "Earthen waste slurry storage basin" means an uncovered and exclusively earthen cavity which, on a regular basis, receives waste discharges from a confinement animal feeding operation if accumulated wastes from the basin are completely removed at least twice each year.

Sec. 2. Section 455B.134, subsection 3, paragraph e, subparagraph (1), unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

Notwithstanding any other provision of division II of this chapter, the following siting requirements shall apply to anaerobic lagoons and earthen waste slurry storage basins:

Anaerobic lagoons or earthen waste slurry storage basins, which are used in connection with animal feeding operations containing less than six hundred twenty-five thousand pounds live animal weight capacity of animal species other than beef cattle or containing less than one million six hundred thousand pounds live animal weight capacity of beef cattle, shall be located at least one thousand two hundred fifty feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. Anaerobic lagoons or earthen waste slurry storage basins, which are used in connection with animal feeding operations containing six hundred twenty-five thousand pounds or more live animal weight capacity of animal species other than beef cattle or containing one million six hundred thousand pounds or more live animal weight capacity of beef cattle, shall be located at least one thousand eight hundred seventy-five feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. For the purpose of this paragraph the determination of live animal weight capacity shall be based on the average animal weight capacity during a production cycle and the maximum animal capacity of the animal feeding operation. These separation distances apply to the construction of new facilities and the expansion of existing facilities.

Sec. 3. Section 455B.134, subsection 3, paragraph e, subparagraph (2), Code 1989, is amended to read as follows:

(2) A person may build or expand an anaerobic lagoon or an earthen waste slurry storage basin closer to a residence not owned by the owner of the anaerobic lagoon or to a public use area than is otherwise permitted by subparagraph (1) of this paragraph, if the affected landowners enter into a written agreement with the anaerobic lagoon owner to waive the separation distances under such terms the parties negotiate. The written agreement becomes effective only upon recording in the office of the recorder of deeds of the county in which the residence is located.

Sec. 4.
This Act applies to earthen waste slurry storage basins constructed on or after July 1, 1990.

Approved April 6, 1990

CHAPTER 1154

CREDIT AND REFUND OF VEHICLE REGISTRATION FEES

S.F. 2003

AN ACT permitting a refund or credit of unexpired motor vehicle registration fees to persons who sell, trade, or junk their motor vehicles and providing an effective date.

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

Section 1. Section 321.46, subsection 3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The applicant shall be entitled to a credit for that portion of the registration fee of the vehicle sold, traded, or junked ~~within the state~~ which had not expired prior to the transfer of ownership of the vehicle. The registration fee for the new registration for the vehicle acquired shall be reduced by the amount of the credit. The credit shall be computed on the basis of the number of months remaining in the registration year, rounded to the nearest whole dollar. The credit shall be subject to the following limitations:

Sec. 2. Section 321.46, subsection 3, paragraph c, Code 1989, is amended to read as follows:

c. When the amount of the credit is computed to be an amount of less than ~~five~~ ten dollars, a credit shall be disallowed.

Sec. 3. Section 321.46, subsection 3, paragraph e, Code 1989, is amended to read as follows:

e. A credit shall not be allowed to any person who ~~is eligible~~ has made claim to receive a refund~~, upon proper application,~~ under section 321.126.

Sec. 4. Section 321.46, subsection 3, paragraph g, Code 1989, is amended by striking the paragraph and inserting the following:

g. If the credit allowed exceeds the amount of the registration fee for the vehicle acquired, the owner may claim a refund under section 321.126, subsection 6, for the balance of the credit.

Sec. 5. Section 321.46, subsection 6, Code 1989, is amended to read as follows:

6. An applicant for a new registration for a vehicle transferred to the applicant by a spouse, parent or child of the applicant, or by operation of law upon inheritance, devise or bequest, from the applicant's spouse, parent or child, or by a former spouse pursuant to a decree of dissolution of marriage, is entitled to a credit to be applied to the registration fee for the transferred vehicle. A credit shall not be allowed unless the vehicle to which the credit applies is registered within the time specified under subsection 1. The credit shall be computed on the basis of the number of unexpired months remaining in the registration year of the former owner computed from the date the vehicle was transferred, computed to the nearest whole dollar. The credit ~~shall not~~ may exceed the amount of the registration fee for the transferred vehicle. When the amount of the credit is computed to be an amount of less than ~~five~~ ten dollars, the credit shall be disallowed. The credit shall not be sold, transferred, or assigned to any other person.

Sec. 6. Section 321.126, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Refunds of unexpired vehicle registration fees shall be allowed in accordance with this section, except that no refund shall be allowed and paid if the unused portion of the fee is less

than ~~five~~ ten dollars. Subsections 1 and 2 do not apply to motor vehicles registered by the county treasurer. The refunds shall be made as follows:

Sec. 7. Section 321.126, subsection 6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If a vehicle is sold or junked and a replacement vehicle is not purchased within the thirty days ~~after a replacement vehicle has been purchased and the title and registration for the replacement vehicle issued~~ following the date of sale or junking, the owner in whose name the vehicle was registered, after the expiration of the thirty-day period, may ~~within thirty days after the date of sale or junking~~ make claim to the department for a refund of the sold or junked vehicle's registration fee. Also if the owner of a vehicle receives a vehicle registration fee credit under section 321.46, subsection 3, and the credit allowed exceeds the amount of the registration fee for the vehicle acquired, the owner may claim a refund for the balance of the credit. The refund is subject to the following limitations:

Sec. 8. Section 321.126, subsection 6, paragraph a, Code 1989, is amended to read as follows:

a. ~~The~~ If a vehicle registration fee credit has not been received by the owner of the vehicle under section 321.46, subsection 3, the refund shall be computed on the basis of the number of unexpired months remaining in the registration year at the time the vehicle was sold or junked ~~and~~. The refund shall be rounded to the nearest whole dollar. Section 321.127, subsection 1, does not apply.

Sec. 9. Section 321.126, subsection 6, paragraph b, Code 1989, is amended by striking the paragraph.

Sec. 10. Section 321.126, subsection 6, paragraph c, Code 1989, is amended to read as follows:

c. The refund shall only be allowed if the owner provides ~~the credit~~ a copy of the registration receipt for the vehicle sold or junked ~~and a photocopy of the registration receipt for the replacement vehicle~~.

Sec. 11. Section 321.126, subsection 6, Code 1989, is amended by adding the following new paragraph immediately following paragraph c and relettering the subsequent paragraph:

NEW PARAGRAPH. d. The refund shall only be allowed if the owner makes claim for the refund within six months after the date of the vehicle's sale, trade, or junking.

Sec. 12.

This Act takes effect January 1, 1991.

Approved April 6, 1990

CHAPTER 1155

RACING DOG ADOPTION

S.F. 2240

AN ACT relating to the transfer of racing dogs, and providing penalties.

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

Section 1. Section 99D.27, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following:

99D.27 RACING DOG ADOPTION PROGRAM.

A track licensed to race dogs under this chapter shall maintain a racing dog adoption program. The track shall advertise the availability of adoptable dogs in the media, including but

not limited to racing programs. The track shall compile a list of persons applying to adopt a dog. A dog's owner or dog's trainer acting with the consent of the owner may participate in the program by placing the dog for adoption. The ownership of the dog shall 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. A dog shall not be transferred unless the dog has been examined by a veterinarian and found to be free of disease requiring extensive medical treatment. A dog shall not be transferred, until a veterinarian has certified that the dog has been sterilized. The track may transfer a dog to a governmental agency or nonprofit organization without examination or certification. However, other requirements relating to the transfer of a dog to a person by a track under this section apply to the transfer of a dog to a person by the agency or organization. A person violating this section is guilty of a simple misdemeanor.

Approved April 6, 1990

CHAPTER 1156

TARGETED SMALL BUSINESS PROCUREMENT GOALS

S.F. 2274

AN ACT relating to targeted small businesses, and imposing penalties.

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

Section 1. Section 12.44, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Agencies of state government shall be required to waive the requirement of satisfaction or performance bonds for targeted small businesses which are able to demonstrate the inability of securing such a bond because of a lack of experience, lack of net worth, or lack of capital. This waiver shall not apply to businesses with a record of repeated failure of substantial performance or material breach of contract in prior circumstances. The waiver shall be applied only to a project or individual transaction amounting to fifty thousand dollars or less, notwithstanding section 573.2. In order to qualify, the targeted small business shall provide written evidence to the department of inspections and appeals that the bond would otherwise be denied the business. The granting of the waiver shall in no way relieve the business from its contractual obligations and shall not preclude the state agency from pursuing any remedies under law upon default or breach of contract.

Sec. 2. Section 15.102, subsection 5, Code 1989, is amended to read as follows:

5. "Targeted small business" means a small business which is fifty-one percent or more owned, operated, and actively managed by one or more women or minority persons, provided the business meets all of the following requirements:

1. Is located in this state.
2. Is operated for profit.
3. Has twenty or fewer full-time equivalent employees.
4. Has an annual gross income of less than three million dollars computed as an average of the three preceding fiscal years.

PARAGRAPH DIVIDED. As used in this subsection, "minority person" means an individual who is a Black, Hispanic, Asian or Pacific Islander, or American Indian or Alaskan native.

Sec. 3. Section 15.108, subsection 7, paragraph c, Code Supplement 1989, is amended to read as follows:

c. Aid ~~in~~ for the development and implementation of the Iowa targeted small business procurement Act established in sections 73.15 through 73.21 and the targeted small business financial assistance program established in section 15.247. The duties of the director under this paragraph include the following:

(1) The director, in conjunction with the director of the department of management, shall publicize the procurement ~~set-aside~~ goal program ~~to~~ for targeted small businesses and to agencies of state government, attempt to locate targeted small businesses able to perform ~~set-aside awards~~ contracts, and encourage program participation. The director may request the cooperation of the department of general services, the department of transportation, the state board of regents, or any other agency of state government in publicizing this program.

(2) The director, in conjunction with the director of the department of management, shall publicize the financial assistance program established in section 15.247 to targeted small businesses.

(3) When the director determines, or is notified by the head of another agency of state government, that a targeted small business is unable to perform a procurement ~~set-aside awards~~ contract, the director shall assist the small business in attempting to remedy the causes of the inability to perform. In assisting the small business, the director may use any management or financial assistance programs available through state or governmental agencies or private sources.

(4) The director, in conjunction with the director of the department of management and jointly with the universities under the jurisdiction of the state board of regents, the area community colleges, and the area vocational schools, shall develop and make available in all areas of the state, programs to offer and deliver concentrated, in-depth advice and services to assist targeted small businesses. The advice and services shall extend to all areas of business management in its practical application, including but not limited to accounting, engineering, drafting, grant writing, obtaining financing, locating bond markets, market analysis, and projections of profit and loss.

(5) The director shall submit an annual report to the governor and the general assembly relating progress toward realizing the goals and objectives of the procurement ~~set-aside~~ goal program and the financial assistance program established in section 15.247 during the preceding fiscal year. The director of the department of management shall assist in compiling the data to be included in the report. The report shall include the following information:

(a) The total dollar value and number of potential ~~set-aside awards~~ targeted small business procurement contracts identified and the percentage of total state procurements this reflects.

(b) The total dollar value and number of ~~set-aside~~ procurement contracts awarded to targeted small businesses with appropriate designation as to the total number and value of ~~set-aside~~ contracts awarded to each certified targeted small business, and the percentages of the total state procurements the figures of total dollar value and the number of ~~set-asides~~ targeted small business contracts reflects.

(c) The number of contracts which were designated ~~and set aside~~ to satisfy targeted small business procurement goals established pursuant to sections 73.15 through 73.21, but which were not awarded to a targeted small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business and the price at which these contracts were awarded pursuant to the normal procurement procedures.

(d) The efforts undertaken to identify targeted small businesses and to publicize and encourage participation in the ~~set-aside~~ procurement goal and loan guarantee programs during the preceding year.

(e) The efforts undertaken to develop technical assistance programs and to remedy the inability of targeted small businesses to perform on potential ~~set-asides~~ procurement contracts.

(f) Information about the number of applications received and processed by the Iowa finance authority under the loan guarantee program, the value of loans guaranteed, and follow-up information on targeted small businesses which have been awarded loan guarantees.

(g) The director's recommendations for strengthening the ~~set-aside~~ procurement goal program and delivery of services to targeted small businesses. The director of the department of management shall provide recommendations to the director regarding strengthening contract compliance activities by state agencies.

(h) The department of general services, the department of transportation, the state board of regents, and all other agencies of state government shall provide all relevant information requested by the director for the preparation of the annual report.

Sec. 4. Section 15.247, subsection 2, Code Supplement 1989, is amended to read as follows:

2. The department shall establish, contingent upon the availability of funds authorized for the program, a targeted small business financial assistance program, to provide for loans, loan guarantees, revolving loans, loans secured by accounts receivable, or grants to targeted small businesses. A targeted small business in any year shall receive under this program not more than twenty-five thousand dollars in a loan or grant, and not more than forty thousand dollars in a guarantee, or a combination of loans, grants, or guarantees. The program shall provide guarantees not to exceed seventy-five percent for loans made by qualified lenders. The department shall establish a financial assistance reserve account from funds provided for this program, from which any default on a guaranteed loan under this section shall be paid. In administering the program the department shall not guarantee loan values in excess of the amount credited to the reserve account and only moneys set aside in the loan reserve account may be used for the payment of a default.

Sec. 5. Section 15.264, subsection 8, paragraph c, Code 1989, is amended to read as follows:

c. Ensure that the loans guaranteed under this part are disbursed and utilized in accordance with the targeted small business ~~set-aside requirements~~ procurement goals of sections 73.15 through 73.21.

Sec. 6. Section 73.16, subsections 1 and 2, Code 1989, are amended to read as follows:

1. Every agency, department, commission, board, committee, officer or other governing body of the state shall purchase goods and services supplied by small businesses and targeted small businesses in Iowa. In addition to the other provisions of this section relating to ~~set-asides~~ procurement contracts for targeted small businesses, all purchasing authorities shall assure that a proportionate share of small businesses and targeted small businesses identified under the uniform small business vendor application program of the department of economic development are given the opportunity to bid on all solicitations issued by agencies and departments of state government.

2. The director of each agency or department of state government having purchasing authority shall ~~designate and set aside for awarding to~~ establish a procurement goal from certified targeted small businesses identified pursuant to section 10A.104, subsection 8, of at least ~~two~~ ten percent, ~~and should set a goal of up to ten percent,~~ of the value of anticipated procurements of goods and services, including construction, but not including utility services, each fiscal year. The director of each department and agency of state government shall cooperate with the director of the department of inspections and appeals, the director of the department of economic development, and the director of the department of management and do all acts necessary to carry out the provisions of this division.

A merged area school, area education agency, or school district shall establish a procurement goal from certified targeted small businesses, identified pursuant to section 10A.104, subsection 8, of at least ten percent of the value of anticipated procurements of goods and services including construction, but not including utility services, each fiscal year.

Sec. 7. Section 73.17, Code 1989, is amended to read as follows:

73.17 TARGETED SMALL BUSINESS ~~SET-ASIDE~~ PROCUREMENT GOALS — PRELIMINARY PROCEDURES.

Quarterly the director of each agency and department of state government shall review the agency's or department's anticipated purchasing requirements. The directors shall notify the

director of the department of economic development of their anticipated purchases and recommended ~~set-asides~~ procurements with unit quantities and total costs for procurement contracts designated to satisfy the targeted small business procurement goal not later than August 15 of each fiscal year and quarterly thereafter. The directors may divide the procurements so designated into contract award units of economically feasible production runs to facilitate offers or bids from targeted small businesses. In designating ~~set-aside~~ procurements intended to satisfy the targeted small business procurement goal, the directors may vary the included procurements so that a variety of goods and services produced by different targeted small businesses may be ~~set aside~~ procured each year. The director of the department of economic development, in conjunction with the director of the department of management, shall review the information submitted and may require modifications from the agencies and departments.

Sec. 8. Section 73.18, Code 1989, is amended to read as follows:

73.18 NOTICE OF SOLICITATION FOR BIDS — IDENTIFICATION OF TARGETED SMALL BUSINESSES.

The director of each agency or department releasing a solicitation for bids or request for proposal under the ~~set-aside~~ targeted small business procurement goal program shall notify the director of the department of ~~inspections and appeals~~ economic development prior to or upon release of the solicitation. The director of the department of ~~inspections and appeals~~ economic development shall notify the soliciting agency or department of any targeted small businesses which have been certified pursuant to section 10A.104, subsection 8, and which may be qualified to bid.

Sec. 9. Section 73.19, Code 1989, is amended to read as follows:

73.19 NEGOTIATED PRICE OR BID CONTRACT.

In awarding a contract under the targeted small business ~~set-aside~~ procurement goal program, a director of an agency or department having purchasing authority may use either a negotiated price or bid contract procedure. ~~The amount of an award shall not exceed by more than five percent that director's estimated price for the goods or services if they were to be purchased on the open market or under the competitive bidding procedures of any provisions of law or rules relating to competitive bidding procedures, and not under this set-aside program.~~ A director of an agency or department using a negotiated contract shall consider any targeted small business engaged in that business. The director of the department of economic development or the director of the department of management may assist in the negotiation of a contract price under this section. Surety bonds guaranteed by the United States small business administration are acceptable security for a construction award under this section.

Sec. 10. Section 73.20, Code 1989, is amended to read as follows:

73.20 DETERMINATION OF ABILITY TO PERFORM.

Before announcing ~~the set-aside~~ a contract award pursuant to the targeted small business procurement goal program, the purchasing authority shall evaluate whether the targeted small business scheduled to receive the award is able to perform the ~~set-aside~~ contract. This determination shall include consideration of production and financial capacity and technical competence. If the purchasing authority determines that the targeted small business may be unable to perform, the director of the department of economic development shall be notified and shall assist the targeted small business pursuant to section 15.108, subsection 7, paragraph "c", subparagraph (3).

Sec. 11. Section 73.21, Code 1989, is amended to read as follows:

73.21 OTHER PROCUREMENT PROCEDURES.

All laws and rules pertaining to solicitations, bid evaluations, contract awards, and other procurement matters apply to procurement ~~set-asides~~ contracts for targeted small businesses to the extent there is no conflict. If this division conflicts with other laws or rules, then this division governs.

Sec. 12. Section 714.8, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. FRAUDULENT PRACTICES IN CONNECTION WITH TARGETED SMALL BUSINESS PROGRAMS.

a. Knowingly transfers or assigns assets, ownership, or equitable interest in property of a business to a woman or minority person primarily for the purpose of obtaining benefits under targeted small business programs if the transferor would otherwise not be qualified for such programs.

b. Solicits and is awarded a state contract on behalf of a targeted small business for the purpose of transferring the contract to another for a percentage if the person transferring or intending to transfer the work had no intention of performing the work.

c. Knowingly falsifying information on an application for the purpose of obtaining benefits under targeted small business programs.

A violation under this subsection is grounds for decertification of the targeted small business connected with the violation. Decertification shall be in addition to any penalty otherwise authorized by this section.

Approved April 6, 1990

CHAPTER 1157

COUNCILS OF GOVERNMENTS

S.F. 2366

AN ACT establishing councils of governments and providing certain duties.

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

Section 1. NEW SECTION. 473B.1 COUNCILS OF GOVERNMENTS ESTABLISHED.

1. For purposes of this chapter, a council of governments includes the following areas established by executive order number 11,1969 or a chapter 28E agreement:

a. Upper explorerland regional planning commission serving Allamakee, Clayton, Fayette, Howard, and Winneshiek counties.

b. North Iowa area council of governments serving Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell, Winnebago, and Worth counties.

c. Northwest Iowa planning and development commission serving Buena Vista, Clay, Dickinson, Emmet, Lyon, O'Brien, Osceola, Palo Alto, and Sioux counties.

d. Siouxland interstate metropolitan planning council serving Ida, Monona, Plymouth, Woodbury, and Cherokee counties.

e. MIDAS council of governments serving Calhoun, Hamilton, Humboldt, Pocahontas, Webster, and Wright counties.

f. Region six planning commission serving Hardin, Poweshiek, Tama, and Marshall counties.

g. Iowa northland regional council of governments serving Black Hawk, Bremer, Buchanan, Butler, Chickasaw, and Grundy counties.

h. East central intergovernmental association serving Cedar, Clinton, Delaware, Dubuque, and Jackson counties.

i. Bi-state metropolitan planning commission serving Scott and Muscatine counties.

j. East central Iowa council of governments serving Benton, Iowa, Johnson, Jones, Linn, and Washington counties.

k. Region twelve council of governments serving Audubon, Carroll, Crawford, Greene, Guthrie, and Sac counties.

l. Southwest Iowa planning council serving Cass, Fremont, Harrison, Montgomery, Page, and Shelby counties.

m. Southern Iowa council of governments serving Adair, Adams, Clarke, Decatur, Madison, Ringgold, Taylor, and Union counties.

n. Area fifteen regional planning commission serving Appanoose, Davis, Jefferson, Keokuk, Lucas, Mahaska, Monroe, Van Buren, Wapello, and Wayne counties.

o. Southeast Iowa regional planning commission serving Des Moines, Henry, Lee, and Louisa counties.

p. Metropolitan area planning agency serving Mills and Pottawattamie counties.

2. A county or two or more contiguous counties that are not served by a council of governments may petition the department of economic development to form a council of governments. Upon petition the department shall assign an unserved county to an existing council of governments or designate the unserved county as a single county council of governments. This subsection does not prevent a county that is not a member of a council of governments from joining an existing council of governments.

Sec. 2. NEW SECTION. 473B.2 WORK PROGRAM — COORDINATION.

1. Each council of governments shall adopt each year a work program to establish guidelines for delivery of services and activities to communities in the area. The work program shall include but is not limited to the following:

a. Cooperation in delivery of community development programs and services to units of local government.

b. Cooperation with the regional coordinating council in the development of plans and programs for community development.

2. The councils of governments shall elect annually a representative to serve on the advisory council established by the department of economic development to provide input on the review and update of the state's economic development strategic plan.

3. The councils of governments shall receive information and recommendations on issues of regional economic importance from the regional coordinating council for possible use in the regional community development plan.

Sec. 3. NEW SECTION. 473B.3 DUTIES.

A council of governments shall perform, but is not limited to, the following duties:

1. Provide planning services or technical assistance to the region defined in section 473B.1.

2. Coordinate regional community development planning to assist community development and planning.

3. Coordinate delivery of community development programs and services with local, state, and federal programs and activities.

4. Prepare a regional community development plan which shall be updated annually. The plan shall include but is not limited to the following:

a. Inventory and needs assessment of regional infrastructure.

b. Labor supply.

c. Cultural and fine arts resources.

d. Housing.

e. Primary health care services.

f. Natural resources, conservation, and recreational facilities.

g. Region-wide development opportunities.

Sec. 4. NEW SECTION. 473B.4 MEMBERSHIP — LIABILITY OF MEMBERS.

1. Membership, appointments, and terms of office shall be governed by bylaws adopted by each council of governments.

2. A director, officer, employee, member, trustee, or volunteer of a council of governments is not liable for the debts or obligations of the council of governments. A director, officer, employee, member, trustee, or volunteer is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction for which the person derives an improper personal benefit.

Sec. 5. NEW SECTION. 473B.5 AGREEMENTS WITH OTHER AGENCIES.

A council of governments shall be considered a public agency for the purpose of chapter 28E. A council of governments may enter into an agreement under chapter 28E with another council of governments, merged area school, or other public agency for the purpose of community development and planning.

Sec. 6.

The counties of Boone, Dallas, Jasper, Marion, Polk, Story, and Warren, within six months of the effective date of this Act, may petition the department of economic development to form a council of governments. The petition may be filed by a county or a group of contiguous counties not currently in a council of governments. If a county named in this section has not formed or joined a new council of governments within six months of the effective date of this Act the department shall assign any unserved county to a council of governments or designate the unserved county as a single county council of governments.

Approved April 6, 1990

CHAPTER 1158

DISHONORED INSTRUMENT SURCHARGE

H.F. 2475

AN ACT relating to the surcharge for dishonored instruments.

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

Section 1. Section 554.3507, subsection 5, Code 1989, is amended to read as follows:

5. The holder of a dishonored instrument may assess against the maker of that instrument a surcharge of not more than ~~ten~~ fifteen dollars for each dishonored instrument. The surcharge authorized by this section shall not be assessed unless the holder clearly and conspicuously posts a notice at the usual place of payment, or in the billing statement of the holder, stating that a surcharge will be assessed and the amount of the surcharge. However, ~~such~~ a 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.

Approved April 6, 1990

CHAPTER 1159

GROUP HEALTH BENEFITS INSURANCE DISCLOSURE

H.F. 2496

AN ACT requiring a group health benefits insurer to disclose certain information relating to claims experience and costs of those claims.

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

Section 1. NEW SECTION. 509.19 DISCLOSURE OF CLAIMS AND RELATED COSTS.

1. A person issuing a policy or contract providing group health benefit coverages to a group of one hundred or more persons shall provide to the policyholder, contract holder, or sponsor

of the group health benefit plan, upon request, once in a twelve-month period, all of the following information:

a. Number of claims submitted to date.

b. Costs of claims submitted to date.

c. Average cost per claim, and average annual cost per covered individual.

The information shall be presented in the aggregate, and shall not disclose any confidential information or otherwise disclose the identity of an individual insured, subscriber, or enrollee, who has submitted a claim within the time frame of the report.

2. For purposes of this section, "person issuing a policy or contract providing group health benefit coverages" includes all of the following:

a. A person issuing a group policy of accident or health insurance pursuant to this chapter.

b. A person issuing a group contract of a nonprofit health service corporation pursuant to chapter 514.

c. A person issuing a group contract of a health maintenance organization pursuant to chapter 514B.

Approved April 6, 1990

CHAPTER 1160

HISTORIC PROPERTY TAX EXEMPTION

H.F. 2540

AN ACT relating to and providing a temporary property tax exemption for certain increased valuation of historic property, providing a phase-in of increased valuation, and providing an applicability date.

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

Section 1. NEW SECTION. 441.22A HISTORIC PROPERTY – REHABILITATION TAX EXEMPTION – APPLICATION.

1. The board of supervisors shall annually designate real property in the county for a historic property tax exemption.

2. Application for the exemption shall be filed with the assessor, not later than March 1 of the assessment year, on forms provided by the department of revenue and finance. The exemption application shall include an approved application for certified substantial rehabilitation from the state historic preservation officer and documentation of additional property tax relief or financial assistance currently allowed for the real property. Upon receipt of the application, the assessor shall certify whether or not the property is eligible to receive the exemption and shall forward the application to the board.

3. Before the board may designate real property for the exemption, the board shall establish priorities for which an exemption may be granted. The priorities shall be based upon financial assistance or property tax relief the owner is receiving for the property or for which the property is eligible. A public hearing shall be held with notice given as provided in section 23.2 at which the proposed priority list shall be presented. However, a public hearing is not required if the proposed priorities are the same as those established for the previous year. After the public hearing, the board shall adopt by resolution the proposed priority list or another priority list.

4. After receipt from the assessor of an exemption application with an accompanying approved application from the state historic preservation officer, and the establishment of a priority list, the board shall grant a tax exemption under this section using the adopted

priority list. The board shall notify an owner in writing of a denial of the exemption under this section and an explanation of the denial.

5. Real property designated for the tax exemption shall be designated by April 15 of the assessment year in which the fiscal year begins for which the exemption is granted. Notification shall be sent to the county auditor and the applicant.

6. The owner shall apply for an exemption and the exemption may be approved for a period of not more than four years.

7. For purposes of this section "historic property" means any of the following:

a. Property in Iowa listed on the national register of historic places.

b. An historical site as defined in section 303.2.

c. Property located in an area of historical significance as defined in section 303.20.

d. Property located in an area designated as an area of historic significance under section 303.34.

e. Property designated an historic building or site as approved by a county or municipal landmark ordinance.

8. For purposes of this section, "substantial rehabilitation" means qualified expenditures which exceed the greater of the adjusted basis of the building or five thousand dollars.

9. For purposes of this section, "adjusted basis" means the acquisition cost of the property to the taxpayer; less the value of the land; less depreciation taken or one-half the current assessed valuation of the property, whichever is greater; plus the cost of additions or improvements to the property since its acquisition.

10. For purposes of this section, "qualified expenditures" means costs incurred to preserve or to maintain a building as a historic property according to the secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings.

11. The assessor shall determine the base year valuation of the historic property upon receipt of the approved application and shall make a notation on each statement of assessment that the exemption of the historic property shall be based upon the certification from the state historic preservation officer. An assessor shall make an annual report to the county auditor of all substantial rehabilitations of historic property made in the county which receives a tax exemption under this section and shall submit a copy or summary of the record to the state historic preservation officer.

12. A tax exemption granted under this section is valid if the property continues to be certified by the state historic preservation officer. If the property is sold or transferred, the buyer or transferee is not required to refile for the tax exemption for the year in which the property is purchased or transferred.

13. The valuation for purposes of computing the assessed valuation of property under this section following the four-year exemption period is as follows:

a. For the first year after the expiration of the four-year exemption period, the valuation is the base year valuation plus twenty-five percent of the adjustment in value.

b. For the second year after the expiration of the four-year exemption period, the valuation is the base year valuation plus fifty percent of the adjustment in value.

c. For the third year after the expiration of the four-year exemption period, the valuation is the base year valuation plus seventy-five percent of the adjustment in value.

d. For the fourth year after the expiration of the four-year exemption period, the valuation is based upon the current fair cash value.

14. An additional application for a tax exemption under this section for substantial rehabilitation shall not affect subsection 11 and under subsection 13 the increase in assessed value of the historic property following a four-year tax exemption period.

15. The department of cultural affairs shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 2.

This Act is applicable for assessment years beginning on or after January 1, 1991, for substantial rehabilitation to historic property begun after July 1, 1990.

Approved April 6, 1990

CHAPTER 1161

STATE CONSTRUCTION BIDDER DISCLOSURE

H.F. 2201

AN ACT relating to the disclosure of the names and certain contract costs of all subcontractors by bidders on a state construction contract.

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

Section 1. Section 18.6, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 14. A bidder awarded a state construction contract shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract.

If a subcontractor named by a bidder awarded a state construction contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

Sec. 2. Section 262.34, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A bidder awarded a contract shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract. If a subcontractor named by a bidder awarded a contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

Sec. 3. NEW SECTION. 307.49 CONTRACT BIDS.

A bidder awarded a contract with the department shall disclose the names of all subcontractors, who will work on the project being bid or who the bidder anticipates will work on the project being bid, within forty-eight hours after the award of the contract. If a subcontractor named by a bidder awarded a contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost. If a subcontractor is added by a bidder awarded a contract, the bidder shall disclose the name of the new subcontractor.

Sec. 4. NEW SECTION. 314.15 DISADVANTAGED BUSINESS ENTERPRISES — RULES.

The department of transportation shall promulgate rules establishing affirmative action requirements to encourage and increase participation of disadvantaged individuals in business enterprises in all federal aid projects made available by and through the department.

Sec. 5. NEW SECTION. 601L.3A CONTRACT BIDS.

A bidder awarded a contract with the department shall disclose the names of all subcontractors, who will work on the project being bid, within forty-eight hours after the award of the contract. If a subcontractor named by a bidder awarded a contract is replaced, or if the cost of work to be done by a subcontractor is reduced, the bidder shall disclose the name of the new subcontractor or the amount of the reduced cost.

Approved April 6, 1990

CHAPTER 1162

EMPLOYMENT AGENCY FEE
H.F. 2343

AN ACT relating to the fee charged by an employment agency for the procurement of a position of employment.

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

Section 1. Section 94.6, Code 1989, is amended to read as follows:

94.6 LIMITATION OF FEE.

A person, licensed under section 95.1, shall not charge a fee for the furnishing or procurement of a situation or employment paying less than two hundred fifty dollars per month which exceeds twenty-five percent of the wages paid for the first month of employment or situation furnished or procured, but in no event shall the charge for the furnishing or procurement of any situation or employment be in excess of ~~eight~~ fifteen percent of the annual gross earnings. An employer shall not require an applicant to pay a fee or charge as a condition of application or hire with the employer. ~~The provisions of this~~ This section ~~shall~~ does not apply to the furnishing or procurement of vaudeville acts, circus acts, theatrical, stage or platform attractions or amusement enterprises or to fees charged solely to employers where no fee is charged to the employee.

Approved April 6, 1990

CHAPTER 1163

PREEXISTING CONDITIONS COVERAGE UNDER COMPREHENSIVE HEALTH INSURANCE ASSOCIATION POLICIES
H.F. 2431

AN ACT allowing a person to purchase insurance through the Iowa comprehensive health association even if the person has coverage under another insurance plan.

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

Section 1. Section 514E.7, subsection 1, Code 1989, is amended to read as follows:

1. ~~A~~ Except as otherwise provided in subsection 5, a person is not eligible for an association policy if the person, at the effective date of coverage, has or will have coverage under any insurance plan that has coverage equivalent to an association policy. Only residents of this state are eligible for an association policy. Coverage under an association policy is in excess of, and shall not duplicate, coverage under any other form of health insurance.

Sec. 2. Section 514E.7, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. Medical advice or treatment was recommended or received within a period of six months before the effective date of coverage.

These preexisting condition exclusions shall be waived to the extent to which similar exclusions have been satisfied under any prior health insurance coverage which was involuntarily terminated, if the application for pool coverage is made not later than thirty days following the involuntary termination. For purposes of this subsection, involuntary termination includes, but is not limited to, termination of coverage when a conversion policy is not available or where benefits under a state or federal law providing for continuation of coverage upon termination of employment will cease or have ceased. In that case, coverage in the pool shall be effective from the date on which the prior coverage was terminated.

This subsection does not prohibit preexisting conditions coverage in an association policy that is more favorable to the insured than that specified in this subsection.

Sec. 3. Section 514E.7, subsection 5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the association policy contains a waiting period for preexisting conditions, an insured may retain any existing coverage the person has under an insurance plan that has coverage equivalent to the association policy for the duration of the waiting period only.

Approved April 6, 1990

CHAPTER 1164

COOPERATIVE ASSOCIATION AND NONPROFIT CORPORATION PROCEDURES

H.F. 2455

AN ACT relating to state chartered legal entities, especially nonprofit corporations and cooperative associations, by altering requirements and procedure for filing corporate documents in the office of the secretary of state and by requiring corporations organized under or subject to Iowa Code chapter 504 to convert to chapter 504A within a certain period of time.

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

Section 1. Section 499.5, subsection 3, Code 1989, is amended to read as follows:

3. A nonprofit water utility organized under chapter 357A or 504A may elect to become an association under this chapter upon majority vote of its members by filing with the secretary of state a ~~verified~~ statement confirming the election and appropriate articles of incorporation. However, the association is subject to the service limitation provisions contained in sections 357.1 and 357A.2.

Sec. 2. Section 499.25, Code 1989, is amended to read as follows:

499.25 ISSUING PREFERRED STOCK IN PURCHASES.

An association may discharge all or any part of obligations incurred in purchasing any business, property or stock, or an interest therein, by issuing its authorized preferred stock in an amount not exceeding the fair market value of the thing purchased. ~~Issuance of such stock in an amount exceeding twenty-five thousand dollars shall be governed by the law as found in sections 492.6 and 492.7.~~ Issuance of such stock ~~in amounts smaller than twenty-five thousand dollars~~ shall be upon the fair market value of the property purchased, as determined through an appraisal made by the ~~director~~ directors or a competent appraiser employed by the directors. ~~Within thirty days after such issue, the association shall file with the secretary of state a verified report containing an accurate detailed description of the thing purchased, the valuation thereof by the directors, and the amount of preferred stock thus issued.~~ Such preferred stock shall be valid as though paid for in cash.

Sec. 3. Section 499.41, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Amendments, ~~signed and acknowledged by officers designated for such purpose,~~ shall be executed and filed ~~and recorded~~ as provided in section 499.44.

Sec. 4. Section 499.42, unnumbered paragraph 4, Code 1989, is amended to read as follows:

The renewal articles shall be ~~signed,~~ executed and filed ~~and recorded~~ as required by section 499.41. Renewal shall not relieve the association from fees, charges, or penalties which may have accrued against it.

Sec. 5. Section 499.43, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Any~~ An existing Iowa co-operative corporation ~~may~~, by a majority vote of all its members, at a meeting called for that purpose and held before its present articles expire, may amend its articles ~~so~~ as to comply with this chapter and section 499.40, which may extend its corporate duration. ~~Such~~ The amended articles~~, signed and acknowledged by officers designated for that purpose~~, shall be executed and filed ~~and recorded~~, and a certificate of incorporation issued, as required by section 499.44~~, whereupon such~~. Upon issuance of the certificate, the corporation shall be deemed an association under this chapter.

Sec. 6. Section 499.44, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

499.44 EXECUTION AND FILING OF DOCUMENTS.

1. The secretary of state shall record all documents submitted to and required to be filed with the secretary under this chapter.

2. A document required to be filed with the secretary of state pursuant to this chapter must be executed. The person executing the document must be the association's presiding officer of the board of directors, or the association's president or other officer. However, if the board of directors has not been selected or the association has not been formed, the document must be signed by an incorporator of the association. If the association is under the control of a person acting as a fiduciary of the association, including a trustee or receiver, the document must be signed by the fiduciary.

A document required to be executed shall contain the printed name of the person executing the document and the capacity in which the person serves the association. The signature of the person must appear above or opposite the person's printed name and capacity. In the discretion of the secretary of state, a document containing a copy of the person's signature may be accepted for filing. The document may also contain a corporate seal, an attestation by the secretary of state or person charged by the secretary, or an acknowledgement, verification, or proof that the execution is valid.

3. Articles of incorporation, amendments to articles, or renewal of articles must be filed with the secretary of state, and recorded in the county where the association has its principal place of business, as required by the general corporation laws. The association's corporate existence shall begin upon approval by the secretary of state of the articles and issuance of the certificate of incorporation.

4. A document filed under this section may be corrected if the document contains an incorrect statement or the execution of the document was defective. A document is corrected by filing with the secretary articles of correction which describe the document to be corrected, including its filing date or a copy of the document. The articles must specify the incorrect statement or defective execution, and correct the incorrect statement or defective execution.

Articles of correction are deemed to be effective on the date that the document corrected took or takes effect. However, as applied to persons relying upon the uncorrected document or adversely affected by the articles of correction, the effective date of the articles of correction is the date that the articles are filed.

Sec. 7. Section 499.47, subsection 3, Code 1989, is amended to read as follows:

3. Upon the expiration or voluntary dissolution of an association, the members shall designate three of their number as trustees to replace the officers and directors and wind up its affairs. ~~Such~~ The trustees shall ~~thereupon~~ have all the powers of the board, including the power to sell and convey ~~all~~ real or personal property and execute conveyances ~~thereof~~. Within the time fixed in their designation, or any extension ~~thereof~~ of that time, ~~they~~ the trustees shall liquidate ~~its~~ the association's assets, pay its debts and expenses, and distribute ~~any~~ remaining funds among the members~~, and thereupon~~. Upon distribution of remaining assets the association shall stand dissolved and cease to exist. The trustees shall make~~,~~ and sign~~, and acknowledge~~ a duplicate report of ~~such~~ the dissolution~~, filing one~~. One copy of the report shall be filed with

the secretary of state and one copy of the report shall be filed with the recorder of the county where the articles were recorded.

Sec. 8. Section 499.67, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Upon approval, articles of merger or articles of consolidation shall be executed by each co-operative association ~~by its president or a vice president and by its secretary or an assistant secretary, and acknowledged by one of the officers of each co-operative association signing the articles, and shall set forth~~ as provided in section 499.44. The articles must include the following:

Sec. 9. Section 499.67, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The articles of merger or articles of consolidation 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.

Sec. 10. Section 504A.9, subsection 5, Code Supplement 1989, is amended to read as follows:

5. If its registered agent or agents ~~be~~ are changed, the name of its successor registered agent or agents, and the new agent's or agents' written consent, either on the statement, or by attaching the agent's or agents' consent to the appointment.

Sec. 11. Section 504A.9, subsection 7, Code Supplement 1989, is amended by striking the subsection.

Sec. 12. Section 504A.9, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

~~Such statement shall be executed by the corporation by its president or a vice president. Such~~ The 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. 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. 13. Section 504A.32, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 4. A document that is filed in the office of the secretary of state shall be executed:

a. By the presiding officer of the board of directors of the corporation or the 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.

NEW SUBSECTION. 5. The person executing the document shall sign it and state beneath or opposite the signature, the person's name and the capacity in which the person signs. The secretary of state may accept for filing a document containing a copy of a signature, however made. The document may, but need not, contain:

a. The corporate seal.

b. An attestation by the secretary or an assistant secretary.

c. An acknowledgment, verification, or proof.

NEW SUBSECTION. 6. The secretary of state may adopt rules permitting the electronic filing of documents in the office of the secretary of state, and for the certification of copies of electronically filed documents.

Sec. 14. NEW SECTION. 504A.32A 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. The document contains an incorrect statement.

b. The document 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 or manner in which the execution was defective.

(3) Correct the incorrect statement or defective execution.

b. By delivering the articles of correction 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 persons relying on the uncorrected document and adversely affected by the correction, the articles of correction are effective when filed by the secretary of state.

Sec. 15. Section 504A.36, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The articles of amendment shall be executed by the corporation ~~by its president or a vice president and by its secretary or an assistant secretary, and acknowledged by one of the officers signing such articles,~~ and shall set forth:

Sec. 16. Section 504A.39, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Upon ~~such~~ approval, restated articles of incorporation shall be executed by the corporation ~~by its president or vice president and by its secretary or assistant secretary, and verified by one of the officers signing the same,~~ and shall set forth, as then stated in the corporation's articles of incorporation and, if the restated articles of incorporation include an amendment or amendments to the articles of incorporation to be made thereby, as so amended:

Sec. 17. Section 504A.43, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Upon ~~such~~ approval, articles of merger or articles of consolidation shall be executed by each corporation ~~by its president or a vice president and by its secretary or an assistant secretary, and acknowledged by one of the officers of each corporation signing such articles,~~ and shall set forth:

Sec. 18. Section 504A.51, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities, and obligations of the corporation ~~shall~~ have been paid and discharged, or adequate provision ~~shall have~~ has been made ~~therefor~~ for them, and all of the remaining property and assets of the corporation ~~shall~~ have been transferred, conveyed, or distributed in accordance with ~~the provisions of~~ this chapter, articles of dissolution 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 such statement, which statement shall set forth:~~. The articles of dissolution shall set forth:

Sec. 19. Section 504A.69, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

The application shall be made on forms prescribed and furnished by the secretary of state and 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 such application~~.

Sec. 20. Section 504A.73, subsection 5, Code Supplement 1989, is amended to read as follows:

5. If its registered agent or agents ~~be~~ are changed, the name of its successor registered agent or agents, and the new agent's or agents' written consent, either on the statement, or by attaching the agent's consent to the appointment.

Sec. 21. Section 504A.73, subsection 7, Code Supplement 1989, is amended by striking the subsection.

Sec. 22. Section 504A.78, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and 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 application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by that person~~.

Sec. 23. Section 504A.87, subsection 1, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The delivery by the corporation to the secretary of state for filing in the secretary of state's office of an application for reinstatement, ~~executed by its president or vice president and by its secretary or an assistant secretary and verified by one of the officers signing such application,~~ which shall set forth:

Sec. 24. Section 504A.87, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When the certificate of reinstatement is effective, it relates back to and takes effect as of the effective date of the cancellation as if the cancellation had never occurred.

Sec. 25. Section 504A.100, subsection 3, paragraphs a and b, Code 1989, are amended to read as follows:

a. ~~As to domestic corporations, 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 ~~such~~ that address and, if the name of the corporation does not comply with 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 procedure prescribed by this chapter for the amendment of articles of incorporation. If ~~such~~ the corporation has ~~theretofore~~ issued shares of stock, ~~said~~ the resolution shall contain a statement of ~~such~~ that fact including the number of shares ~~theretofore~~ authorized, the number issued and outstanding, and a statement that all issued and outstanding shares of stock have been delivered to the corporation to be canceled upon the adoption of this chapter by the corporation ~~becoming effective~~, or will be canceled upon receipt by the corporation, and that from and after the effective date of ~~said~~ adoption the authority of the corporation to issue shares of stock ~~shall be thereby~~ is terminated. As to foreign corporations, a resolution shall be adopted by the board of directors, reciting that the corporation voluntarily adopts this chapter, and designating the address of its registered office in this state and the name of its registered agent or agents, at ~~such~~ that address and, if the name of the corporation does not comply with this chapter, setting forth the name of the corporation with the changes which it elects to make ~~therein~~ in the name conforming to the requirements of this chapter for use in this state.

b. Upon adoption of the required resolution or resolutions, an instrument shall be executed by the corporation ~~by its president or vice president and by its secretary or an assistant secretary and verified by one of the officers signing the instrument,~~ which shall set forth both of the following:

(1) The name of the corporation;.

(2) Each such resolution adopted by the corporation and the date of its adoption ~~thereof~~.

Sec. 26. Section 504A.100, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Corporations existing under chapter 504 shall be subject to this chapter on July 1, 1990, except that the corporations shall be subject to sections 504A.8 and 504A.83 on January 1, 1995. A corporate existence of a corporation that is not in compliance on the records of the secretary of state with sections 504A.8 and 504A.83 on June 30, 1995,

is terminated, effective July 1, 1995. A corporation whose existence is terminated pursuant to this subsection may be reinstated. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the termination of its corporate existence as if such termination had never occurred. The secretary of state shall adopt rules governing the reinstatement of a corporation pursuant to this subsection.

Sec. 27. Chapter 504 is repealed.

Approved April 6, 1990

CHAPTER 1165

COMMERCIAL FEED

H.F. 534

AN ACT relating to the regulation of commercial feed and providing for the increase of fees.

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

Section 1. Section 198.1, Code 1989, is amended to read as follows:

198.1 SHORT TITLE.

This chapter shall be known as the "Iowa Commercial Feed Law ~~of 1974~~."

Sec. 2. Section 198.3, subsection 1, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

1. "Distribute" means either of the following:

a. To offer for sale, sell, exchange, or barter commercial feed.

b. To supply, furnish, or otherwise provide commercial feed to a contract feeder.

Sec. 3. Section 198.3, subsection 17, Code 1989, is amended to read as follows:

17. "Pet food" means any commercial feed prepared and distributed for consumption by ~~pets~~ dogs or cats.

Sec. 4. Section 198.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 21. "Broker" means a person, other than a licensed manufacturer, who distributes commercial feed or commercial feed ingredients to a manufacturer.

Sec. 5. Section 198.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

198.4 LICENSES.

1. A person who manufactures a commercial feed, a customer-formula feed, or whose name appears on the label of a commercial or customer-formula feed, shall not distribute a commercial feed in this state without first obtaining a license from the secretary issued on forms provided by the secretary. The forms must identify the name, place of business, and location of each manufacturing facility in this state.

A broker shall not distribute a commercial feed in this state without first obtaining a license from the secretary issued on forms provided by the secretary. The forms must identify the broker's name and place of business.

2. A person obtaining a license under this section shall pay to the secretary a license fee of ten dollars. Fees relating to the issuance of licenses shall be paid by July 1 of each year.

Sec. 6. Section 198.5, subsection 1, paragraph d, Code 1989, is amended to read as follows:

d. ~~The~~ An ingredient statement containing the common or usual name of each ingredient used in the manufacture of the commercial feed, ~~provided, that~~. However, the secretary by rule may permit the use of a collective term for a group of ingredients which perform a similar

function, or the secretary may exempt such commercial feeds, or any group ~~thereof~~ of them, from this requirement ~~of an ingredient statement~~ if the secretary finds that ~~such~~ a statement is not required in the interest of consumers.

Sec. 7. Section 198.5, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. If a drug containing product is used, information relating to the purpose of the medication in the form of a claim statement, plus the established name of each active drug ingredient and the level of each drug used in the final mixture.

Sec. 8. Section 198.6, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. If it is not a commercial feed as defined in section 198.3.

Sec. 9. Section 198.7, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If it is, or it bears or contains a new animal drug which is unsafe within the meaning of the federal Food, Drug and Cosmetics Act, 21 U.S.C. § 512.

Sec. 10. Section 198.8, subsection 5, Code 1989, is amended to read as follows:

5. Fail or refuse to ~~register~~ obtain a license in accordance with section 198.4.

Sec. 11. Section 198.9, subsection 1, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

1. An inspection fee to be fixed annually by the secretary at a rate of not more than sixteen cents per ton, shall be paid on commercial feed distributed in this state by the person who first distributes the commercial feed, subject to the following:

a. The inspection fee is not required on the first distribution, if made to a qualified buyer who, with approval from the secretary, shall become responsible for the fee.

b. A fee shall not be paid on a commercial feed if the payment has been made by a previous distributor.

c. A fee shall not be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as components of the customer-formula feeds.

d. A minimum semiannual fee shall be twenty dollars.

e. A licensed manufacturer shall pay the inspection fee on commercial feed that is fed to livestock owned by the licensee.

In the case of a pet food or specialty pet food, which is distributed in this state in packages of ten pounds or less, each product shall be registered and an annual registration fee of fifty dollars for each product shall be paid by January 1 of each year in lieu of the per ton rate as provided in this subsection. The inspection fee shall apply to those same products distributed in packages of more than ten pounds.

Sec. 12. Section 198.9, subsection 2, paragraph a, Code 1989, is amended to read as follows:

a. File, not later than the last day of January and July of each year, a semiannual statement, setting forth the number of net tons of commercial feeds distributed in this state during the preceding six months and upon filing ~~such~~ the statement shall pay the inspection fee at the rate stated in subsection 1. Inspection fees which are due and owing and have not been remitted to the secretary within fifteen days following the due date shall have a delinquency fee of ten percent of the amount due or ~~five~~ fifty dollars, whichever is greater, added to the amount due when payment is finally made. The assessment of this delinquency fee ~~shall~~ does not prevent the department from taking other actions as provided in this chapter.

Sec. 13. Section 198.9, subsection 3, unnumbered paragraph 2, Code 1989, is amended to read as follows:

If there is an unencumbered balance of funds in the commercial feed fund on June 30 of any fiscal year equal to or exceeding ~~three~~ one hundred ~~fifty~~ thousand dollars, the secretary of

agriculture shall reduce the per ton fee provided for in subsection 1 for the next fiscal year in such amount as will result in an ending estimated balance for June 30 of the next fiscal year of ~~three~~ one hundred ~~fifty~~ thousand dollars.

Sec. 14. Section 198.9, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The secretary shall publish a report not later than September 1 of each year. The report shall provide a detailed accounting of all sources of revenue and all dispositions of funds utilized by the commercial feed trust fund. The report shall detail full-time equivalent positions used in fulfilling the requirements of this chapter. The report shall also indicate to what extent any full-time equivalent positions are shared with other programs. Copies of the report issued by the secretary pursuant to this section shall be delivered each year to the members of the house of representatives and senate standing committees on agriculture.

Sec. 15. Section 198.10, subsection 1, unnumbered paragraph 1, and paragraph b, Code 1989, are amended to read as follows:

The secretary may ~~promulgate such~~ adopt rules for commercial feeds and pet foods as ~~are~~ specifically authorized in this chapter and ~~such~~ other reasonable rules ~~as may be~~ necessary ~~for~~ in order to carry out the purpose and intent of this chapter or to secure the efficient enforcement of this chapter. In the interest of uniformity the secretary shall by rule adopt, unless the secretary determines that they are inconsistent with ~~the provisions of~~ this chapter or are not appropriate to conditions which exist in this state, the following:

b. Any rule ~~promulgated~~ adopted pursuant to the authority of the ~~federal~~ Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ~~section~~ § 301, et seq., provided, ~~that~~ the secretary ~~would have~~ has the authority under this chapter to ~~promulgate~~ adopt such rules.

Sec. 16. Section 198.11, subsection 7, Code 1989, is amended to read as follows:

7. The results of all analyses of official samples shall be forwarded by the secretary to the person named on the label. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded and upon request within thirty days following receipt of the analysis the secretary shall furnish to the ~~registrant~~ licensee a portion of the sample concerned.

Sec. 17. Section 331.756, subsection 37, Code 1989, is amended to read as follows:

37. Prosecute violations of the Iowa commercial feed law ~~of 1974~~ as provided in section 198.13, subsection 3.

Approved April 16, 1990

CHAPTER 1166

LOCAL CIVIL RIGHTS AGENCIES AND COMMISSIONS

H.F. 2154

AN ACT relating to civil rights by requiring certain cities to maintain a local civil rights agency or commission and provide adequate funding for the agency or commission, and providing for the continuation in effect of certain local civil rights laws, and providing for the applicability of the Act.

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

Section 1. Section 601A.19, Code 1989, is amended to read as follows:

601A.19 LOCAL LAWS ~~MAY IMPLEMENT~~ IMPLEMENTING THIS CHAPTER.

Nothing ~~contained~~ in ~~any provision of~~ this chapter shall be construed as indicating an intent on the part of the general assembly to occupy the field in which this chapter operates to the exclusion of local laws not inconsistent with this chapter that deal with the same subject matter.

Nothing in this chapter shall be construed as indicating an intent to prohibit an agency or commission of local government having as its purpose the investigation and resolution of violations of this chapter from developing procedures and remedies necessary to insure the protection of rights secured by ~~the Iowa civil rights Act~~ this chapter. All cities shall, to the extent possible, protect the rights of the citizens of this state secured by the Iowa civil rights Act. Nothing in this chapter shall be construed as limiting a city or local government from enacting any ordinance or other law which prohibits broader or different categories of unfair or discriminatory practices.

PARAGRAPH DIVIDED. An agency or commission of local government and the Iowa civil rights commission shall co-operate in the sharing of data and research, and co-ordinating investigations and conciliations in order to expedite claims of unlawful discrimination and eliminate needless duplication. A city with a population of twenty-nine thousand, or greater, shall maintain an independent local civil rights agency or commission consistent with commission rules adopted pursuant to chapter 17A. An agency or commission for which a staff is provided shall have control over such staff. A city required to maintain a local civil rights agency or commission shall structure and adequately fund the agency or commission in order to effect cooperative undertakings with the Iowa civil rights commission and to aid in effectuating the purposes of this chapter. The Iowa civil rights commission may enter into cooperative agreements with any local agency or commission to effectuate the purposes of this chapter. Such agreements may include technical and clerical assistance and reimbursement of expenses incurred by the local agency or commission in the performance of the agency's or commission's duties if funds for this purpose are appropriated by the general assembly.

The Iowa civil rights commission may designate an unfunded local agency ~~of local government~~ or commission as a referral agency. A local agency or commission shall not be designated a referral agency unless the ordinance creating it provides the same rights and remedies as are provided in this chapter. The Iowa civil rights commission shall establish by rules the procedures for designating a referral agency and the qualifications to be met by a referral agency.

A complainant who files a complaint with a referral agency having jurisdiction shall be prohibited from filing a complaint with the Iowa civil rights commission alleging violations based upon the same acts or practices cited in the original complaint; and a complainant who files a complaint with the commission shall be prohibited from filing a complaint with the referral agency alleging violations based upon the same acts or practices cited in the original complaint. However, the Iowa civil rights commission in its discretion may refer a complaint filed with the commission to a referral agency having jurisdiction over the parties for investigation and resolution; and a referral agency in its discretion may refer a complaint filed with that agency to the commission for investigation and resolution. The commission may ~~promulgate~~

adopt rules establishing the procedures for referral of complaints. A referral agency may refuse to accept a case referred to it by the Iowa civil rights commission if the referral agency is unable to effect proper administration of the complaint. It shall be the burden of the referral agency to demonstrate that it is unable to properly administer that complaint.

A final decision by a referral agency shall be subject to judicial review as provided in section 601A.17 in the same manner and to the same extent as a final decision of the Iowa civil rights commission.

The referral of a complaint by the Iowa civil rights commission to a referral agency or by a referral agency to the Iowa civil rights commission shall not affect the right of a complainant to commence an action in the district court under section 601A.16.

Sec. 2.

This Act applies only to an agency or commission of local government in existence on the effective date of this Act.

This Act is repealed as of July 1, 1991. The Code editor shall editorially amend section 601A.19 in this Act to reflect this repeal by restoring the language in the section to the language in the section as it appears in the Code of Iowa 1989.

Approved April 16, 1990

CHAPTER 1167

AQUATIC APPLICATIONS OF PESTICIDES

H.F. 2170

AN ACT relating to the prohibition of the use of certain pesticides, and making a penalty applicable.

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

Section 1. Section 455B.186, Code 1989, is amended to read as follows:

455B.186 PROHIBITED ~~DISCHARGES~~ ACTIONS.

1. A pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state, except that this section shall not be construed to prohibit the discharge of adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the director. A pollutant whether treated or untreated shall not be discharged into any state-owned natural or artificial lake.

2. A pesticide shall not be applied to any water of this state which has been classified by the department as a class "A" or class "C", high quality, or high quality resource water, except that this section shall not be construed to prohibit the application of such a pesticide by a certified applicator who is trained in aquatic applications and who has received a permit from the department.

Approved April 16, 1990

CHAPTER 1168

NONSUBSTANTIVE CORRECTIONS

H.F. 2312

AN ACT relating to nonsubstantive Code and Act corrections.

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

Section 1. Section 2.47A, subsection 2, paragraph a, Code Supplement 1989, is amended to read as follows:

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.

Sec. 2. Section 3.1, subsection 1, Code 1989, is amended to read as follows:

1. Shall refer to the numbers of the sections or chapters of the Code or Code Supplement to be amended or repealed, but it ~~shall~~ is not ~~be~~ necessary to refer to ~~such~~ the sections or chapters in the title.

Sec. 3. Section 8.6, subsection 13, Code Supplement 1989, is amended to read as follows:

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~~ the capital project budgeting requests or priorities to be compiled and submitted in the same manner no later than November 1.

Sec. 4. Section 8.6, subsection 14, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

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 is not ~~be~~ limited to the following:

Sec. 5. Section 8.22, subsection 1, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

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 is not ~~be~~ limited to the following:

Sec. 6. Section 12.39, Code 1989, is amended to read as follows:

12.39 LIABILITY.

The state and the treasurer of state are not liable to an eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible borrower. Any delay in payments or default on the part of an eligible borrower does not in any manner affect the ~~deposit~~ investment agreement between the eligible lending institution and the treasurer of state.

Sec. 7. Section 15.287, Code Supplement 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. 8. Section 18.12, subsection 15, Code Supplement 1989, is amended to read as follows:

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.

Sec. 9. Section 18B.6, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The board established pursuant to section ~~18.5~~ 18B.5 shall have all the general powers needed to carry out its mission and duties, including but not limited to the following powers:

Sec. 10. Section 28.154, Code Supplement 1989, is amended to read as follow:

28.154 BOARD OF DIRECTORS.

1. The board of directors is established consisting of the following standing members, ~~and~~ governor-appointed members, and ex officio, nonvoting 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)~~ b. 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.~~ c. 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~~ are four years and shall be staggered as determined by the standing members. ~~Any~~ A 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. 11. Section 96.14, subsection 7, Code 1989, is amended to read as follows:

7. ORIGINAL NOTICE — FORM. The original notice of suit filed with the secretary of state shall be in form and substance the same as now provided in suits against residents of this state, except that ~~that~~ the part of ~~said~~ the notice pertaining to the return day shall be in substantially the following form, ~~to wit~~:

"And unless you appear ~~thereto~~ and defend in the district court of Iowa in and for ..... county at the courthouse in ....., Iowa, before noon of the sixtieth day following the filing of this notice with the secretary of state of this state, you will be adjudged in default, your default entered of record, and judgment rendered against you for the relief ~~prayed~~ sought in plaintiff's petition."

Sec. 12. Section 99.6, Code 1989, is amended to read as follows:

99.6 TEMPORARY RESTRAINING ORDER.

~~Where~~ If a temporary injunction is ~~prayed~~ petitioned for, the court, on the application of plaintiff, may issue an ex parte restraining order, restraining the defendants and all other persons from removing or in any manner interfering with the furniture, fixtures, musical instruments, and movable property used in conducting the alleged nuisance, until the decision of the court granting or refusing ~~such~~ the temporary injunction and until the further order of the court ~~thereon~~.

Sec. 13. Section 99.10, Code 1989, is amended to read as follows:

99.10 NOTICE.

Three days' notice in writing shall be given the defendants of the hearing of the application for temporary injunction, and if then continued at the instance of defendant, the temporary writ as ~~prayed~~ petitioned for shall be granted as a matter of course.

Sec. 14. Section 99.11, Code 1989, is amended to read as follows:

99.11 ANSWER.

Each defendant so notified shall serve upon the complainant or the complainant's attorney a verified answer on or before the date fixed in ~~said~~ the notice for ~~said~~ a hearing, and ~~such~~ the answer shall be filed with the clerk of the district court of the county ~~wherein such~~ where the cause is triable, but the court may allow additional time for so answering, ~~provided such~~. However, an extension of time shall not prevent the issuing of ~~said~~ the temporary writ as ~~prayed~~ petitioned for. The allegations of the answer shall be deemed to be traversed without further pleading.

Sec. 15. Section 114.11, Code 1989, is amended to read as follows:

114.11 ~~SECRETARY~~ STAFF — DUTIES.

The ~~secretary~~ staff shall keep on file a record of all certificates of registration granted and shall make annual revisions of the record as necessary. In revising the record the ~~secretary~~ staff shall communicate biennially by mail with every professional engineer and surveyor registered under this chapter, as provided in section 114.18.

Sec. 16. Section 114.12, Code 1989, is amended to read as follows:

114.12 DISPOSITION OF FEES.

The ~~secretary~~ staff shall collect and account for all fees provided for by this chapter and pay the ~~same~~ fees to the treasurer of state who shall deposit the fees ~~in the general fund of the state~~ as provided by law.

Sec. 17. Section 114.20, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The application for registration shall be accompanied by a fee as determined by the board. After the board determines the applicant to be qualified under this section, a certificate of registration shall be issued upon receipt of an additional fee as determined by the board. All fees collected shall be transmitted to the treasurer of state and deposited ~~in the general fund of the state~~ as provided by law.

Sec. 18. Section 116.15, Code 1989, is amended to read as follows:

116.15 ~~SECRETARY~~ STAFF TO COLLECT FEES — DEPOSIT.

~~A secretary~~ Staff may be employed to collect and account for all fees and pay them to the treasurer of state for deposit ~~in the general fund of the state~~ as provided by law. The board shall set the fees for examination as a certified public accountant, and for examination as an accounting practitioner, based upon the annual cost of administering the examinations. The fees for registration and renewal of a certificate and permit as a certified public accountant, registration as a public accountant, registration of a foreign public accountant, and licensure

and renewal as an accounting practitioner, shall be based upon the administrative costs of sustaining the board which shall include, but ~~shall~~ are not ~~be~~ limited to, the costs for:

1. Per diem, expenses, and travel for board members.
2. Office supplies and equipment.
3. ~~Clerical~~ Staff assistance.

Sec. 19. Section 117.14, Code Supplement 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 and deposited as provided by law, 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 as provided by law, 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. 20. Section 117.27, subsection 3, Code Supplement 1989, is amended to read as follows:

3. ~~Director, assistants, and clerical~~ Staff assistance.

Sec. 21. Section 117B.6, subsection 1, paragraph b, and subsection 2, Code Supplement 1989, are amended to read as follows:

b. Salary, per diem, and expenses of ~~an executive secretary, assistants, and employees~~ staff.

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~~ as provided by law.

Sec. 22. Section 118.2, Code 1989, is amended to read as follows:

118.2 OFFICERS.

During the month of July of each year the board shall elect from its members a president, vice president, and ~~a~~ secretary. The duties of the officers ~~shall be such as~~ are those usually performed by such officers. The division ~~may employ an executive secretary whose salary shall be established pursuant to section 19A.9, subsection 2~~ shall provide staff assistance.

Sec. 23. Section 118.11, subsection 3, and unnumbered paragraph 2, Code 1989, are amended to read as follows:

3. ~~Clerical~~ Staff assistance.

All fees shall be paid to the treasurer of state and deposited ~~in the general fund of the state~~ as provided by law.

Sec. 24. Section 118A.4, Code 1989, is amended to read as follows:

118A.4 ORGANIZATION OF THE BOARD — MEETINGS — QUORUM.

The board shall elect annually from its members a chairperson and vice chairperson. The duties of the officers ~~shall be such as~~ are those usually performed by such officers. The board shall hold at least one meeting each year at the location of the board's principal office, and meetings shall be called at other times by ~~the secretary~~ division staff at the request of the chairperson or four members of the board. A majority of the members ~~shall constitute~~ constitutes a quorum. No action at any meeting can be taken without the affirmative votes of a majority of the members of the board.

Sec. 25. Section 118A.14, subsection 3, and unnumbered paragraph 2, Code 1989, are amended to read as follows:

3. ~~Clerical~~ Staff assistance.

All fees shall be collected by the secretary, paid to the treasurer of state and deposited ~~in the general fund of the state~~ as provided by law.

Sec. 26. Section 123.64, Code 1989, is amended to read as follows:

123.64 NOTICE.

Three days' notice in writing shall be given the defendant of the hearing of the application, and if then continued at the defendant's instance the writ as ~~prayed~~ petitioned for shall be granted as a matter of course.

Sec. 27. Section 147.74, unnumbered paragraph 7, Code 1989, is amended to read as follows:

~~Any~~ A graduate of a school accredited on the board of optometric examiners may use the prefix "Doctor", but shall add after the person's name the letters ~~"Opt." or "Optometrist"~~ "O.D."

Sec. 28. Section 166D.4, subsection 1, Code Supplement 1989, is amended to read as follows:

1. The pork producer board of directors within the area proposed as a program area has approved by a two-thirds majority vote ~~to designate~~ designating the area as a program area.

Sec. 29. Section 166D.9, subsection 3, paragraph a, Code Supplement 1989, is amended to read as follows:

a. The swine have been removed from the premises, and 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 shall be maintained free of swine for a period greater or less than thirty days.

Sec. 30. Section 166D.10, subsection 3, paragraph b, Code Supplement 1989, is amended to read as follows:

b. A feeder pig in a herd of unknown pseudorabies status ~~as provided~~ shall be subject to restricted movement.

Sec. 31. Section 185C.16, Code Supplement 1989, is amended to read as follows:

185C.16 NOTICE OF REFERENDUM.

Notice of a referendum election to initiate or 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~~ termination of the promotional order.

Sec. 32. Section 192.30, Code 1989, is amended to read as follows:

192.30 LAW TO BE ENFORCED BY SECRETARY OF AGRICULTURE OR MUNICIPALITIES.

This chapter and chapters 190 and 191 shall be enforced by the secretary or municipal corporations, which have entered into agreements with the secretary under sections 192.11 and 192.48, both of whom shall make regulations which shall conform to the Grade "A" Pasteurized Milk Ordinance ~~with Administrative Procedures — 1978 Recommendations of the United States Public Health Service~~, 1985 Revision, a certified copy of which shall be on file at the secretary's office or the office of the clerk of an authorized municipal corporation. Where the mandatory compliance with provisions of the appendixes therein is specified, the provisions shall be deemed a requirement of the chapters.

Municipal corporations may establish grade "A" standards for cottage cheese dry curd, cottage cheese, and low fat cottage cheese as a part of the ordinance required by this section; however no municipal corporation shall require a grade "A" rating for these products as a condition precedent to their sale within the city.

Sec. 33. Section 192.33, Code 1989, is amended to read as follows:

192.33 RATING REQUIRED TO RETAIN PERMIT.

A pasteurized milk and milk products sanitation compliance rating of ninety percent or more calculated according to the rating system as contained in Public Health Service Publication, "Method of Making Sanitation Ratings of Milk Supplies, ~~1978 Edition~~ 1987 Revision", shall

be necessary to receive or retain a permit under section 192.5. Said publication is hereby incorporated into this section by this reference and made a part hereof insofar as applicable, a copy of which shall be on file in the office of the secretary or the office of the clerk of an authorized municipal corporation at all times.

Sec. 34. Section 232.11, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. If the court determines that the parent, guardian, or custodian cannot pay any part of the expenses of counsel to represent the child, it shall appoint ~~such~~ counsel, who shall be reimbursed according to ~~the provisions of~~ section 232.141, subsection ~~1~~ 2, paragraph "b".

Sec. 35. Section 232.52, subsection 2, paragraph c, subparagraph (2), Code 1989, is amended to read as follows:

(2) If the court deems appropriate, ordering the parent, guardian, or custodian to reimburse the county for any costs incurred as provided in section 232.141, subsection ~~5~~ 1 or to otherwise pay or provide for such care and treatment.

Sec. 36. Section 261.36, subsection 8, Code Supplement 1989, is amended to read as follows:

8. Implement various means of encouraging maximum lender participation in the Iowa guaranteed loan ~~payment~~ program.

Sec. 37. Section 261.37, subsection 1, Code Supplement 1989, is amended to read as follows:

1. To review the Iowa guaranteed loan ~~and the Iowa guaranteed loan payment programs~~ program.

Sec. 38. Section 261.39, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

All assets and liabilities of the student loan program established pursuant to sections 261.5 to 261.8, Code 1977, and existing on July 1, 1978, ~~shall be~~ are assets and liabilities of the Iowa guaranteed loan ~~payment~~ program established pursuant to this chapter.

Sec. 39. Section 261.42, Code Supplement 1989, is amended to read as follows:

261.42 SHORT TITLE.

This division shall be known and may be cited as the "Iowa Guaranteed Loan ~~Payment~~ Program".

Sec. 40. Section 280A.39, unnumbered paragraph 2, Code 1989, is amended to read as follows:

If the vote is favorable in each merged area, the boards of each area shall proceed to transfer the assets, liabilities, and facilities of the areas to the combined merged area, and shall serve as the acting board of the combined merged area until a new board of directors is elected. The acting board shall submit to the director of the department of education a plan for redistricting the combined merged area, and upon receiving approval from the director, shall provide for the election of a director from each new district at the next regular school election. The directors elected from each new district shall determine their terms by lot ~~as provided in section 280A.11~~ so that the terms of one-third of the members, as nearly as may be, expire each year. Election of directors for the combined merged area shall follow the procedures established for election of directors of a merged area. A combined merged area is subject to all provisions of law and ~~regulations~~ rules governing merged areas.

Sec. 41. Section 298.4, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

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 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:

Sec. 42. Section 302.33, Code 1989, is amended to read as follows:

302.33 SUIT — ATTORNEY FEE.

If ~~such~~ the debtor ~~shall neglect to~~ does not comply with ~~such~~ the notice, the auditor shall report the ~~same~~ noncompliance to the county attorney, who shall bring an action to recover the ~~same~~ debt, and an injunction may issue for cause, without bond when so ~~prayed~~ petitioned, and there shall be allowed in the judgment, entered and taxed as a part of the costs in the case, a reasonable sum as compensation to plaintiff's attorney, not exceeding the amount ~~as~~ provided by law for attorneys' fees.

Sec. 43. Section 307B.9, unnumbered paragraph 1, Code Supplement 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 307B.23, subsection ~~3~~ 2, ~~435.9 and 324A.8~~ or other tax funds available pursuant to section 307B.26, 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.

Sec. 44. Section 307B.23, subsection 1, Code Supplement 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 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 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. 45. Section 359.14, Code 1989, is amended to read as follows:

359.14 CHANGING NAME — PETITION — NOTICE.

~~Any~~ Eligible electors of a township ~~desirous of changing~~ wishing to change its name may petition the board of supervisors and, if it ~~shall appear~~ appears to ~~said~~ the board that a majority of the ~~actual resident voters~~ eligible electors of ~~such~~ the township are in favor of ~~such~~ the

change, ~~such~~ the board shall cause notices, attested by the auditor, to be posted in three of the most public places of ~~such~~ the township, for at least thirty days ~~previous to~~ before the next regular session of ~~said~~ the board, ~~which~~. The notice shall state ~~the fact~~ that a petition has been presented to ~~said~~ the board by the ~~citizens~~ eligible electors of ~~said~~ the township, ~~praying for~~ seeking a change of the name of the ~~same~~ township and ~~recite~~ shall state the name ~~prayed for~~ sought in ~~said~~ the petition, and that, unless those interested in the change of ~~such~~ name ~~shall~~ appear at the next regular session of ~~said~~ the board and show cause why ~~said~~ the name shall not be changed, there will be an order made granting ~~such~~ the change.

Sec. 46. Section 422.35, subsection 6, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

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 to 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:

Sec. 47. Section 424.17, subsection 2, Code Supplement 1989, is amended to read as follows:

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 the charge ~~tax~~ is guilty of a class "D" felony.

Sec. 48. Section 428.20, Code Supplement 1989, is amended to read as follows:

428.20 "MANUFACTURER" DEFINED — ~~DUTY TO LIST~~.

A person who purchases, receives, or holds personal property of any description for the purpose of adding to its value by a process of manufacturing, refining, purifying, combining of different materials, or by the packing of meats, with a view to selling the property for gain or profit, is a "manufacturer" for the purposes of this title, ~~and shall list such property for taxation~~.

Sec. 49. Section 447.4, Code 1989, is amended to read as follows:

447.4 REDEMPTION FROM SALE FOR PART OF TAX.

In case a redemption is made of ~~any~~ real estate sold for a ~~less~~ sum less than the taxes, penalty, interest, and costs, the purchaser ~~shall~~ is entitled to receive only the amount paid and a ratable part of ~~such~~ the penalty, interest, and costs. In determining the interest and penalties to be paid upon redemption from ~~such~~ sale, the sum due on ~~any~~ a parcel sold shall be taken to be the full amount of taxes, interest, and costs due ~~thereon~~ on the parcel at the time of ~~such~~ sale, and the amount paid for ~~any such~~ a parcel at ~~such~~ sale shall be apportioned ratably among the several funds to which it belongs. Real estate so sold ~~shall be~~ is redeemable in the same manner and with the same penalties as that sold for the taxes of the preceding year.

Sec. 50. Section 455B.301, subsection 15, Code 1989, is amended to read as follows:

15. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by section 321.1, subsection 1. However, this division does not prohibit the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than a sanitary disposal project. Solid waste does not include hazardous waste as defined in section 455B.411 or source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

Sec. 51. Section 476.2, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The board ~~is hereby authorized and empowered to~~ may intervene in any proceedings before the federal ~~power~~ energy regulatory commission or any other federal or state regulatory body

when it finds that any decision of ~~such~~ that tribunal would adversely affect the costs of any public utility service within the state of Iowa.

Sec. 52. Section 476.33, subsections 1, 2, and 3, Code Supplement 1989, are 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 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.

2. Additional time granted to a party ~~or to division staff~~ under subsection 1 shall not extend the amount of time for which a utility is required to file a bond or other undertaking conditioned upon refund under section 476.3, subsection 2.

3. If in a proceeding under section 476.6 additional time is granted to a party ~~or division staff~~ under subsection 1, the board may extend the ten-month period during which a utility is prohibited from placing its entire rate increase request into effect under section 476.6, but an extension shall not exceed the aggregate amount of all additional time granted under subsection 1.

Sec. 53. Section 490.1703, subsection 1, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Except as provided in subsection 2, the repeal of a statute by ~~this~~ 1989 Iowa Acts, chapter 288, does not affect:

Sec. 54. Section 523D.3, subsection 2, paragraph a, Code Supplement 1989, is amended to read as follows:

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.

Sec. 55. Section 523D.6, subsection 3, unnumbered paragraph 3, Code Supplement 1989, is amended to read as follows:

If you cancel this contract, any money or property transferred to the provider, and 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.

Sec. 56. Section 537.6202, subsection 1, unnumbered paragraph 1, Code Supplement 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. 57. Section 554.8403, subsection 4, paragraph b, Code Supplement 1989, is amended to read as follows:

b. claims of which the ~~user~~ issuer 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;

Sec. 58. Section 570A.2, subsection 2, Code 1989, is amended to read as follows:

2. If within ~~two~~ four business days of receipt of a certified request a financial institution fails to issue a memorandum upon the request of an agricultural supply dealer and the request from the agricultural supply dealer was proper under subsection 1, or if the memorandum from the financial institution is incomplete, or if the memorandum from the financial institution states that the farmer does not have a sufficient net worth or line of credit to assure payment of the purchase price, the agricultural supply dealer may decide to make the sale and secure the lien provided in section 570A.3.

Sec. 59. Section 602.6403, subsection 2, Code Supplement 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~~ all official county ~~newspaper~~ newspapers in the county. 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. 60. Section 724.5, Code 1989, is amended to read as follows:

724.5 DUTY TO CARRY PERMIT TO CARRY WEAPONS.

~~It shall be the duty of any~~ A person armed with a revolver, pistol, or pocket billy concealed upon the person ~~to~~ shall have in the person's immediate possession the permit provided for in section 724.4, subsection ~~8~~ 4, paragraph i, and ~~to~~ shall produce ~~same~~ the permit for inspection at the request of ~~any~~ a peace officer. Failure to so produce ~~such~~ a permit ~~shall constitute~~ is a simple misdemeanor.

Sec. 61. Section 903A.5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less good conduct time earned and not forfeited, unless the inmate is pardoned or otherwise legally released. Good conduct time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served pursuant to section 204.406, 204.413, 902.7, 902.8, or ~~906.5~~ 902.11. An inmate shall be deemed to be serving the sentence from the day on which the inmate is received into the institution. However, if an inmate was confined to a county jail or other correctional or mental facility at any time prior to sentencing, or after sentencing but prior to the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, the inmate shall be given credit for the days already served upon the term of the sentence. The clerk of the district court of the county from which the inmate was sentenced, shall certify to the warden the number of days so served.

Sec. 62. Section 910A.9, subsection 5, Code Supplement 1989, is amended to read as follows:

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. 63. 1989 Iowa Acts, chapter 225, section 5, is amended to read as follows:

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~~ is under the control and supervision of the coordinator. All state funds for this purpose shall be transferred to the coordinator and the coordinator ~~shall be~~ is responsible for the preparation of federal grant applications for specific grant programs under the federal Anti-Drug Abuse Act of ~~1986~~ 1988, and the implementation and monitoring

of grant programs pursuant to regulations adopted pursuant to the federal Anti-Drug Abuse Act of ~~1986~~ 1988.

Sec. 64. Sections 116.6, 356.37, and 476.8A, Code 1989, are repealed.

Approved April 16, 1990

CHAPTER 1169

COMMODITY CODE

H.F. 2377

AN ACT adopting the model state commodity code as recommended by the north American securities administrators association, regulating the commodities markets and participants, authorizing the securities bureau of the insurance division to administer the chapter, requiring licensing of commodity broker-dealers and sales representatives, authorizing civil remedies, sanctions, penalties, and imposing criminal penalties.

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

Section 1. NEW SECTION. 502A.1 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the securities bureau of the insurance division of the department of commerce.

2. "Board of trade" means a person or group of persons engaged in buying or selling any commodity or receiving the same for sale on consignment, whether the person or group of persons is characterized as a board of trade, exchange, or other form of marketplace.

3. "CFTC rule" means a regulation or order of the commodity futures trading commission in effect on the effective date of this Act, and all subsequent amendments, additions or other revisions to the regulation or order, unless the administrator, within ten days following the effective date of the amendment, addition, or revision, disallows the application to this chapter in whole or in part by rule or order.

4. "Commodity" means, except as otherwise specified by the administrator by rule or order: an agricultural, grain, or livestock product or by-product; a metal or mineral, including a precious metal; a gem or gemstone, whether characterized as precious, semiprecious or otherwise; a fuel, whether liquid, gaseous or otherwise; a foreign currency; and all other goods, articles, products, or items of any kind.

The term commodity does not include any of the following:

a. A numismatic coin whose fair market value is at least fifteen percent higher than the value of the metal it contains.

b. Real property or any timber, agricultural, or livestock product grown or raised on real property and offered or sold by the owner or lessee of such real property.

c. Any work of art offered or sold by art dealers, at public auction, or offered or sold through a private sale by the owner of the work of art.

5. "Commodity contract" means an account, agreement, or contract for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities, whether for immediate or subsequent delivery or whether delivery is intended by the parties, and whether characterized as a cash contract, deferred shipment or deferred delivery contract, forward contract, futures contract, installment or margin contract, leverage contract, or otherwise. A commodity contract offered or sold, in the absence of evidence to the contrary, shall be presumed to be offered or sold for

speculation or investment purposes. A commodity contract does not include a contract or agreement which requires, and under which the purchaser receives, within twenty-eight days from the payment in good funds of any portion of the purchase price, physical delivery of the total amount of each commodity to be purchased under the contract or agreement.

6. "Commodity Exchange Act" means the federal Commodity Exchange Act, as amended to the effective date of this Act, codified at 7 U.S.C. § 1, et seq., and all subsequent amendments, additions, or other revisions to the Act, unless the administrator, within ten days following the effective date of the amendment, addition, or revision, disallows its application to this chapter in whole or in part by rule or order.

7. "Commodity futures trading commission" or "CFTC" means the independent regulatory agency established by the United States congress to administer the Commodity Exchange Act.

8. "Commodity merchant" means any of the following as defined or described in the Commodity Exchange Act or by CFTC rule:

a. A futures commission merchant.

b. A commodity pool operator.

c. A commodity trading adviser.

d. An introducing broker.

e. A leverage transaction merchant.

f. An associated person of any of the persons listed in paragraphs "a" through "e".

g. A floor broker.

h. Any other person, other than a futures association, required to register with the commodity futures trading commission.

9. "Commodity option" means an account, agreement, or contract giving a party to the account, agreement, or contract the right but not the obligation to purchase or sell one or more commodities or one or more commodity contracts, whether characterized as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, decline guaranty or otherwise, but shall not include an option traded on a national securities exchange registered with the United States securities and exchange commission.

10. "Financial institution" means a bank, savings institution, or trust company organized under, or supervised pursuant to, the laws of the United States or of any state.

11. "Offer" includes every offer to sell, offer to purchase, or offer to enter into a commodity contract or commodity option.

12. "Person" means a person as defined in section 4.1, but does not include a contract market designated by the commodities futures trading commission or any clearinghouse of the CFTC or a national securities exchange registered with the securities and exchange commission, or any employee, officer, or director of a contract market, clearinghouse, or exchange acting solely in that capacity.

13. "Precious metal" means one or more of the following in either coin, bullion, or other form:

a. Silver.

b. Gold.

c. Platinum.

d. Palladium.

e. Copper.

f. Such other items as the administrator may specify by rule or order.

14. "Sale" or "sell" includes every sale, contract of sale, contract to sell, or disposition, for value.

Sec. 2. NEW SECTION. 502A.2 UNLAWFUL COMMODITY TRANSACTIONS.

Except as otherwise provided in section 502A.3 or 502A.4, a person shall not sell or purchase, or offer to sell or purchase, a commodity under a commodity contract, or under a commodity option, or offer to enter into, or enter into as seller or purchaser, a commodity contract or commodity option.

Sec. 3. NEW SECTION. 502A.3 EXEMPT PERSON TRANSACTIONS.

The prohibitions in section 502A.2 do not apply to a transaction in which any of the following persons, or any employee, officer, or director of a listed person acting solely in that capacity, is the purchaser or seller:

1. A person registered with the commodity futures trading commission as a futures commission merchant or as a leverage transaction merchant whose activities require such registration.

2. A person registered with the securities and exchange commission as a broker-dealer whose activities require such registration.

3. A person affiliated with, and whose obligations and liabilities under the transaction are guaranteed by, a person referred to in subsection 1 or 2.

4. A person who is a member of a contract market designated by the commodity futures trading commission, or any CFTC clearinghouse.

5. A financial institution.

6. A person registered under the laws of this state as a securities broker-dealer whose activities require such registration.

This exemption provided by this section does not apply to any transaction or activity which is prohibited by the Commodity Exchange Act or CFTC rule.

Sec. 4. NEW SECTION. 502A.4 EXEMPT TRANSACTIONS.

1. Section 502A.2 does not apply to any of the following:

a. An account, agreement, or transaction within the exclusive jurisdiction of the commodity futures trading commission as granted under the Commodity Exchange Act.

b. A commodity contract, offered or sold by a qualified seller as defined in subsection 2, for the purchase of one or more precious metals which requires, and under which the purchaser receives, within twenty-eight days from the payment in good funds of any portion of the purchase price, physical delivery of the quantity of the precious metals purchased by the payment. For purposes of this paragraph, physical delivery shall be deemed to have occurred if both of the following conditions are satisfied:

(1) Within twenty-eight days, the required quantity of precious metals purchased by the payment is delivered, whether in specifically segregated or fungible bulk form, into the possession of a depository, other than the seller, which is any of the following:

(a) A financial institution.

(b) A depository the warehouse receipts of which are recognized for delivery purposes for any commodity on a contract market designated by the commodity futures trading commission.

(c) A storage facility licensed or regulated by the United States or any agency of the United States.

(d) A depository designated by the administrator.

(2) The depository or a qualified seller issues and the purchaser receives, a certificate, document of title, confirmation, or other instrument evidencing that the required quantity of precious metals has been delivered to the depository and is being and will continue to be held by the depository on the purchaser's behalf, free and clear of all liens and encumbrances, other than liens of the purchaser, tax liens, liens agreed to by the purchaser, or liens of the depository for fees and expenses, which have previously been disclosed to the purchaser.

c. For the purposes of paragraph "b", a depository other than the seller shall not include a financial institution which makes loans to enable the borrower to finance the purchase of one or more precious metals if any of the following apply:

(1) The financial institution knows that the seller arranged for a commission, brokerage, or referral fee for the extension of credit by the financial institution.

(2) The financial institution is a person related to the seller, unless the relationship is remote or is not a factor in the transaction.

(3) The seller guarantees the loan or otherwise assumes the risk of loss by the financial institution upon the loan.

(4) The financial institution directly supplies the seller with the contract document used by the borrower to evidence the loan, and the seller has knowledge of the credit terms and participates in the preparation of the document.

(5) The loan is conditioned upon the borrower's purchase of the precious metals from a particular seller, but the financial institution's payment of proceeds of the loan to the seller does not in itself establish that the loan was so conditioned.

(6) The financial institution otherwise knowingly participates with the seller in the sale. The fact that the financial institution takes a security interest in the precious metals sold or makes the proceeds of the loan payable to the seller does not in itself constitute knowing participation in the sale.

d. A commodity contract solely between persons engaged in producing, processing, using commercially or handling as merchants, the commodity which is the subject of the contract, or any by-product of the commodity.

e. A commodity contract under which the offeree or the purchaser is a person under section 502A.3, an insurance company, an investment company as defined in the federal Investment Company Act of 1940, or an employee pension and profit sharing or benefit plan other than a self-employed individual retirement plan, or individual retirement account.

2. For the purposes of subsection 1, paragraph "b", a qualified seller is a person who satisfies all of the following conditions:

a. Is a seller of precious metals and has a tangible net worth of at least five million dollars, or has an affiliate who has unconditionally guaranteed the obligations and liabilities of the seller and the affiliate has a tangible net worth of at least five million dollars.

b. Has stored precious metals with one or more depositories on behalf of customers for at least the previous three years.

c. Prior to any offer, files with the administrator a sworn notice of intent to act as a qualified seller under subsection 1, paragraph "b", and annually files a new notice. A notice of intent to act as a qualified seller must contain all of the following:

(1) The seller's name and address, names of its directors, officers, controlling shareholders, partners, principals, and other controlling persons.

(2) The address of its principal place of business, state and date of incorporation or organization, and the name and address of seller's registered agent in this state.

(3) A statement that the seller, or a person affiliated with the seller who has guaranteed the obligations and liabilities of the seller, has a tangible net worth of at least five million dollars.

(4) Depository information including all of the following:

(a) The name and address of the depository or depositories that the seller intends to use.

(b) The name and address of each and every depository where the seller has stored precious metals on behalf of customers for the previous three years.

(c) Independent verification from each and every depository named in subparagraph subdivision (b) that the seller has in fact stored precious metals on behalf of the seller's customers for the previous three years and a statement of total deposits made during this period.

(5) Financial statements for the seller, or the person affiliated with the seller who has guaranteed the obligations and liabilities of the seller, for the past three years, audited by an independent certified public accountant, together with the accountant's reports.

(6) A statement describing the details of all civil, criminal, or administrative proceedings currently pending or adversely resolved against the seller or its directors, officers, controlling shareholders, partners, principals, or other controlling persons during the past ten years including all of the following in subparagraph subdivisions (a) through (d), or if not applicable, subparagraph subdivision (e):

(a) Civil litigation and administrative proceedings involving securities or commodities violations, or fraud.

(b) Criminal proceedings.

(c) Denials, suspensions, or revocations of securities or commodities, licenses, or registrations.

(d) Suspensions or expulsions from membership in, or associations with, self-regulatory organizations registered under the Securities Exchange Act of 1934, or the Commodities Exchange Act.

(e) A statement that there were no such proceedings.

d. Notifies the administrator within fifteen days of any material changes in the information provided in the notice of intent.

e. Annually furnishes to each purchaser for whom the seller is then storing precious metals, and to the administrator, a report by an independent certified public accountant of the accountant's examination of the seller's precious metals storage program.

3. The administrator may, upon request by the seller, waive any of the exempt transaction requirements of this section, conditionally or unconditionally.

4. The administrator may, by order, deny, suspend, revoke, or place limitations on the authority to engage in business as a qualified seller under subsection 1, paragraph "b" if the administrator finds that the order is in the public interest and that the person, the person's officers, directors, partners, agents, servants or employees, a person occupying a similar status or performing similar functions, a person who directly or indirectly controls or is controlled by the seller, or any of them, the seller's affiliates or subsidiaries meets any of the following conditions:

a. Has filed a notice of intention under subsection 2 with the administrator or the designee of the administrator which was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact.

b. Has, within the last ten years, pled guilty or nolo contendre to, or been convicted of any crime indicating a lack of fitness to engage in the investment commodity business.

c. Has been permanently or temporarily enjoined by any court of competent jurisdiction from engaging in, or continuing, any conduct or practice which injunction indicates a lack of fitness to engage in the investment commodities business.

d. Is the subject of an order of the administrator denying, suspending, or revoking the person's license as a securities broker-dealer, sales representative, or investment adviser.

e. Is the subject of any of the following orders which are currently effective and which were issued within the last five years:

(1) An order by the securities agency or administrator of another state, Canadian province or territory, the securities and exchange commission, or the commodity futures trading commission, entered after notice and opportunity for hearing, denying, suspending, or revoking the person's registration as a futures commission merchant, commodity trading adviser, commodity pool operator, securities broker-dealer, sales representative, or investment adviser, or the substantial equivalent of those terms.

(2) Suspension or expulsion from membership in, or association with, a self-regulatory organization registered under the federal Securities Exchange Act of 1934 or the Commodity Exchange Act.

(3) A United States postal service fraud order.

(4) A cease and desist order entered after notice and opportunity of hearing by the administrator or the securities agency or administrator of any other state, Canadian province or territory, the United States securities and exchange commission, or the commodity futures trading commission.

(5) An order entered by the commodity futures trading commission denying, suspending, or revoking registration under the Commodity Exchange Act.

f. Has engaged in an unethical or dishonest act or practice in the investment commodities or securities business.

g. Has failed reasonably to supervise sales representatives or employees.

5. If the public interest or the protection of investors so requires, the administrator may, by order, summarily deny or suspend the exemption for a qualified seller. Upon the entry of the order, the administrator shall promptly notify the person claiming such status that an order has been entered and the reasons for the order and that within thirty days after the receipt

of a written request the matter will be set for hearing. Section 502A.20 applies with respect to all subsequent proceedings.

6. If the administrator finds that any applicant or qualified seller is no longer in existence or has ceased to do business or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the administrator may, by order deny, or revoke the exemption for a qualified seller.

7. The administrator may issue rules or orders prescribing the terms and conditions of all transactions and contracts covered by this chapter which are not within the exclusive jurisdiction of the commodity futures trading commission as granted by the Commodity Exchange Act, exempting and conditionally or unconditionally and otherwise implementing this chapter for the protection of purchasers and sellers of commodities.

Sec. 5. NEW SECTION. 502A.5 UNLAWFUL COMMODITY ACTIVITIES.

1. A person shall not engage in a trade or business or otherwise act as a commodity merchant unless the person is either of the following:

a. Registered or temporarily licensed with the commodity futures trading commission for each activity constituting the person as a commodity merchant and the registration or temporary license has not expired, been suspended, or revoked.

b. Exempt from such registration by virtue of the Commodity Exchange Act or of a CFTC rule.

2. A board of trade shall not trade, or provide a place for the trading of, any commodity contract or commodity option required to be traded on or subject to the rules of a contract market designated by the commodity futures trading commission unless the board of trade has been so designated for the commodity contract or commodity option and the designation has not been vacated, suspended, or revoked.

Sec. 6. NEW SECTION. 502A.6 FRAUDULENT CONDUCT.

A person, shall not directly or indirectly do any of the following in or in connection with the purchase or sale of, the offer to sell, the offer to purchase, the offer to enter into, or the entry into of, a commodity contract or commodity option subject to sections 502A.2, 502A.3, 502A.4, subsection 1, paragraph "b", or 502A.4, subsection 1, paragraph "d":

1. Cheat or defraud, or attempt to cheat or defraud, another person or employ any device, scheme, or artifice to defraud another person.

2. Make a false report or enter a false record.

3. Make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

4. Engage in a transaction, act, practice, or course of business, including, without limitation, any form of advertising or solicitation, which operates or would operate as a fraud or deceit upon any person.

5. Misappropriate or convert the funds, security, or property of another person.

Sec. 7. NEW SECTION. 502A.7 LIABILITY OF PRINCIPALS, CONTROLLING PERSONS, AND OTHERS.

1. The act, omission, or failure of an official, agent, or other person acting for an individual, association, partnership, corporation, or trust within the scope of the person's employment or office shall be deemed the act, omission, or failure of the individual, association, partnership, corporation, or trust, as well as of the person.

2. A person who directly or indirectly controls another person liable under this chapter, a partner, officer, or director of the other person, a person occupying a similar status or performing similar functions, and an employee of such other person who materially aids in the violation, is liable jointly and severally with and to the same extent as the other person, unless the person who is liable by virtue of this provision sustains the burden of proof that the person did not know, and in exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.

Sec. 8. NEW SECTION. 502A.8 SECURITIES LAWS UNAFFECTED.

This chapter does not impair, derogate, or otherwise affect the authority or powers of the administrator under chapter 502 or the application of any provision of chapter 502 to a person or transaction subject to that chapter.

Sec. 9. NEW SECTION. 502A.9 PURPOSE.

This chapter may be construed and implemented to effectuate its general purpose to protect investors, to prevent and prosecute illegal and fraudulent schemes involving commodity contracts and to maximize coordination with federal and other states' laws and the administration and enforcement of those laws. This chapter is not intended to create any rights or remedies upon which actions may be brought by private persons against persons who violate this chapter.

Sec. 10. NEW SECTION. 502A.11 INVESTIGATIONS.

1. The administrator may make investigations, within or without this state, as the administrator finds necessary or appropriate to do either or both of the following:

a. Determine whether any person has violated, or is about to violate this chapter or any rule or order of the administrator.

b. Aid in enforcement of this chapter.

2. The administrator may publish information concerning a violation of this chapter or any rule or order of the administrator.

3. For purposes of an investigation or proceeding under this chapter, the administrator or any officer or employee designated by rule or order, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator finds to be relevant or material to the inquiry.

4. a. If a person does not give testimony or produce the documents required by the administrator or a designated employee pursuant to an administrative subpoena, the administrator or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.

b. The request for order of compliance may be addressed to either of the following:

(1) The Polk county district trial court or the district court where service may be obtained on the person refusing to testify or produce, if the person is within this state.

(2) The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this state.

Sec. 11. NEW SECTION. 502A.12 ENFORCEMENT OF CHAPTER.

1. If the administrator believes, whether or not based upon an investigation conducted under section 502A.11, that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter or a rule or order issued under this chapter, the administrator may do any or all of the following:

a. Issue a cease and desist order.

b. Issue an order imposing a civil penalty in amount which may not exceed ten thousand dollars for a single violation or one hundred thousand dollars for multiple violations in a single proceeding or a series of related proceedings.

c. Initiate any of the actions specified in subsection 2.

2. The administrator may institute any or all of the following actions in the appropriate courts of this state, or in the appropriate courts of another state, in addition to any legal or equitable remedies otherwise available:

a. A declaratory judgment.

b. An action for a prohibitory or mandatory injunction to enjoin the violation and to ensure compliance with this chapter or a rule or order of the administrator.

c. An action for disgorgement.

d. An action for appointment of a receiver or conservator for the defendant or the defendant's assets.

e. An action for restitution.

Sec. 12. NEW SECTION. 502A.13 POWER OF COURT TO GRANT RELIEF.

1. a. Upon a proper showing by the administrator that a person has violated, or is about to violate, this chapter or a rule or order of the administrator, a court of competent jurisdiction may grant appropriate legal or equitable remedies.

b. Upon showing of violation of this chapter or a rule or order of the administrator, the court, in addition to traditional legal and equitable remedies, including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions, and writs of prohibition or mandamus, may grant any or all of the following special remedies:

(1) Imposition of a civil penalty in amount which may not exceed ten thousand dollars for any single violation or one hundred thousand dollars for multiple violations in a single proceeding or a series of related proceedings.

(2) Disgorgement.

(3) Declaratory judgment.

(4) Restitution to investors wishing restitution.

(5) Appointment of a receiver or conservator for the defendant or the defendant's assets.

c. Appropriate remedies when the defendant is shown only about to violate this chapter or a rule or order of the administrator shall be limited to any or all of the following:

(1) A temporary restraining order.

(2) A temporary or permanent injunction.

(3) A writ of prohibition or mandamus.

(4) An order appointing a receiver or conservator for the defendant or the defendant's assets.

2. The court shall not require the administrator to post a bond in any official action under this chapter.

3. a. Upon a proper showing by the administrator or securities or commodity agency of another state that a person, other than a government or governmental agency or instrumentality, has violated, or is about to violate, the commodity code of that state or a rule or order of the administrator or securities or commodity agency of that state, the district court may grant appropriate legal and equitable remedies.

b. Upon showing of a violation of the securities or commodity act of the foreign state or a rule or order of the administrator or securities or commodity agency of the foreign state, the court, in addition to traditional legal or equitable remedies including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions and writs of prohibition or mandamus, may grant either or both of the following special remedies:

(1) Disgorgement.

(2) Appointment of a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this state.

c. Appropriate remedies when the defendant is shown only about to violate the securities or commodity act of the foreign state or a rule or order of the administrator or securities or commodity agency of the foreign state shall be limited to any or all of the following:

(1) A temporary restraining order.

(2) A temporary or permanent injunction.

(3) A writ of prohibition or mandamus.

(4) An order appointing a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this state.

Sec. 13. NEW SECTION. 502A.14 CRIMINAL PENALTIES.

1. A person who willfully violates either of the following shall, upon conviction, be fined not more than twenty thousand dollars or be imprisoned not more than ten years, or both, for each violation.

a. This chapter.

b. A rule or order of the administrator under this chapter.

2. A person convicted of violating a rule or order under this chapter may be fined, but may not be imprisoned, if the person proves the person had no knowledge of the rule or order.

3. The administrator may refer such evidence as is available concerning violations of this chapter or any rule or order of the administrator to the attorney general or the proper county attorney, who may, with or without such a reference from the administrator, institute the appropriate criminal proceedings under this chapter.

4. This chapter does not limit the power of the state to proceed against a person for conduct which constitutes a breach of duty, a crime, or a violation under common law, rule, or another statute. An action pursuant to this chapter is not an election of remedies, and an aggrieved person or the state retains any other common law or statutory causes of action which may exist against a person alleged to have violated this chapter or against a person convicted of such a violation.

Sec. 14. NEW SECTION. 502A.15 ADMINISTRATION OF CHAPTER.

1. This chapter shall be administered by the administrator of the securities bureau, of the insurance division of the department of commerce.

2. The administrator or any employees of the administrator shall not use any information which is filed with or obtained by the administrator which is not public information for personal gain or benefit, and the administrator or any employees of the administrator shall not conduct any securities or commodity dealings based upon any such information, even though public, if there has not been a sufficient period of time for the securities or commodity markets to assimilate such information.

3. a. Except as provided in paragraph "b", all information collected, assembled, or maintained by the administrator is public information and is available for the examination of the public as provided by chapter 22.

b. The following are exceptions to paragraph "a" and are confidential:

(1) Information obtained in an investigation pursuant to section 502A.11, unless published pursuant to 502A.11, subsection 2.

(2) Information made confidential by chapter 22.

(3) Information obtained from federal agencies which can not be disclosed under federal law.

c. The administrator in the administrator's discretion may disclose any information made confidential under paragraph "b" to persons identified in section 502A.16, subsection 1.

d. This chapter does not create or derogate any privilege which exists at common law, by statute or otherwise when documentary or other evidence is sought under subpoena directed to the administrator or any employee of the administrator.

Sec. 15. NEW SECTION. 502A.16 COOPERATION WITH OTHER AGENCIES.

1. To encourage uniform application and interpretation of this chapter and securities regulation and enforcement in general, the administrator and the employees of the administrator may cooperate, including bearing the expense of the cooperation, with the securities agencies or administrator of another jurisdiction, Canadian province or territory or such other agencies administering this chapter, the commodity futures trading commission, the United States securities and exchange commission, any self-regulatory organization established under the Commodity Exchange Act or the federal Securities Exchange Act of 1934, any national or international organization of commodities or securities officials or agencies, and any governmental law enforcement agency.

2. The cooperation authorized by subsection 1 shall include, but need not be limited to, any or all of the following:

a. Making joint examinations or investigations.

b. Holding joint administrative hearings.

c. Filing and prosecuting joint litigation.

d. Sharing and exchanging personnel.

e. Sharing and exchanging information and documents.

f. Formulating and adopting mutual regulations, statements of policy, guidelines, proposed statutory changes, and releases.

g. Issuing and enforcing subpoenas at the request of the agency administering this chapter in another jurisdiction, the securities agency of another jurisdiction, the commodity futures trading commission or the United States securities and exchange commission if the information sought would also be subject to lawful subpoena for conduct occurring in this state.

Sec. 16. NEW SECTION. 502A.17 GENERAL AUTHORITY TO ADOPT RULES, FORMS, AND ORDERS.

1. In addition to specific authority granted elsewhere in this chapter, the administrator may adopt rules and forms, pursuant to chapter 17A, and issue orders as are necessary to administer this chapter. Rules or forms to be adopted shall include, but need not be limited to, the following:

a. Rules defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter.

b. For the purpose of rules or forms, the administrator may classify commodities and commodity contracts, persons, and matters within the administrator's jurisdiction.

2. Unless specifically provided in this chapter, a rule, form, or order shall not be adopted or issued unless the administrator finds that the action is both of the following:

a. Necessary or appropriate in the public interest or for the protection of investors.

b. Consistent with the purposes fairly intended by the policy of this chapter.

3. All rules and forms of the administrator shall be published as provided in chapter 17A.

4. A provision of this chapter imposing any liability shall not apply to an act done or omitted in good faith in conformity with a rule or form adopted or order issued by the administrator, notwithstanding that the rule, order, or form may later be amended, or rescinded, or be determined by judicial or other authority to be invalid for any reason.

Sec. 17. NEW SECTION. 502A.18 CONSENT TO SERVICE OF PROCESS.

When a person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order of the administrator, the conduct shall constitute the appointment of the administrator as the person's attorney to receive service of any lawful process in a noncriminal proceeding against the person, a successor, or personal representative, which grows out of that conduct and which is brought under this chapter or any rule or order of the administrator with the same force and validity as if served personally.

Sec. 18. NEW SECTION. 502A.19 CHAPTER SCOPE.

1. Sections 502A.2, 502A.5, and 502A.6 apply to a person who sells or offers to sell when either of the following occur:

a. An offer to sell is made in this state.

b. An offer to buy is made and accepted in this state.

2. Sections 502A.2, 502A.5, and 502A.6 apply to a person who buys or offers to buy when either of the following occur:

a. An offer to buy is made in this state.

b. An offer to sell is made and accepted in this state.

3. For the purpose of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when either of the following occurs:

a. The offer originates from this state.

b. The offer is directed by the offeror to this state and received at the place to which it is directed, or at any post office in this state in the case of a mailed offer.

4. For the purpose of this section, an offer to buy or to sell is accepted in this state when the acceptance satisfies both of the following conditions:

a. The acceptance is communicated to the offeror in this state.

b. The acceptance has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state, reasonably believing the offeror to be in this state and it is received at the place

to which it is directed, or at any post office in this state in the case of a mailed acceptance.

5. An offer to sell or to buy is not made in this state when either of the following occurs:

a. The publisher circulates or there is circulated on the publisher's behalf in this state any bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state but has had more than two-thirds of its circulation outside this state during the past twelve months.

b. A radio or television program originating outside this state is received in this state.

Sec. 19. NEW SECTION. 502A.20 EFFECT OF PENDING JUDICIAL REVIEW.

The filing of a petition for judicial review pursuant to chapter 17A does not, unless specifically ordered by the court, operate as a stay of the administrator's order, and the administrator may enforce or ask the court to enforce the order pending the outcome of the review proceedings.

Sec. 20. NEW SECTION. 502A.21 PLEADING EXEMPTIONS.

It is not necessary for the state to plead the absence of an exemption under this chapter in a complaint, information, or indictment, or a writ or proceeding brought under this chapter. The burden of proof of a claimed exemption is upon the party claiming the exemption.

Sec. 21. NEW SECTION. 502A.22 AFFIRMATIVE DEFENSE.

It is an affirmative defense in a complaint, information, indictment, writ, or proceeding brought under this chapter alleging a violation of section 502A.2 based solely on the failure in an individual case to make physical delivery within the applicable time period under section 502A.1, subsection 5, or section 502A.4, subsection 1, paragraph "b" if both of the following apply:

1. Failure to make physical delivery was due solely to factors beyond the control of the seller, the seller's officers, directors, partners, agents, servants, or employees, every person occupying a similar status or performing similar functions, every person who directly or indirectly controls or is controlled by the seller, or any of them, the seller's affiliates, subsidiaries, or successors.

2. Physical delivery was completed within a reasonable time under the applicable circumstances.

Sec. 22. CODIFICATION.

The Code editor shall codify sections 502A.1 through 502A.9 as subchapter I and new sections 502A.11 through 502A.22 as subchapter II.

Approved April 16, 1990

CHAPTER 1170

PARKING VIOLATIONS

H.F. 2450

AN ACT relating to court costs to the city for certain dismissals of parking violations and court costs and fees for certain parking violations.

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

Section 1.

Notwithstanding section 805.6, subsection 1, paragraph "a", court costs in cases of parking violations which are more than nine months old and which are dismissed by the city prior to January 1, 1991, shall be two dollars.

Sec. 2. Section 321.236, subsection 1, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Parking meter and overtime parking violations which are denied shall be charged and proceed before a court the same as other traffic violations. Filing fees and court costs shall be assessed as provided in section 602.8106, subsection 1 and section 805.6, subsection 1, paragraph "a" for parking violation cases. Parking violations which are admitted:

Sec. 3. Section 321.236, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. May be charged and collected upon a simple notice of a fine not exceeding five dollars payable to the city clerk or clerk of the district court, if authorized by ordinance. The fine may be increased up to ten dollars if the parking violation is not paid within thirty days of the date upon which the violation occurred, if authorized by ordinance. No costs or other charges shall be assessed. All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 4. Section 602.8106, subsection 1, Code Supplement 1989, is amended to read as follows:

1. Notwithstanding section 602.8105, the fee for the filing and docketing of a complaint or information for a simple misdemeanor is twenty dollars except that the filing and docketing of a complaint or information for a nonscheduled simple misdemeanor under chapter 321 is fifteen dollars. ~~However, a~~ The fee for filing and docketing a complaint or information ~~shall not be collected in cases of overtime~~ or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361 is one dollar, effective January 1, 1991. The court costs in cases of parking meter and overtime parking violations which are denied, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint are eight dollars per information or complaint or per uniform citation and complaint, effective January 1, 1991.

Sec. 5. Section 805.6, subsection 1, paragraph a, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The commissioner of public safety and the director of natural resources, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation or ordinance, and which shall be used for charging all other violations which are designated by section 805.8 to be scheduled violations. The filing fees and court costs in cases of parking meter and overtime parking violations which are denied~~, and charged and collected pursuant to section 321.236, subsection 1, are eight dollars per court appearance, regardless of the number of parking violations considered at that court appearance~~ are as stated in section 602.8106, subsection 1. The court costs in scheduled violation cases where a court appearance is not required are ten dollars. The court costs in scheduled violation cases where a court appearance is required are fifteen dollars. This subsection does not prevent the charging of any of those violations by information, by private complaint filed under chapter 804, or by a simple notice of fine where permitted by section 321.236, subsection 1. Each uniform citation and complaint shall be serially numbered and shall be in quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward the copy of the uniform citation and complaint in accordance with section 321.207 when applicable.

Sec. 6. Section 805.8, subsection 2, paragraph a, Code Supplement 1989, is amended to read as follows:

a. For parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, the scheduled fine is five dollars~~:~~. The scheduled fine for a parking violation of section 321.236 increases in an amount up to ten dollars, as authorized by ordinance pursuant to section 321.236, subsection 1, paragraph "a", if the parking violation is not paid within thirty days of the date upon which the violation occurred. For purposes of calculating the unsecured appearance bond

required under section 805.6, the scheduled fine shall be five dollars. However, violations charged by a city upon simple notice of a fine instead of a uniform citation and complaint as permitted by section 321.236, subsection 1, paragraph "a", are not scheduled violations, and this section shall not apply to any offense charged in that manner. For a parking violation under section 111.38 or 321.362 the scheduled fine is ten dollars.

Approved April 17, 1990

CHAPTER 1171

INCOME TAX

S.F. 2114

AN ACT relating to the updating of references to the federal Internal Revenue Code, relating to income tax and the computation of net income, providing an effective date, and providing certain retroactive applicability dates.

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

Section 1. Section 422.3, subsection 5, Code Supplement 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, ~~1989~~ 1990, whichever is applicable.

Sec. 2. Section 422.7, subsection 16, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Subtract the income ~~or loss~~ resulting from the forfeiture of an installment real estate contract, the transfer of real or personal property securing a debt to a creditor in cancellation of that debt, or from the sale or exchange of property as a result of actual notice of foreclosure if all of the following conditions are met:

Sec. 3. Section 422.10, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, ~~and~~ estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, ~~or~~ estate, or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, 1990.

Sec. 4. Section 422.12B, subsection 1, Code Supplement 1989, is amended to read as follows:

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~~ six and one-half 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.

Sec. 5. Section 422.33, subsection 5, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, 1990.

Sec. 6. Section 422.35, subsection 11, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The limitations on net operating loss carryback and carryforward under sections 172(b)(1)(M) and 172(m) of the Internal Revenue Code shall apply.

Sec. 7. 1989 Iowa Acts, chapter 285, section 10, is amended to read as follows:

SEC. 10. ~~Sections 1 and 3~~ Section 2 of this Act ~~are~~ is retroactive to January 1, 1988, for tax years beginning on or after that date.

Sec. 8.

Sections 1 and 6 of this Act are retroactively applicable to January 1, 1989, for tax years beginning on or after that date.

Sec. 9.

Section 2 of this Act is retroactively applicable to January 1, 1986, for tax years beginning on or after that date.

Sec. 10.

Sections 3, 4, and 5 of this Act take effect January 1, 1991, and are applicable for tax years beginning on or after that date.

Sec. 11.

Section 7 of this Act is retroactively applicable to January 1, 1988, for tax years beginning on or after that date.

Approved April 17, 1990

CHAPTER 1172

PENALTY AND INTEREST ON TAXES

S.F. 2304

AN ACT relating to penalty and interest on cigarette, tobacco, motor fuel, individual income, withholding, corporation income, franchise, sales, use, retailer's use, environmental protection charge, inheritance, generation skipping transfer, and estate taxes, and providing effective and applicability dates.

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

Section 1. Section 98.28, Code 1989, is amended to read as follows:

98.28 ASSESSMENT OF TAX BY DEPARTMENT — INTEREST — PENALTY.

If after any audit, examination of records, or other investigation the department finds that any person has sold cigarettes without stamps affixed thereto as required by this division ~~or that any person has failed to pay at least ninety percent of any tax imposed upon the person~~, the department shall fix and determine the amount of tax due, and shall assess the tax against the person, together with a penalty ~~of seven and one-half percent of the amount of the tax, except~~ as provided in section 421.27. The taxpayer shall pay interest on the tax or additional tax at the rate determined under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due. If any person fails to furnish evidence satisfactory to the director showing purchases of sufficient stamps to stamp unstamped cigarettes purchased by the person, the presumption shall be that the cigarettes were sold without the proper stamps affixed thereto. Within two years after the return is filed or within two years after the return became due, whichever is later, the department shall examine ~~it~~ the return and determine the correct amount of tax.

Sec. 2. Section 98.46, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27.

Sec. 3. Section 324.65, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

~~If a licensee or other person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date or pays less than ninety percent of any tax required to be shown on the return, there shall be added to the tax a penalty of seven and one-half percent of the amount of the tax due, except as provided in section 421.27. The penalty imposed under this section is not subject to waiver.~~ In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 counting each fraction of a month as an entire month, computed from the date the return was required to be filed. If the amount of the tax as determined by the appropriate state agency is less than the amount paid, the excess shall be refunded with interest, the interest to begin to accrue on the first day of the third calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate in effect under section 421.7 counting each fraction of a month as an entire month under the rules prescribed by the appropriate state agency. In lieu of a refund allowed under this section, the licensee may request that the department allow the refund to be held as a credit for the licensee.

Sec. 4. Section 324.65, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

The appropriate state agency shall not remit any part of a penalty for delinquent payment 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 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.~~ A report required of licensees or persons operating under division III, upon which no tax is due, is subject to a penalty of ten dollars if the report is not timely filed with the state department of transportation.

Sec. 5. Section 421.7, subsection 2, Code 1989, is amended to read as follows:

2. The rate of interest that shall be in effect during a calendar year shall be the rate which is two percentage points greater than the numerical average, rounded to the nearest one percent, of the respective prime rates for each of the months in the twelve-month period that ends September 30 of the previous calendar year. The rate of interest established by this subsection takes effect January 1, and applies to any amount which is due or becomes payable on or after that date.

Sec. 6. Section 421.27, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The taxpayer was subject to the penalty provision of section 422.25, subsection 2, and was eligible to compute taxable income under the cash receipts and disbursements method of accounting under section 448(b)(3) of the Internal Revenue Code. The waiver provision in this paragraph applies only for tax years beginning in the 1985 and 1986 calendar years and only to the extent that the taxpayer failed to include in its net income for state tax purposes interest payable on short-term obligations as it accrued during those tax years as provided in section 1281 of the Internal Revenue Code and provided that an amended return is filed by July 1, 1990.

Sec. 7. Section 421.27, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following:

421.27 PENALTIES.

1. FAILURE TO TIMELY FILE A RETURN OR DEPOSIT FORM. If a person fails to file with the department on or before the due date a return or deposit form there shall be added to the tax shown due or required to be shown due a penalty of ten percent of the tax shown due or required to be shown due. The penalty, if assessed, shall be waived by the department upon a showing of any of the following conditions:

a. At least ninety percent of the tax required to be shown due has been paid by the due date of the tax.

b. Those taxpayers who are required to file quarterly returns, or monthly or semimonthly deposit forms may have one late return or deposit form within a three-year period. The use of any other penalty exception will not count as a late return or deposit form for purposes of this exception.

c. The death of a taxpayer, death of a member of the immediate family of the taxpayer, or death of the person directly responsible for filing the return and paying the tax, when the death interferes with timely filing.

d. The onset of serious, long-term illness or hospitalization of the taxpayer, of a member of the immediate family of the taxpayer, or of the person directly responsible for filing the return and paying the tax.

e. Destruction of records by fire, flood, or other act of God.

f. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice specifically made to the taxpayer, to the taxpayer's preparer, or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or federal internal revenue service, whichever is appropriate, that has not been superseded by a court decision, ruling by a quasi-judicial body, or the adoption, amendment, or repeal of a rule or law.

g. Reliance upon results in a previous audit was a direct cause for the failure to file where the previous audit expressly and clearly addressed the issue and the previous audit results

have not been superseded by a court decision, or the adoption, amendment, or repeal of a rule or law.

h. Under rules prescribed by the director, the taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form.

i. The return, deposit form, or payment is timely, but erroneously, mailed with adequate postage to the internal revenue service, another state agency, or a local government agency and the taxpayer provides proof of timely mailing with adequate postage.

j. The tax has been paid by the wrong licensee and the payments were timely remitted to the department for one or more tax periods prior to notification by the department.

k. The failure to file was discovered through a sanctioned self-audit program conducted by the department.

2. FAILURE TO TIMELY PAY THE TAX SHOWN DUE, OR THE TAX REQUIRED TO BE SHOWN DUE WITH THE FILING OF A RETURN OR DEPOSIT FORM. If a person fails to pay the tax shown due or required to be shown due on a return or deposit form on or before the due date there shall be added to the tax shown due or required to be shown due a penalty of five percent of the tax due. The penalty, if assessed, shall be waived by the department upon a showing of any of the following conditions:

a. At least ninety percent of the tax required to be shown due has been paid by the due date of the tax.

b. The taxpayer voluntarily files an amended return and pays all tax shown to be due on the return prior to any contact by the department, except under a sanctioned self-audit program conducted by the department.

c. The taxpayer provides written notification to the department of a federal audit while it is in progress and voluntarily files an amended return which includes a copy of the federal document showing the final disposition or final federal adjustments within sixty days of the final disposition of the federal government's audit.

d. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice specifically made to the taxpayer, to the taxpayer's preparer, or to an association representative of the taxpayer from the department, state department of transportation, county treasurer, or federal internal revenue service, whichever is appropriate, that has not been superseded by a court decision, ruling by a quasi-judicial body, or the adoption, amendment, or repeal of a rule or law.

e. Reliance upon results in a previous audit was a direct cause for the failure to pay the tax required to be shown due where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision, or the adoption, amendment, or repeal of a rule or law.

f. Under rules prescribed by the director, the taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form.

g. The return, deposit form, or payment is timely, but erroneously, mailed with adequate postage to the internal revenue service, another state agency, or a local government agency and the taxpayer provides proof of timely mailing with adequate postage.

h. The tax has been paid by the wrong licensee and the payments were timely remitted to the department for one or more tax periods prior to notification by the department.

3. AUDIT DEFICIENCIES. If any person fails to pay the tax required to be shown due with the filing of a return or deposit and the department discovers the underpayment, there shall be added to the tax required to be shown due a penalty of five percent of the tax required to be shown due. The penalty, if assessed, shall be waived by the department upon a showing of any of the following conditions:

a. At least ninety percent of the tax required to be shown due has been paid by the due date.

b. The taxpayer presents proof that the taxpayer relied upon applicable, documented, written advice specifically made to the taxpayer, to the taxpayer's preparer, or to an association

representative of the taxpayer from the department, state department of transportation, county treasurer, or federal internal revenue service, whichever is appropriate, that has not been superseded by a court decision, ruling by a quasi-judicial body, or the adoption, amendment, or repeal of a rule or law.

c. Reliance upon results in a previous audit was a direct cause for the failure to pay the tax shown due or required to be shown due where the previous audit expressly and clearly addressed the issue and the previous audit results have not been superseded by a court decision, or the adoption, amendment, or repeal of a rule or law.

d. Under rules prescribed by the director, the taxpayer presents documented proof of substantial authority to rely upon a particular position or upon proof that all facts and circumstances are disclosed on a return or deposit form.

4. In case of willful failure to file a return or deposit form with the intent to evade tax, or in case of willfully filing a false return or deposit form with the intent to evade tax, in lieu of the penalties otherwise provided in this section, a penalty of seventy-five percent shall be added to the amount shown due or required to be shown as tax on the return or deposit form. If penalties are applicable for failure to file a return or deposit form and failure to pay the tax shown due or required to be shown due on the return or deposit form, the penalty provision for failure to file shall be in lieu of the penalty provisions for failure to pay the tax shown due or required to be shown due on the return or deposit form, except in the case of willful failure to file a return or deposit form or willfully filing a false return or deposit form with intent to evade tax.

The penalties imposed under this section are not subject to waiver.

Sec. 8. Section 422.16, subsection 10, paragraph b, Code Supplement 1989, is amended to read as follows:

b. ~~If any person or withholding agent fails to remit at least ninety percent of the tax due with the filing of the semimonthly, monthly, or quarterly deposit form on or before the due date, or pays less than ninety percent of any tax required to be shown on the semimonthly, monthly, or quarterly deposit form, there shall be added to the tax a penalty of fifteen percent of the amount of the tax due, except as provided in section 421.27.~~

~~In the case of willful failure to file a semimonthly, monthly, or quarterly deposit form with intent to evade tax or willful filing of a false semimonthly, monthly, or quarterly deposit form with intent to evade tax, in lieu of the penalty otherwise provided in this paragraph, there is added to the amount required to be shown as tax on the semimonthly, monthly, or quarterly deposit form, seventy-five percent of the amount of the tax.~~ In addition to the tax or additional tax, any person or withholding agent shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent. ~~The penalty imposed under this subsection is not subject to waiver.~~

Sec. 9. Section 422.25, subsection 2, Code Supplement 1989, is amended to read as follows:

2. In addition to the tax or additional tax determined by the department under subsection 1, the taxpayer shall pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. ~~If any person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, there shall be added to the tax a penalty of seven and one-half percent of the tax due, except as provided in section 421.27. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return seventy-five percent of the amount of the tax. The penalty imposed under this subsection is not~~

~~subject to waiver.~~ In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27.

Sec. 10. Section 422.58, subsection 1, Code 1989, is amended to read as follows:

1. ~~If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the semimonthly or monthly tax deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of fifteen percent of the amount of the tax due, except as provided in section 421.27. In case of willful failure to file a semimonthly or monthly tax deposit form or return, willful filing of a false semimonthly or monthly tax deposit form or return or willful filing of a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the semimonthly or monthly tax deposit form or return seventy-five percent of the amount of the tax.~~ In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the semimonthly or monthly tax deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division. ~~The penalty imposed under this subsection is not subject to waiver.~~

Sec. 11. Section 423.18, subsection 1, Code 1989, is amended to read as follows:

1. ~~If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the monthly deposit form or return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of seven and one-half percent of the tax due, except as provided in section 421.27. For tax due under section 423.9, the penalty shall be fifteen percent. In case of willful failure to file a monthly deposit form or return, willfully filing a false monthly deposit form or return, or willfully filing a false or fraudulent monthly deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the monthly deposit form or return seventy-five percent of the amount of the tax.~~ In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be collected in the same manner as the tax imposed by this chapter. ~~The penalty imposed under this subsection is not subject to waiver.~~

Sec. 12. Section 424.17, subsection 1, Code Supplement 1989, is amended to read as follows:

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.~~ In addition to the charge or additional charge, the charge payer shall pay a penalty as provided in section 421.27. 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.

Sec. 13. Section 450.63, Code 1989, is amended to read as follows:

450.63 MATURITY OF TAX – INTEREST – PENALTY.

~~1.~~ All taxes not paid within the time prescribed in this chapter are subject to a penalty as provided in ~~subsection 2~~ section 421.27 and shall draw interest at the rate in effect under section 421.7 until paid.

~~2. If a person liable for the payment of tax as stated in section 450.5 fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date or pays less than ninety percent of any tax required to be shown on the return, there shall be added to the tax a penalty of seven and one-half percent of the amount of the tax due, except as provided in section 421.27. The penalty imposed under this subsection is not subject to waiver.~~

Sec. 14.

This Act takes effect January 1, 1991.

Sec. 15.

Section 6 of this Act applies retroactively to tax years beginning in the 1985 and 1986 calendar years.

Sec. 16.

Sections 1 through 4 and 7 through 12 of this Act are applicable to tax years beginning on or after January 1, 1991.

Sec. 17.

Section 13 of this Act is applicable to deaths occurring on or after January 1, 1991.

Approved April 17, 1990

CHAPTER 1173

TAXATION OF HEALTH MAINTENANCE ORGANIZATIONS ON MEDICAL ASSISTANCE PAYMENTS

S.F. 2407

AN ACT relating to the premium taxation on certain health maintenance organization payments.

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

Section 1. Section 514B.31, Code 1989, is amended to read as follows:

514B.31 TAXATION.

Payments received by a health maintenance organization for health care services, insurance, indemnity, or other benefits to which an enrollee is entitled through a health maintenance organization authorized under this chapter and payments by a health maintenance organization to providers for health care services, to insurers, or corporations authorized under chapter 514 for insurance, indemnity, or other service benefits authorized under this chapter are not premiums received and taxable under the provisions of section 432.1 for the first five years

of the existence of the health maintenance organization, its successors or assigns. After the first five years, the payments received shall be considered premiums received and shall be taxable under the provisions of section 432.1. However, payments made by the United States secretary of health and human services under contracts issued under section 1833 or 1876 of the federal Social Security Act, section 4015 of the federal Omnibus Budget Reconciliation Act of 1987, or chapter 249A for enrolled members shall not be considered premiums received and shall not be taxable under section 432.1.

Approved April 17, 1990

CHAPTER 1174

BLOOD CENTER LICENSURE

S.F. 2049

AN ACT relating to the licensing of blood collection, blood processing, and plasmapheresis centers, and providing for a repeal.

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

Section 1. NEW SECTION. 135.23 LICENSURE OF BLOOD COLLECTION, BLOOD PROCESSING, OR PLASMAPHERESIS CENTERS.

A person shall not establish, conduct, manage, or operate a blood collection, blood processing, or plasmapheresis center without obtaining a license from the department. To obtain an Iowa license, a blood collection, blood processing, or plasmapheresis center shall provide verification of current licensure or proper registration with the United States food and drug administration and shall comply with all applicable federal regulations. Each blood collection, blood processing, or plasmapheresis center shall submit to the department, on an ongoing basis, copies of the center's most recent proficiency testing results and on-site inspection reports required for licensure, registration, or accreditation with the United States food and drug administration, the American association of blood banks, the centers for disease control of the United States department of health and human services, the college of American pathologists, or the joint commission on accreditation of health care organizations. The purpose of the reports is to ensure compliance with the federal licensure, registration, or accreditation requirements. The department shall provide technical assistance to blood collection, blood processing, and plasmapheresis centers to ensure compliance with the requirements of the organizations named pursuant to this section. The department may assess an annual licensing fee of no more than one hundred dollars.

Sec. 2. Section 1 of this Act is repealed July 1, 1991.

Approved April 19, 1990

CHAPTER 1175

GAMBLING AND LIQUOR CONTROL

S.F. 2057

AN ACT relating to the conduct of pari-mutuel racing by authorizing wagering on simultaneous telecast races, by providing for the conduct of meetings by certain nonprofit corporations, by authorizing sales of alcoholic beverages at racetracks and on Sundays, by subjecting violators to existing penalties, and by providing an effective date.

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

Section 1. Section 21.2, subsection 1, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A nonprofit corporation whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D or a nonprofit corporation which is a successor to the nonprofit corporation which built the facility.

Sec. 2. NEW SECTION. 21.11 APPLICABILITY TO NONPROFIT CORPORATIONS.

This chapter applies to nonprofit corporations which are defined as governmental bodies subject to section 21.2, subsection 1, paragraph "f", only when the meetings conducted by the nonprofit corporations relate to the conduct of pari-mutuel racing and wagering pursuant to chapter 99D.

Sec. 3. Section 99B.6, subsection 1, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Except as provided in subsections 5, 6, 7, ~~and~~ 8, and 9 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. 4. Section 99B.6, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Pari-mutuel wagering authorized under chapter 99D may be conducted within a racetrack enclosure which is licensed as an establishment that serves or sells alcoholic beverages as defined in section 123.3 if the pari-mutuel wagering is conducted pursuant to chapter 99D and rules adopted under chapter 99D.

Sec. 5. Section 99D.11, subsection 6, paragraph b, Code Supplement 1989, is amended to read as follows:

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~~ select the races to be televised. The races selected by the commission shall be 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~~ are horse or dog ~~racing meet~~ races 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. 6. Section 123.30, subsection 3, paragraph d, Code 1989, is amended to read as follows:

d. CLASS "D". A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall authorize the holder to sell or furnish alcoholic beverages, wine, and beer to passengers for consumption only on trains, watercraft as described in this section, or aircraft, respectively. Each license is valid throughout the state. Only one license is required for all trains, watercraft, or aircraft operated in the state by the licensee. However, if a watercraft is an excursion gambling boat licensed under chapter 99F, the owner shall obtain a separate class "D" liquor control license for each excursion gambling boat operating in the waters of this state.

Sec. 7. Section 123.36, subsection 6, Code 1989, is amended to read as follows:

6. Any club, hotel, motel, or commercial establishment holding a liquor control license, subject to section 123.49, subsection 2, paragraph "b", may apply for and receive permission to sell and dispense alcoholic liquor and wine to patrons on Sunday for consumption on the premises only, and beer for consumption on or off the premises between the hours of ten a.m. and twelve midnight on Sunday. A class "D" liquor control licensee may apply for and receive permission to sell and dispense alcoholic beverages to patrons for consumption on the premises only between the hours of ten a.m. and twelve midnight on Sunday. For the privilege of selling beer, wine, and alcoholic liquor on the premises on Sunday the liquor control license fee of the applicant shall be increased by twenty percent of the regular fee prescribed for the license pursuant to this section, and the privilege shall be noted on the liquor control license.

Sec. 8. Section 123.49, subsection 2, paragraph a, Code Supplement 1989, is amended to read as follows:

a. Knowingly permit any gambling, except in accordance with chapter 99B, 99D, 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. 9. EFFECTIVE DATE.

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

Approved April 19, 1990

CHAPTER 1176

CREDIT AGREEMENTS

H.F. 677

AN ACT relating to written credit agreements between a creditor and debtor and rights of action on that agreement.

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

Section 1. NEW SECTION. 535.17 REQUIREMENTS OF CREDIT AGREEMENTS — STATUTE OF FRAUDS — MODIFICATIONS.

1. A credit agreement is not enforceable in contract law by way of action or defense by any party unless a writing exists which contains all of the material terms of the agreement and is signed by the party against whom enforcement is sought.

2. Unless otherwise expressly agreed in writing, a modification of a credit agreement which occurs after the person asserting the modification has been notified in writing that oral or implied modifications to the credit agreement are unenforceable and should not be relied upon, is not enforceable in contract law by way of action or defense by any party unless a writing exists containing the material terms of the modification and is signed by the party against whom enforcement is sought. This notification can be included among the terms of a credit agreement, can be included on a separate form or together with other disclosures that are provided when the agreement is made, or can be given wholly apart from the agreement and at any time after the agreement has been made. To be effective, the notification and its language must be conspicuous. A person who gives a notification is bound by it to the same extent as the person notified. A notification with respect to any credit agreement is effective with respect to all other credit agreements then in effect between the parties if the notification conspicuously so provides. When a modification is required by this section to be in writing and signed, such requirement cannot be modified except by clear and explicit language in a writing signed by the person against whom the modification is to be enforced.

3. A notification referred to in subsection 2 in the following form in boldface, ten-point type, complies with the requirements of this section: IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

4. Notwithstanding subsections 1 and 2, a credit agreement or modification of a credit agreement which is not in writing, but which is valid in other respects, is enforceable if the party against whom enforcement is sought admits in court that the agreement or modification was made, but no agreement or modification is enforceable under this subsection beyond the terms admitted.

5. For purposes of this section, unless the context otherwise requires:

a. "Action" includes petition, complaint, counterclaim, cross-claim, or any other pleading or proceeding to enforce affirmatively any right or duty or to recover damages for the nonperformance of any duty.

b. "Contract" means a promise or set of promises for the breach of which the law would give a remedy or the performance of which the law would recognize a duty, and includes promissory obligations based on instruments and similar documents or on the contract doctrine of promissory estoppel.

c. "Credit agreement" means any contract made or acquired by a lender to loan money, finance any transaction, or otherwise extend credit for any purpose, and includes all of the terms of the contract. "Credit agreement" does not mean a contract to loan money, finance a transaction, or otherwise extend credit by means of or pursuant to a credit card, as defined in section 537.1301, subsection 16, or pursuant to open-end credit, as defined in section 537.1301, subsection 28, or pursuant to a home equity line of credit, as defined in section 535.10 whether the loan, financing, or credit is for consumer or business purposes or a consumer rental purchase agreement as defined in section 537.3604, subsection 8.

d. "Defense" includes setoff, recoupment, and any basis or means for barring or reducing liability or obligation on any claim.

e. "Lender" means any person primarily in the business of loaning money, or financing sales, leases, or other provision of property or services.

f. "Modification" includes change, addition, waiver, rescission, and any other variation of any kind whether expressly made or implied by, or inferred from, conduct of any kind.

6. This section shall be interpreted and applied purposively to ensure that contract actions and defenses on credit agreements are supported by clear and certain written proof of the terms of such agreements to protect against fraud and to enhance the clear and predictable understanding of rights and duties under credit agreements.

7. This section entirely displaces principles of common law and equity that would make or recognize exceptions to or otherwise limit or dilute the force and effect of its provisions concerning the enforcement in contract law of credit agreements or modifications of credit agreements. However, this section does not displace any additional or other requirements of contract law, which shall continue to apply, with respect to the making of enforceable contracts, including the requirement of consideration or other basis of validation.

8. This section does not apply to a credit agreement made primarily for a personal, family, or household purpose where the credit extended is twenty thousand dollars or less.

Sec. 2.

This Act applies to credit agreements and modifications of credit agreements entered into on or after the effective date of this Act.

Sec. 3.

This Act takes effect on January 1, 1991.

Approved April 19, 1990

CHAPTER 1177

ALCOHOLIC BEVERAGES LICENSES AND PERMITS

H.F. 2188

AN ACT relating to the issuance of alcoholic beverage licenses and permits for certain licensed premises and prescribing fees.

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

Section 1. Section 123.32, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A local authority may define, by motion of the local authority, licensed premises which shall be used by holders of liquor control licenses, beer permits, and wine permits at festivals, fairs, or celebrations which are sponsored or authorized by the local authority. The licensed premises defined by motion of the local authority shall be used by the holders of five-day or fourteen-day liquor control licenses, five-day or fourteen-day wine permits, or five-day or fourteen-day beer permits only.

Sec. 2. Section 123.34, Code 1989, is amended to read as follows:

123.34 EXPIRATION — SEASONAL OR FOURTEEN-DAY LICENSE OR PERMIT.

1. Liquor control licenses, wine permits, and beer permits, unless sooner suspended or revoked, expire one year from date of issuance. The administrator shall give sixty days' written notice of the expiration to each licensee or permittee. However, the administrator may issue six-month or eight-month seasonal licenses, class "B" wine permits, or class "B" beer permits for a proportionate part of the license or permit fee or may issue fourteen-day liquor licenses~~, wine permits,~~ or beer permits as provided in subsection 2. No refund shall be made for seasonal licenses or permits or for fourteen-day liquor licenses~~, wine permits,~~ or beer permits. No seasonal license or permit shall be renewed except after a period of two months.

2. The administrator may issue fourteen-day class "A", class "B", class "C", and class "D" liquor control licenses~~, fourteen-day class "B" wine permits,~~ and fourteen-day class "B" beer permits. A fourteen-day license or permit, if granted, is valid for fourteen consecutive days, but the holder shall not sell on the two Sundays in the fourteen-day period unless the holder qualifies for and obtains the privilege to sell on Sundays contained in sections 123.36, subsection 6 and 123.134, subsection 5.

3. The fee for a fourteen-day liquor license~~, wine permit,~~ or beer permit is one quarter of the annual fee for that class of liquor license, wine permit, or beer permit. The fee for the privilege to sell on the two Sundays in the fourteen-day period is twenty percent of the price of the fourteen-day liquor license, wine permit, or beer permit.

Sec. 3. Section 123.34, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 4. The administrator may issue five-day class "A", class "B", class "C", and class "D" liquor control licenses and five-day class "B" beer permits. A five-day license or permit is valid for five consecutive days, but the holder shall not sell alcoholic beverages on Sunday in the five-day period unless the holder qualifies for and obtains the privilege to sell on Sunday pursuant to sections 123.36 and 123.134.

NEW SUBSECTION. 5. The fee for the five-day liquor control license or beer permit is one-eighth of the annual fee for that class of license or permit. The fee for the privilege to sell on a Sunday in the five-day period is ten percent of the price of the five-day liquor control license or beer permit.

Approved April 19, 1990

CHAPTER 1178

HUNTING AND FISHING

H.F. 2522

AN ACT relating to hunting and fishing licenses for military personnel and veterans, and providing an effective date and authorizing reciprocal fishing agreements.

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

Section 1. Section 110.24, subsection 9, Code Supplement 1989, is amended to read as follows:

9. No license shall be required of minor pupils of the state school for the blind, state school for the deaf, nor of minor residents of other state institutions under the control of a director of a division of the department of human services, nor shall any person who is on active duty with the armed forces of the United States, on authorized leave from a duty station located outside of this state, and a legal resident of the state of Iowa, be required to have a license to hunt or fish in this state. The military personnel shall carry their leave papers while hunting or fishing and, if a deer or wild turkey is taken, shall immediately contact a state conservation officer to obtain an appropriate tag to transport the animal. No license shall be required of residents of county care facilities or any person who is receiving old-age assistance under chapter 249.

Sec. 2. Section 110.24, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 16. Upon payment of the fee of thirty dollars for a lifetime hunting and fishing combined license, the department shall issue a hunting and fishing combined license to a veteran who was disabled in combat or a prisoner of war during that veteran's military service. The department shall prepare an application to be used by a person requesting a hunting and fishing combined license under this subsection. The veteran affairs division of the department of public defense shall assist the department in verifying the status or claims of applicants under this subsection. As used in this subsection, "veteran" means a person who served in the armed forces of the United States of America at any time during World War I between the dates of April 6, 1917, and July 2, 1921, World War II between the dates of

December 7, 1941, and December 31, 1946, the Korean conflict between the dates of June 27, 1950, and January 31, 1955, or the Vietnam conflict between August 5, 1964, and May 7, 1975, all dates inclusive, and "disabled" means entitled to compensation under the United States Code, title 38, chapter 11.

Sec. 3. NEW SECTION. 110.30 RECIPROCAL FISHING PRIVILEGES AUTHORIZED.

1. Reciprocal fishing privileges are contingent upon a grant of similar privileges by another state to residents of this state.

2. The commission may negotiate fishing reciprocity agreements with other states.

3. When another state confers upon fishing licensees of this state reciprocal rights, privileges, and immunities, a fishing license issued by that state entitles the licensee to all rights, privileges, and immunities in the public waters of this state enjoyed by the holders of equivalent licenses issued by this state, subject to duties, responsibilities, and liabilities imposed on its own licensees by the laws of this state.

Sec. 4.

This Act takes effect January 1, 1991.

Approved April 19, 1990

CHAPTER 1179

MARIJUANA ERADICATION

H.F. 2166

AN ACT relating to the identification and eradication of marijuana.

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

Section 1. Section 80.9, subsection 2, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. To identify and eradicate marijuana plants found growing on public or private property when growing marijuana plants are reported to the department, and adopt rules governing the identification and eradication of marijuana plants in cooperation with local law enforcement officials.

Sec. 2. Section 317.4, Code 1989, is amended to read as follows:

317.4 DIRECTION AND CONTROL.

As used in this chapter, "commissioner" means the county weed commissioner or the commissioner's deputy within each county. Each commissioner, subject to direction and control by the county board of supervisors, shall supervise the control and destruction of all noxious weeds in the county, including those growing within the limits of cities, within the confines of abandoned cemeteries, and along streets and highways unless otherwise provided. A commissioner shall notify the department of public safety of the location of marijuana plants found growing on public or private property. A commissioner may enter upon any land in the county at any time for the performance of the commissioner's duties, and shall hire the labor and equipment necessary subject to the approval of the board of supervisors.

Sec. 3. Section 317.22, Code 1989, is amended to read as follows:

317.22 DUTY OF HIGHWAY MAINTENANCE PERSONNEL.

~~It shall be the duty of all~~ All officers directly responsible for the care of public highways ~~to~~ shall make a complaint to the weed commissioners or board of supervisors, ~~whenever~~ if it

~~shall appear~~ appears that the provisions of this chapter may not be complied with in time to prevent the blooming and maturity of noxious weeds or the unlawful growth of weeds or marijuana, whether in the streets or highways for which they are responsible or upon lands adjacent to the same.

Approved April 19, 1990

CHAPTER 1180

HUMAN RIGHTS DEPARTMENT AND LATINO AFFAIRS DIVISION

H.F. 2270

AN ACT relating to the department of human rights.

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

Section 1. Section 7E.5, subsection 1, paragraph t, Code Supplement 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~~ Latino persons, 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 601K.1, subsection 1, Code Supplement 1989, is amended to read as follows:

1. Division of ~~Spanish-speaking people~~ Latino affairs.

Sec. 3. Section 601K.2, Code 1989, is amended to read as follows:

601K.2 APPOINTMENT OF DEPARTMENT ~~COORDINATOR~~ DIRECTOR AND ADMINISTRATORS.

The governor shall appoint a ~~department coordinator~~ director of the department of human rights, subject to confirmation by the senate. The department ~~coordinator~~ director shall serve at the pleasure of the governor. The department ~~coordinator~~ director shall:

1. ~~Approve personnel decisions for the department, as submitted by the commissions.~~ Establish general operating policies for the department to provide general uniformity among the divisions while providing for necessary flexibility.

2. Receive budgets submitted by each commission and reconcile the budgets among the divisions. The department ~~coordinator~~ director shall submit a budget for the department, subject to the budget requirements pursuant to chapter 8.

3. Coordinate and supervise personnel services and shared administrative support services to assure maximum support and assistance to the divisions.

4. Identify and, with the chief administrative officers of each division, facilitate the opportunities for consolidation and efficiencies within the department.

5. In cooperation with the commissions, make recommendations to the governor regarding the appointment of the administrator of each division.

6. Serve as an ex officio member of all commissions or councils within the department.

7. Serve as chairperson of the human rights council.

8. Evaluate each administrator, after receiving recommendations from the appropriate commissions or councils, and submit a written report of the completed evaluations to the governor and the appropriate commissions or councils, annually.

The governor shall appoint the administrators of each of the divisions subject to confirmation by the senate. Each administrator shall serve at the pleasure of the governor and is exempt

from the merit system provisions of chapter 19A. The governor shall set the salary of the division administrators within the ranges set by the general assembly.

Sec. 4. Section 601K.3, Code 1989, is amended to read as follows:

601K.3 HUMAN RIGHTS ADMINISTRATIVE-COORDINATING COUNCIL.

1. A human rights ~~policy coordinating~~ administrative-coordinating council composed of ~~eight~~ nine members is created within the department of human rights. The council is composed of the director, who shall act as the chairperson of the council, and the administrators within the department.

2. The council shall meet periodically to:

a. Identify areas where the divisions within the department might coordinate efforts or share administrative or other support functions to provide greater efficiencies in operation including, but not limited to, accounting, clerical, recordkeeping, and administrative support functions.

b. Develop cooperative arrangements and shared services ~~between~~ among the divisions to achieve greater efficiencies, and may establish contracts and agreements between or among the divisions to provide for shared services.

c. Transfer funds within the divisions agreeing to shared services for the implementation of the contracts or agreements between divisions.

d. Make recommendations to the governor and general assembly regarding additional consolidation and coordination that would require legislative action.

e. Advise the department ~~coordinator~~ director regarding actions by and for the department.

f. Establish goals and objectives for the department.

Sec. 5. Section 601K.4, subsection 2, Code 1989, is amended to read as follows:

2. "Department ~~coordinator~~ director" means the ~~department coordinator~~ director of the department of human rights.

Sec. 6. Section 601K.11, Code 1989, is amended to read as follows:

601K.11 DEFINITIONS.

For purposes of this subchapter, unless the context otherwise requires:

1. "Commission" means the commission of ~~Spanish-speaking people~~ Latino affairs.

2. "Division" means the division of ~~Spanish-speaking people~~ Latino affairs of the department of human rights.

3. "Administrator" means the administrator of the division of ~~Spanish-speaking people~~ Latino affairs of the department of human rights.

Sec. 7. Section 601K.12, Code 1989, is amended to read as follows:

601K.12 COMMISSION OF ~~SPANISH-SPEAKING PEOPLE~~ LATINO AFFAIRS — TERMS — COMPENSATION.

The commission of ~~Spanish-speaking people~~ Latino affairs consists of nine members, appointed by the governor ~~from a list of nominees submitted by the governor's Spanish-speaking peoples task force~~. The members of the commission shall be appointed during the month of June and shall serve for terms of two years commencing July 1 of each odd-numbered year. Members appointed shall continue to serve until their respective successors are appointed. Vacancies in the membership of the commission shall be filled by the original appointing authority and in the manner of the original appointments. Members shall receive actual expenses incurred while serving in their official capacity. Members may also be eligible to receive compensation as provided in section 7E.6.

Sec. 8. Section 601K.14, Code 1989, is amended to read as follows:

601K.14 COMMISSION EMPLOYEES.

The commission may employ personnel who shall be qualified ~~by experience~~ to assume the responsibilities of their several offices. The administrator shall be the administrative officer of the commission and shall serve the commission by gathering and disseminating information, forwarding proposals and evaluations to the governor, the general assembly, and state

agencies, carrying out public education programs, conducting hearings and conferences, and performing other duties necessary for the proper operation of the commission. The administrator shall carry out programs and policies as determined by the commission.

Sec. 9. Section 601K.15, subsections 1 through 7, Code 1989, are amended to read as follows:

1. Coordinate, assist, and cooperate with the efforts of state departments and agencies to serve the needs of ~~Spanish speaking~~ Latino persons in the fields of education, employment, health, housing, welfare, and recreation.

2. Develop, coordinate, and assist other public organizations which serve ~~Spanish speaking~~ Latino persons.

3. Evaluate existing programs and proposed legislation affecting ~~Spanish speaking~~ Latino persons, and propose new programs.

4. Stimulate public awareness of the problems of ~~Spanish speaking~~ Latino persons by conducting a program of public education and encouraging the governor and the general assembly to develop programs to deal with these problems.

5. Conduct training programs for ~~Spanish speaking~~ Latino persons to enable them to assume leadership positions on the community level.

6. Conduct a survey of the ~~Spanish speaking~~ Latino people in Iowa in order to ascertain their needs.

7. Work to establish a ~~Spanish speaking~~ Latino information center in the state of Iowa.

Approved April 19, 1990

CHAPTER 1181

OAKDALE PRISON CONSTRUCTION CONTRACTS

H.F. 2568

AN ACT relating to the construction contracts for the previously authorized prison construction projects at the Oakdale corrections campus.

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

Section 1. OAKDALE PRISON CONSTRUCTION.

Notwithstanding any contrary provisions of section 18.6, the department of corrections may consider the prison construction projects at the Oakdale corrections campus, authorized by 1989 Iowa Acts, chapter 316, and 1990 Iowa Acts, Senate File 2212,* as one project for the purposes of bidding, negotiating, and entering into contracts for the authorized prison construction.

Approved April 19, 1990

*Chapter 1257 herein

CHAPTER 1182

OPEN ENROLLMENT

S.F. 2306

AN ACT relating to open enrollment, including the general intent, notification dates, exceptions to notification dates, board action on requests, counting of pupils for state foundation aid purposes, student expulsion or suspension, qualification for transportation, and participation of laboratory schools, and providing an effective date.

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

Section 1. Section 282.18, unnumbered paragraphs 1, 2, 3, 4, 5, 9, 13, 14, and 15, Code Supplement 1989, are amended to read as follows:

It is the goal of the general assembly to permit a wide range of educational choices for children enrolled in schools in this state and to maximize ability to use those choices. It is therefore the intent that this section be construed broadly to maximize parental choice and access to educational opportunities which are not available to children because of where they live. 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~~ October 30 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~~. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline of October 30 of the previous year, and good cause exists for the failure to meet the deadline or if the request is to enroll a child in kindergarten in a public school in another district, the parent or guardian shall be permitted to enroll the child in the other district in the same manner as if the deadline had been met. The board of the district of residence shall take action on the request no later than November 30 of the preceding school year and shall transmit any approved request within five days after board action on the request. The parent or guardian may withdraw the request during November of the preceding school year unless the board of the receiving district has acted on the request. The board of the receiving district shall take action to approve or disapprove the request no later than December 31 of the preceding school year. If the request is granted, the board shall transmit a copy of the form to the ~~receiving~~ school district of residence within five days after ~~its receipt~~ board action. 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 as compared with the district's certified enrollment for the ~~previous~~ 1988-1989 school 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 as compared to the district's certified enrollment for the ~~previous~~ 1988-1989 school 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. If, however, a request to enroll a child in another district is denied by the board of the child's district of residence for failure to show good cause for not meeting the request deadline, the parent or guardian shall be permitted to appeal the decision of the board either directly to the director of the department of education or to the state board under chapter 290, but not to both. If the matter is to be heard by the director, or the director's designee, the matter shall be heard de novo in accordance with the procedures contained in chapter 17A. If a designee of the director hears the matter, the findings of the director's designee shall be reviewed by and are subject to the approval of, the director.

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~~ board action on 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 by October 30 of the previous school year 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~~ act on the request to transfer 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.

A pupil participating in open enrollment shall be counted, for state school foundation aid purposes, in the pupil's district of residence. A pupil's residence, for purposes of this section means a residence under section 282.1. 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. 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. If a parent or guardian of a child, who is participating in open enrollment under this

section, moves to a different school district during the course of either district's academic year, the child's first district of residence shall be responsible for payment of the cost per pupil plus weightings or special education costs to the receiving school district for the balance of the school year in which the move took place. The new district of residence shall be responsible for the payments during succeeding years. If a request to transfer is due to a change in family residence, change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, and the child, who is the subject of the request, is not currently using any provision of open enrollment, the parent or guardian of the child shall have the option to have the child remain in the child's original district of residence under open enrollment with no interruption in the child's educational program. If a parent or guardian exercises this option, the child's new district of residence is not required to pay the lower of the two district costs per pupil or other costs to the receiving district until the start of the first full year of enrollment of the child. 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. A district of residence may apply to the school budget review committee if a student was not included in the resident district's enrollment count during the fall of the year preceding the student's transfer under open enrollment. 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. 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~~ by the department and state board of education, 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 ~~attends~~ participates in open enrollment for purposes of attending a grade in grades ~~nine~~ ten 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.

If a child, for which a request to transfer has been filed with a district, has been suspended or expelled in the district, ~~the receiving district named in the request may refuse the request~~ the child shall not be permitted to transfer until the child has been reinstated in the sending district. Once the child has been reinstated, however, the child shall be permitted to transfer in the same manner as if the child had not been suspended by the sending district. If a child, for whom a request to transfer has been filed with a district, is expelled in the district, the child shall be permitted to transfer to a receiving district under this section if the child applies for and is reinstated in the sending district. However, if the child applies for reinstatement but is not reinstated in the sending district, the receiving district may deny the request to transfer. The parent or guardian of the child shall be permitted to appeal the decision of the receiving district to the director of the department of education. If the director rules in favor of permitting the transfer, the child shall be permitted to transfer, but the transfer shall be conditioned upon the expiration of the expulsion period without the student incurring a new violation.

~~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 1989-1990 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 1989-1990 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 and the board of directors of the school district in the community in which the regents' institution is located shall develop a student transfer policy designed to protect and promote the quality and integrity of the teacher education program at the laboratory school, the viability of the education program of the local school district in which the regents' institution is located, 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.

For purposes of this section, "good cause" means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, or a similar set of circumstances consistent with the definition of good cause; a change in the status of a child's resident district, such as the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement or the rejection of a current whole-grade sharing agreement, or reorganization plan, or a similar set of circumstances consistent with the definition of good cause. If the good cause relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances. 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. GOOD CAUSE EXCEPTION.

For the school year commencing July 1, 1989, and ending June 30, 1990, if there was a change in the status of the child's resident district, notwithstanding the enrollment loss provisions and, if a district has a minority enrollment of less than ten percent of the total district student population, the desegregation provisions of section 282.18, a parent or guardian may file a request to use open enrollment for the balance of the 1989-1990 school year, or for succeeding years, any time prior to August 1, 1990 and the board of the district of residence shall grant the request. Children who are the subject of requests, which are filed prior to August 1, 1990, and which meet the good cause requirements for a change in the status of the children's resident district due to rejection of a whole grade sharing agreement, are not subject to the restrictions on athletic participation contained in section 282.18 if the district to which the child is to transfer under the request is or was a participant in a whole grade sharing agreement. If a pupil transfers for the balance of the 1989-1990 school year, or for succeeding years, as a result of the filing of a request prior to August 1, 1990, the sending district shall pay to the receiving district for the balance of the 1989-1990 school year, if that year is covered by the request, and for the 1990-1991 school year, only the state aid portion of the lower district cost per pupil of the two districts.

Sec. 3. Section 279.19A, subsection 3, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The board of directors of a school district may require an employee who has resigned from an extracurricular contract to accept, as a condition of employment under section 279.13, the extracurricular contract for ~~the subsequent~~ no longer than one additional school year if all the following conditions apply:

Sec. 4. JOINT STUDY.

The state board of education and the board of educational examiners shall review current rules and educational requirements relating to extracurricular contracts and licensing or endorsement requirements for teaching and nonteaching personnel who perform duties relating to school athletic programs. The state board of education and the board of educational examiners shall develop recommendations for uniform rules relating to the education and licensing of persons performing duties relating to school athletic programs and submit the recommendations in a report to the general assembly by January 1, 1992.

Sec. 5. CODIFICATION.

The Code editor shall divide section 282.18 into appropriate subsections and paragraphs.

Sec. 6.

This Act, except for section 3 of this Act being deemed of immediate importance, takes effect upon its enactment and is retroactively applicable to June 5, 1989.

Sec. 7.

Section 3 of this Act takes effect July 1, 1993.

Approved April 18, 1990

CHAPTER 1183

HIGHWAY SIGNS FOR TOURISTS

S.F. 2277

AN ACT relating to tourist-oriented signs.

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

Section 1. Section 306C.11, subsection 5, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

Signs, displays, and devices giving specific information of interest to the traveling public, shall be erected by the department and maintained within the right of way in the areas, and at appropriate distances from interchanges on the interstate system and freeway primary highways as shall conform with the rules adopted by the department. The rules shall be consistent with national standards promulgated from time to time or as permitted by the appropriate authority of the federal government pursuant to 23 U.S.C. sec. 131(f) except as provided in this section. The rules shall include but are not limited to the following:

a. Criteria for eligibility for signing.

b. Criteria for limiting or excluding businesses that maintain advertising devices that do not conform to the requirements of chapter 306B, chapter 306C, division II, or other statutes or administrative rules regulating outdoor advertising.

c. Provisions for a fee schedule to cover the direct and indirect costs of sign erection and maintenance and related administrative costs.

d. Provisions for specifying the maximum distance to eligible businesses.

e. Provisions specifying the maximum number of signs permitted per panel and per interchange.

f. Provisions for determining what businesses are signed when there are more applicants than the maximum number of signs permitted.

g. Provisions for removing signs when businesses cease to meet minimum requirements for participation and related costs.

For purposes of this division, "specific information of interest to the traveling public" means only information about public places for ~~outdoor recreation,~~ camping, lodging, eating, and motor fuel and associated services, including trade names which have telephone facilities available when the public place is open for business and businesses engaged in selling motor vehicle fuel which have free air for tire inflation and restroom facilities available when the public place is open for business.

Business signs supplied to the department by commercial vendors shall be on panels, with dimensional and material specifications established by the department. ~~No~~ A business sign included under the provisions of this section shall not be posted unless it is in compliance with these specifications. The commercial vendor shall pay to the department ~~an annual fee of fifty dollars~~ a fee based upon the schedule adopted under this subsection for each business sign supplied for posting. Upon furnishing the business signs to the department and payment of all fees, the department shall post the business signs on eligible specific information panels. Faded signs shall be replaced and the commercial vendor charged for the cost of replacement based upon the fee schedule adopted. There is created in the office of the treasurer of state a fund to be known as the "highway beautification fund" and all funds received for the posting on specific information panels shall be deposited in the "highway beautification fund". Information on motor fuel and associated services may include vehicle service and repair where the same is available.

Sec. 2. Section 306C.11, subsection 5, unnumbered paragraph 3, Code 1989, is amended by striking the paragraph.

Sec. 3. Section 321.1, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 90. "Tourist-oriented directional sign" means a sign providing identification and directional information for a tourist attraction.

NEW SUBSECTION. 91. "Tourist-attraction" means a business, activity, service, or site where a major portion of the product or service provided is tourist oriented.

Sec. 4. Section 321.252, unnumbered paragraph 4, Code 1989, is amended to read as follows:

The department shall establish, by rule, in cooperation with ~~the department of economic development establish criteria for guiding traffic to eligible tourist attractions along interstate and primary highways. The department~~ a tourist signing committee, the standards for tourist-oriented directional signs and shall annually review the list of attractions for which signing is in place. ~~All tourist attraction signing~~ The rules shall conform to national standards for tourist-oriented directional signs adopted under 23 U.S.C. § 131(q) and to the manual of uniform traffic control devices. ~~Except as otherwise provided, tourist attraction signing shall be purchased, installed and maintained by the department.~~ The tourist signing committee shall be made up of the directors or their designees of the departments of economic development, agriculture and land stewardship, natural resources, cultural affairs, and transportation, the chairperson or the chairperson's designee of the Iowa travel council, and a member of the outdoor advertising association of Iowa. The director or the director's designee of the department of economic development shall be the chairperson of the committee. The department of transportation shall be responsible for calling and setting the date of the meetings of the committee which meetings shall be based upon the amount of activity relating to signs. However, the committee shall meet at least once a month. However, a tourist attraction is not subject to a minimum number of visitors annually to qualify for tourist-oriented directional signing. The rules shall not be applicable to directional signs relating to historic sites on land owned or managed by state agencies, as provided in section 321.253A. The rules shall include but are not limited to the following:

1. Criteria for eligibility for signing.

2. Criteria for limiting or excluding businesses, activities, services, and sites that maintain signs that do not conform to the requirements of chapter 306B, chapter 306C, division II, or other statutes or administrative rules regulating outdoor advertising.

3. Provisions for a fee schedule to cover the direct and indirect costs of sign manufacture, erection, and maintenance, and related administrative costs.

4. Provisions specifying maximum distances to eligible businesses, activities, services, and sites. Tourist-oriented directional signs may be placed on highways within the maximum travel distance that have the greatest traffic count per day, if sufficient space is available. If an adjacent landowner complains to the department about the placement of a tourist oriented directional sign, the department shall attempt to reach an agreement with the landowner for relocating the sign. If possible, the sign shall be relocated from the place of objection. If the sign must be located on an objectionable place, it shall be located on the least objectionable place possible.

5. Provisions for trailblazing to facilities that are not on the crossroad. Appropriate trailblazing shall be installed over the most desirable routes on lesser traveled primary highways, secondary roads, and city streets leading to the tourist attraction.

6. Criteria for determining when to permit advance signing.

7. Provisions specifying conditions under which the time of operation of a business, activity, service, or site is shown.

8. Provisions for masking or removing signs during off seasons for businesses, activities, services, and sites operated on a seasonal basis. Faded signs shall be replaced and the commercial vendor charged for the cost of replacement based upon the fee schedule adopted.

9. Provisions specifying the maximum number of signs permitted per intersection.

10. Provisions for determining what businesses, activities, services, or sites are signed when there are more applicants than the maximum number of signs permitted.

11. Provisions for removing signs when businesses, activities, services, or sites cease to meet minimum requirements for participation and related costs.

Sec. 5. NEW SECTION. 321.253A DIRECTIONAL SIGNS RELATING TO HISTORIC SITES ON LAND OWNED OR MANAGED BY STATE AGENCIES.

1. The department shall place and maintain directional signs upon primary highways which provide information about historic sites which are located on land owned or managed by an agency as defined in section 17A.2. The signs shall conform to the manual of uniform traffic devices. However, the directional signs are not subject to requirements applicable to tourist-oriented directional signs.

2. Upon request by a city or county in which a historic site is located on land owned or managed by an agency, the department shall distribute a directional sign as provided in this section to the city or county for erection upon roads or streets within their jurisdictions.

3. The location of the historic site shall be memorialized on transportation maps of the state published under the direction of the department and generally made available to the public. However, if it is not reasonable and feasible to display specific historic sites on the state transportation map, the department shall consult with the agency managing the historic site.

4. The department shall not erect, maintain, or distribute a directional sign or include on a transportation map information about a historic site located on land owned or managed by an agency if the department receives an objection by the agency.

Approved April 24, 1990

CHAPTER 1184

FARM RAILWAY CROSSINGS

S.F. 2319

AN ACT relating to private farm railway crossings.

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

Section 1. Section 327G.11, Code 1989, is amended to read as follows:

327G.11 PRIVATE FARM CROSSINGS.

When ~~any~~ a person owns ~~land~~ farmland on both sides of ~~any~~ a railway, or when a railway runs parallel with a public highway thereby separating a farm from such highway, the corporation owning or operating ~~such~~ the railway, on request of the owner of ~~such land or farm~~ the farmland, shall construct and maintain a safe and adequate farm crossing or roadway across ~~such~~ the railway and right of way at such reasonable place as the owner of the ~~land~~ farmland may designate. A private farm crossing established or installed pursuant to this section shall be used solely for farming or agricultural purposes.

Approved April 24, 1990

CHAPTER 1185

MEDICAL ASSISTANCE REIMBURSEMENTS TO AREA EDUCATION AGENCIES
S.F. 2324

AN ACT providing for area education agency administrative costs relating to special education services reimbursed under the medical assistance program.

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

Section 1. MEDICAL ASSISTANCE ADMINISTRATIVE COSTS — AREA EDUCATION AGENCIES.

The area education agencies shall determine their administrative costs relating to recording and billing for medical assistance reimbursement for special education services provided pursuant to section 281.15. Up to twelve percent of the federal funds received from the medical assistance reimbursement may be used to pay for the area education agencies' administrative costs.

Approved April 24, 1990

CHAPTER 1186

SALES AND USE TAX PROCESSING EXEMPTION'S APPLICABILITY TO CARBON DIOXIDE
S.F. 2406

AN ACT relating to the sales and use tax on carbon dioxide and providing a retroactive applicability date.

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

Section 1. Section 422.42, subsection 3, Code 1989, is amended to read as follows:

3. "Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing, for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services; and includes the sale of gas, electricity, water, and communication service to retail consumers or users; but does not include agricultural breeding livestock and domesticated fowl; and does not include commercial fertilizer, agricultural limestone, herbicide, pesticide, insecticide, food, medication, or agricultural drain tile, including installation of agricultural drain tile, any of which are to be used in disease control, weed control, insect control, or health promotion of plants or livestock produced as part of agricultural production for market; and does not include electricity, steam, or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. When used by a manufacturer of food products, carbon dioxide in a liquid, solid, or gaseous form, electricity, steam, and other taxable services are sold for processing when used to produce marketable food products for human consumption, including but not limited to, treatment of material to change its form, context, or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture. Tangible personal property is sold for processing within the meaning of this subsection

only when it is intended that the property will, by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail; or will be consumed as fuel in creating heat, power, or steam for processing including grain drying, or for providing heat or cooling for livestock buildings, or for generating electric current, or in implements of husbandry engaged in agricultural production; or the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail or consumed in the maintenance or repair of fabric or clothing, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides is a retail sale for purposes of the processing exemption.

Sec. 2.
This Act is retroactively applicable to July 1, 1985.

Approved April 24, 1990

CHAPTER 1187

FIRE DISTRICT TAX LEVY AND RESERVE ACCOUNT

S.F. 2415

AN ACT authorizing an additional tax levy and the creation of a reserve account by a benefited fire district.

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

Section 1. Section 357B.3, Code 1989, is amended to read as follows:
357B.3 POWERS OF THE BOARD OF TRUSTEES.
1. The board of trustees may purchase, own, rent, or maintain fire apparatus or equipment within the state or outside the territorial jurisdiction and boundary limits of this state and provide housing for such apparatus or equipment. The board of trustees may contract with any public or private agency under chapter 28E for the purpose of providing fire protection under this chapter. The board of trustees may levy an annual tax not exceeding forty and one-half cents per thousand dollars of assessed value for the purpose of exercising the powers granted in this section. The board of trustees may purchase material and employ persons to provide for the maintenance and operation of the benefited fire district. The trustees shall be allowed reimbursement for any necessary expenses incurred in the performance of their duties, but they shall not receive any other compensation for their services.
2. If the levy authorized under subsection 1 is insufficient to provide the services authorized or required under this section, the trustees may levy an additional annual tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value of the taxable property in the benefited district to provide the services.
3. Of the levies authorized under subsections 1 and 2, the 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 this section. Notwithstanding section 453.7, interest earned on moneys credited to the reserve account shall be credited to the reserve account.

Approved April 24, 1990

CHAPTER 1188

DRUG TESTING

S.F. 2432

AN ACT relating to the drug testing of certain individuals as required pursuant to certain federal regulations.

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

Section 1. Section 730.5, subsection 2, Code 1989, is amended to read as follows:

2. Except as provided in subsection 7, an employer shall not require or request employees or applicants for employment to submit to a drug test as a condition of employment, preemployment, promotion, or change in status of employment. An employer shall not request, require, or conduct random or blanket drug testing of employees. However, this section does not apply to preemployment drug tests authorized for peace officers or correctional officers of the state, or to drug tests required under federal statutes or under federal regulations adopted as of July 1, 1990, or to drug tests conducted pursuant to a nuclear regulatory commission policy statement, or to drug tests conducted to determine if an employee is ineligible to receive workers' compensation under section 85.16, subsection 2.

The exemption granted by this subsection relating to drug testing pursuant to federal regulations adopted as of July 1, 1990, is of no effect, as it applies to a particular regulation, upon a finding by a court of competent jurisdiction, including any appeal of such finding, that the particular regulation is unconstitutional or otherwise invalid. The decision of a court invalidating any regulation exempted by this section shall not be stayed pending appeal.

Sec. 2.

This Act shall take precedence over any other statute amending section 730.5, subsection 2, enacted during the Seventy-third General Assembly, 1990 Session, to the extent that this Act cannot be reconciled with such other enactment.

Approved April 24, 1990

CHAPTER 1189

SMOKING IN PUBLIC PLACES

H.F. 209

AN ACT relating to the limitations on smoking, and providing penalties.

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

Section 1. Section 98A.1, subsection 2, Code 1989, is amended to read as follows:

2. "Public place" means any enclosed indoor area used by the general public or serving as a place of work containing two hundred fifty or more square feet of floor space, including, but not limited to, all restaurants with a seating capacity greater than fifty, all retail stores, lobbies and malls, offices ~~containing three hundred or more square feet of floor space~~, including waiting rooms ~~of three hundred or more square feet of floor space~~, and other commercial establishments; public conveyances with departures, travel, and destination entirely within this state; educational facilities; hospitals, clinics, nursing homes, and other health care and medical facilities; and auditoriums, elevators, theaters, libraries, art museums, concert halls, indoor arenas, and meeting rooms. "Public place" does not include ~~a restaurant,~~ a retail store at which fifty percent or more of the sales result from the sale of tobacco or tobacco products, the portion of a retail store where tobacco or tobacco products are sold, a private, enclosed office occupied

exclusively by smokers even though the office may be visited by nonsmokers, ~~lobbies and malls which encompass floor space of three hundred or less square feet,~~ a room used primarily as the residence of students or other persons at an educational facility, a sleeping room in a motel or hotel, or each resident's room in a health care facility. The person in custody or control of the facility shall provide a sufficient number of rooms in which smoking is not permitted to accommodate all persons who desire such rooms.

Sec. 2. Section 98A.2, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A facility inspected by the department of inspections and appeals shall be inspected by the department for compliance with sections 98A.3 and 98A.4.

Sec. 3. Section 98A.6, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Enforcement of this chapter shall be implemented in an equitable manner throughout the state. For the purpose of equitable and uniform implementation, application, and enforcement of state and local laws and regulations, the provisions of this chapter shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this chapter.

Sec. 4. Section 805.8, subsection 11, Code 1989, is amended to read as follows:

11. SMOKING VIOLATIONS. For violations of section 98A.6, the scheduled fine is ~~ten~~ twenty-five dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil fine is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. The complainant shall not be charged a filing fee.

Approved April 24, 1990

CHAPTER 1190

SCHOOL FINANCE TECHNICAL AMENDMENTS

H.F. 2068

AN ACT providing technical changes to the financing of education programs of school districts and providing a retroactive effective date.

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

Section 1. Section 257.2, subsection 3, Code Supplement 1989, is amended to read as follows:

3. "Budget adjustment" ~~is~~ means an adjustment to the regular program ~~budget~~ district cost of a school district for school districts in which the regular program ~~budget~~ district cost for a year would be less than ~~its~~ the regular program ~~budget~~ district cost for the previous year.

Sec. 2. Section 257.7, subsection 1, Code Supplement 1989, is amended to read as follows:

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 combined district cost for that year, the actual miscellaneous income received for that year, and the actual unspent balance from the preceding year.

Sec. 3. Section 257.9, subsection 1, unnumbered paragraph 1, and paragraphs a and b, Code Supplement 1989, are amended to read as follows:

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~~ the sum of the products of each district's regular program district cost per pupil for the base year, as regular program district cost ~~is defined in~~ per pupil would have been calculated under section 442.9, Code 1989, multiplied by its budget enrollment as budget enrollment would have been calculated under section 442.4, Code 1989, for the base year, plus the ~~total~~ sum 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.~~

Sec. 4. Section 257.10, subsection 1, Code Supplement 1989, is amended to read as follows:

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 for a district, the department of management shall divide the product of the regular program district cost per pupil of the district for the base year, as ~~defined in~~ regular program district cost per pupil would have been calculated under section 442.9, Code 1989, multiplied by its budget enrollment for the base year as budget enrollment would have been calculated under section 442.4, 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, as if section 257.6, subsection 4, 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 for the budget year to an amount equal to one hundred ten percent of the regular program state cost per pupil for the budget year, and if the regular program district cost per pupil for the budget year calculated under this subsection in any school district is less than the regular program state cost per pupil for the budget year, the department of management shall increase the regular program district cost per pupil ~~shall be increased~~ of that district to an amount equal to the regular program state cost per pupil for the budget year.

Sec. 5. Section 257.10, subsection 6, Code Supplement 1989, is amended to read as follows:

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~~ budget enrollment for the budget year.

Sec. 6. Section 257.10, subsection 8, Code Supplement 1989, is amended to read as follows:

8. COMBINED DISTRICT COST. Combined district cost is the sum of the regular program district cost per pupil multiplied by the weighted enrollment 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 combined district cost for the budget year to the extent that an excess tax levy is authorized by the school budget review committee.

Sec. 7. Section 257.11, subsection 3, Code Supplement 1989, is amended to read as follows:

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~~ a 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.

Sec. 8. Section 257.14, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

For the budget year beginning July 1, 1991 for a school district, the department of management shall use ~~the~~ as the district's base year regular program district cost the product of the district's regular program district cost ~~for that budget year of a school district calculated pursuant to chapter 442, Code 1989, plus~~ per pupil calculated as regular program district cost per pupil would have been calculated for the budget year under section 442.9, Code 1989, multiplied by the district's budget enrollment as budget enrollment would have been calculated under section 442.4, Code 1989, for the budget year, and shall add to that amount the amount added to district cost pursuant to section 442.21, Code 1989, ~~as the district's base year regular program district cost~~.

Sec. 9. Section 257.29, unnumbered paragraphs 1 and 2, Code Supplement 1989, are amended to read as follows:

An educational improvement program is established to provide additional funding for school districts in which the regular program district cost per pupil for a budget year is one hundred ten percent of the regular program 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 regular program 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 regular program district cost of the district, as determined by the board but not more than the maximum percent authorized by the electors if an election has been held. 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.

Sec. 10. 1989 Iowa Acts, chapter 135, section 95, is amended to read as follows:

SEC. 95. Section 291.13, Code 1989, is amended to read as follows:

291.13 GENERAL AND SCHOOLHOUSE FUNDS.

The money ~~collected by~~ received from the regular and voter-approved physical plant and equipment levies ~~or~~, the levy for public educational and recreational activities imposed under chapter 300, the proceeds of the sale of bonds authorized by law ~~or~~, and the proceeds of a tax estimated and certified by the board for the purpose of paying interest and principal on lawful bonded indebtedness shall be deposited in the schoolhouse fund and, except when authorized by the electors, ~~may~~ shall be used only for the purpose for which originally authorized or certified. The money ~~collected by~~ received from 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 deposited in the general fund of the school district. The treasurer shall keep a separate account for each fund, 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. 11. 1989 Iowa Acts, chapter 135, section 125, is amended to read as follows:

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. For the duration of that schoolhouse tax levy, a school district may anticipate the collection of the tax by loan agreement as provided in section 297.36.

Sec. 12. 1989 Iowa Acts, chapter 135, section 127, is amended to read as follows:

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~~ commencing with the school year beginning July 1, ~~1990~~ 1989, and the proposition failed, the board may resubmit ~~the~~ a proposition for approval to raise an additional enrichment amount commencing with the school year beginning July 1, 1990, at an election held not later than July 1, 1989.

Sec. 13.

Section 12 of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to May 5, 1989.

Approved April 24, 1990

CHAPTER 1191

SOLID WASTE DISPOSAL

H.F. 2534

AN ACT relating to waste disposal, providing a retroactive applicability date, and providing an effective date.

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

Section 1. NEW SECTION. 455B.305A LOCAL APPROVAL OF SANITARY LANDFILL AND INFECTIOUS WASTE INCINERATOR PROJECTS.

1. Prior to the siting of a proposed, new sanitary landfill or infectious waste incinerator, a city, county, or private agency, with the exception of a private agency disposing of waste which the agency generates on property owned by the agency as of January 1, 1990, shall submit a request for local siting approval to the city council or county board of supervisors which governs the city or county in which the proposed site is to be located. The city council or county board of supervisors shall approve or disapprove the site for each sanitary landfill or infectious waste incinerator.

2. An applicant for siting approval shall submit information to the city council or county board of supervisors to demonstrate compliance with the requirements prescribed by this chapter regarding a sanitary landfill or infectious waste incinerator. Siting approval shall be granted only if the proposed project meets all of the following criteria:

a. The project is necessary to accommodate the solid waste management needs of the area which the project is intended to serve.

b. The project is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected.

c. The project is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. The city council or county board of supervisors shall consider the advice of the appropriate planning and zoning commission regarding the application.

d. The plan of operations for the project is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents.

e. The traffic patterns to or from the project are designed in order to minimize the impact on existing traffic flows.

f. Information regarding the previous operating experience of a private agency applicant and its subsidiaries or parent corporation in the area of solid waste management or related activities are made available to the city council or county board of supervisors.

g. The department of natural resources has been consulted by the city council or board of supervisors prior to the approval.

3. No later than fourteen days prior to a request for siting approval, the applicant shall cause written notice of the request to be served either in person or by restricted certified mail on the owners of all property within the proposed local site area not solely owned by the applicant, and on the owners of all property within one thousand feet in each direction of the lot line of the proposed local site property if the proposed local site is within the city limits, or within two miles in each direction of the lot line of the proposed local site property if the proposed local site is outside of the city limits. The owners shall be identified based upon the authentic tax records of the county in which the project is to be located.

Written notice shall be published in the official newspaper of the county in which the site is located. The notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted, and a description of the right of persons to comment on the request.

4. An applicant shall file a copy of its request with the department and with the city council or the county board of supervisors in which the proposed site is located. The request shall include the substance of the applicant's proposal and all documents, if any, submitted as of that date to the department pertaining to the proposed project. All documents or other materials pertaining to the proposed project on file with the city council or county board of supervisors shall be made available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction.

Any person may file written comment with the city council or county board of supervisors concerning the appropriateness of the proposed site for its intended purpose. The city council or county board of supervisors shall consider any comment received or postmarked not later than thirty days after the date of the last public hearing.

5. At least one public hearing shall be held by the city council or county board of supervisors no sooner than ninety days but no later than one hundred twenty days from receipt of the request for siting approval. A hearing shall be preceded by published notice in an official newspaper of the county of the proposed site, including in any official newspaper located in the city of the proposed site. The public hearing shall develop a record sufficient to form the basis of an appeal of the decision.

6. Decisions of the city council or the county board of supervisors shall be in writing, specifying the reasons for the decision. The written decision of the city council or the county board

of supervisors shall be available for public inspection at the office of the city council or county board of supervisors and may be copied upon payment of the actual cost of reproduction. Final action shall be taken by the city council or the county board of supervisors within one hundred eighty days after the filing of the request for site approval.

At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for questioning by the city council or the county board of supervisors and members of the public, the applicant may file not more than one amended application upon payment of additional fees pursuant to subsection 9. The time limitation for final action on an amended application shall be extended for an additional ninety days.

7. Construction of a project which is granted local siting approval under this section shall commence within one calendar year from the date upon which it was granted or the permit shall be nullified. If the local siting decision is appealed, the one-year period shall begin on the date upon which the appeal process is concluded.

8. The local siting approval, criteria, and appeal procedures provided for in this section and in section 455B.305B are the exclusive local siting procedures and appeal procedures. Local zoning, ordinances, or other local land use requirements may be considered in such siting decisions.

9. A city council or a county board of supervisors shall charge an applicant for siting approval, under this section, a fee to cover the reasonable and necessary costs incurred by the city or county in the siting approval process.

10. An applicant shall not file a request for local siting approval which is substantially the same as a request which was denied within the preceding two years pursuant to a finding against the applicant under the established criteria.

Sec. 2. NEW SECTION. 455B.305B APPEAL FROM DECISION.

1. If the city council or the county board of supervisors does not approve a siting request under section 455B.305A, the applicant, within sixty days of notice of the decision, may petition for a hearing before the commission or the commission's designee to contest the decision. The city council or the county board of supervisors shall appear as respondent in the hearing. At the hearing, the burden of proof shall be on the petitioner. In making its orders and determinations under this section, the commission or the commission's designee shall consider the written decision and reasons for the decision of the city council or the county board of supervisors and the transcribed record of the hearing held pursuant to section 455B.305A. The commission or the commission's designee shall transmit a copy of its decision to the office of the city council or the county board of supervisors where it shall be available for public inspection and copied upon payment of the actual cost of reproduction. Final action by the commission or the commission's designee shall be taken within one hundred twenty days.

2. If the city council or the county board of supervisors grants approval under section 455B.305A, a third party other than the applicant who participated in the public hearing conducted by the city council or the county board of supervisors, may petition the commission or the commission's designee within sixty days of filing of the written decision at the office of the city council or county board of supervisors for a hearing to contest the approval. Unless the commission or the commission's designee determines that the petition is duplicitous or frivolous, the commission or the commission's designee shall hear the petition in accordance with the procedures of subsection 1. The burden of proof shall be on the petitioner, and the city council or the county board of supervisors and the applicant shall be named as correspondents.

The commission or the commission's designee shall transmit a copy of its decision to the office of the city council or the county board of supervisors where it shall be available for public inspection and may be copied upon payment of the actual cost of reproduction.

3. Any person who files a petition to contest a decision of the city council or the county board of supervisors shall pay a reasonable filing fee.

4. Judicial review may be sought of actions of the commission or the commission's designee in accordance with chapter 17A.

Sec. 3. NEW SECTION. 455B.315 RADIOACTIVE MATERIALS – PROHIBITED DEPOSIT IN SANITARY LANDFILLS.

A person shall not dispose of, and a sanitary landfill shall not accept for final disposal, radioactive materials, as defined as of January 1, 1990, pursuant to section 136C.1.

Sec. 4. Section 455D.9, subsection 2, Code Supplement 1989, is amended to read as follows:

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,~~ Within one hundred twenty days of the adoption of rules by the department regarding yard waste, 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.

Sec. 5. MORATORIUM – COMMERCIAL INFECTIOUS WASTE INCINERATORS.

The department of natural resources shall not grant a permit for the construction or operation of a commercial infectious waste incinerator prior to July 1, 1991. The moratorium does not apply to a hospital licensed pursuant to chapter 135B which accepts waste from other infectious waste generators if the total amount of infectious waste accepted from other generators is less than sixty-six percent of the infectious waste incinerated.

Sec. 6. DEAD ANIMAL DISPOSAL – RULES – REPORT REQUIRED.

1. The disposal of dead animals is an issue of great importance to the state both in terms of protection of animal populations from the transmission of diseases and the protection of groundwater from contamination. The preference for the disposal of dead animals is rendering. If rendering is not possible, or the operator is unwilling to accept dead animals, then land disposal is an acceptable option.

2. The department of natural resources shall provide the Iowa state university of science and technology extension service with copies of the rules related to the on-farm disposal of dead animals. The department of natural resources shall also cooperate in the preparation and circulation of information which explains how to comply with the rules and encourages the practice as an alternative to disposal of dead animals at a landfill.

At the October 1990 meeting of the administrative rules review committee of the legislative council, the department of natural resources shall provide a report on the implementation of the rules and shall report on changes which are being made to address problems which have been identified.

Sec. 7. RETROACTIVITY.

Section 5 of this Act is retroactively applicable to January 1, 1990.

Sec. 8. REPEAL.

Section 2 of this Act is repealed effective June 30, 1991.

Sec. 9. EFFECTIVE DATE.

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

Approved April 24, 1990

CHAPTER 1192

ASSESSMENT APPEALS
H.F. 2559

AN ACT relating to the process by which a taxpayer appeals a decision of the local board of review to the district court and providing for the reinstatement of appeals dismissed and providing an effective date.

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

Section 1. Section 441.38, Code 1989, is amended to read as follows:

441.38 APPEAL TO DISTRICT COURT.

1. Appeals may be taken from the action of the board of review with reference to protests of assessment, to the district court of the county in which the board holds its sessions within twenty days after its adjournment or May 31, whichever date is later. No new grounds in addition to those set out in the protest to the board of review as provided in section 441.37 can be pleaded, but additional evidence to sustain those grounds may be introduced. The assessor shall have the same right to appeal and in the same manner as an individual taxpayer, public body or other public officer as provided in section 441.42. Appeals shall be taken by filing a written notice ~~to that effect to the chairperson or presiding officer of the board of review and served as an original notice~~. of appeal with the clerk of district court. Filing of the written notice of appeal shall preserve all rights of appeal of the appellant.

2. Notice of appeal shall be served as an original notice on the chairperson, presiding officer, or clerk of the board of review after the filing of notice under subsection 1 with the clerk of district court.

Sec. 2. REINSTATEMENT.

Any proceeding appealing the decision of a board of review pending or filed after January 1, 1988, which has been dismissed by reason of the failure to serve notice of appeal on a person as selected from among the two persons designated in section 441.38, within the time period required under that section, shall be reinstated by the court in which such proceeding was dismissed, after notice and hearing as prescribed by the court.

Any rights of appeals reinstated as a result of this section shall be exercised by filing of notice of appeal by June 30, 1991, as provided for in section 441.38, subsection 1 and served as provided for in section 441.38, subsection 2.

Sec. 3.

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

Approved April 24, 1990

CHAPTER 1193

RESPIRATORY CARE PRACTITIONERS
S.F. 205

AN ACT relating to the credentialing and regulation of respiratory care practitioners.

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

Section 1. Section 135F.1, subsections 1, 3, and 4, Code 1989, are amended to read as follows:

1. "Respiratory care practitioner" or "practitioner" means a person who ~~has qualified~~ qualifies as a respiratory therapist or respiratory therapy technician. ~~Neither term refers to a person~~

~~currently working in the field of respiratory care who does not become certified under this chapter.~~

3. "Respiratory therapist" means a ~~respiratory care practitioner~~ person who has successfully completed a respiratory therapy training program, and has passed the registry examination for respiratory therapists administered by the national board for respiratory care ~~and passed~~ or a respiratory therapy ~~certification~~ licensure examination approved by the department. Two years of supervised clinical experience in an acceptable location for the practice of respiratory care, as described in section 135F.4, may be substituted for the completion of a respiratory therapy training program.

4. "Respiratory therapy technician" means a ~~respiratory care practitioner~~ person who has successfully completed a respiratory therapy training program, and has passed the certification examination for respiratory therapy technicians administered by the national board for respiratory care ~~and passed~~ or a respiratory therapy technicians' ~~certification~~ licensure examination approved by the department. Two years of supervised clinical experience in an acceptable location for the practice of respiratory care, as described in section 135F.4, may be substituted for the completion of a respiratory therapy training program.

Sec. 2. Section 135F.2, Code 1989, is amended by adding the following new unnumbered paragraph after subsection 5:

NEW UNNUMBERED PARAGRAPH. "Respiratory care as a practice" does not include the delivery, assembly, setup, testing, or demonstration of respiratory care equipment in the home upon the order of a licensed physician. As used in this paragraph, "demonstration" does not include the actual teaching, administration, or performance of the respiratory care procedures.

Sec. 3. Section 135F.5, unnumbered paragraph 3, Code 1989, is amended to read as follows:

A graduate of an approved respiratory care training program employed in an organized health care system may render services as defined in sections 135F.2 and 135F.3 under the direct and immediate supervision of a respiratory care practitioner for one year. The graduate shall be identified as a "respiratory care practitioner-~~certification~~ licensure applicant.

Sec. 4. Section 135F.6, subsections 2 and 3, Code 1989, are amended to read as follows:

2. The establishment ~~and collection of fees~~ of a system for the ~~registration~~ licensure of respiratory care practitioners and the establishment and collection of licensure fees. The fees charged shall be sufficient to defray the costs of administration of this chapter and all fees collected shall be deposited with the treasurer of state who shall deposit them in the general fund of the state.

3. The designation of ~~certification~~ licensure examinations for respiratory care practitioners.

Sec. 5. Section 135F.7, Code 1989, is amended to read as follows:

135F.7 REPRESENTATION.

A person who is qualified as a respiratory care practitioner and is ~~registered with~~ licensed by the department may use the title "respiratory care practitioner" or the letters R.C.P. after the person's name to indicate that the person is a qualified respiratory care practitioner ~~registered with~~ licensed by the department. No other person is entitled to use the title or letters or any other title or letters that indicate or imply that the person is a respiratory care practitioner, nor may a person make any representation, orally or in writing, expressly or by implication, that the person is a ~~registered~~ licensed respiratory care practitioner. ~~A person working in the field of respiratory care on July 1, 1985 shall be permitted to continue to do so except that the person shall not be entitled to designate or refer to themselves as a "respiratory care practitioner" or use the letters R.C.P. after the person's name.~~

Sec. 6. Section 135F.11, Code 1989, is amended to read as follows:

135F.11 CONTINUING EDUCATION.

After July 1, ~~1988~~ 1991, a respiratory care practitioner shall submit evidence satisfactory to the department that during the year preceding renewal of ~~certification~~ licensure the practitioner has completed continuing education courses as prescribed by the department. In lieu

of the continuing education, a person may successfully complete the most current version of the ~~certification~~ licensure examination.

Persons who are not licensed under this chapter but who perform respiratory care as defined by sections 135F.2 and 135F.3 shall comply with the continuing education requirements of this section. The department shall adopt rules for the administration of this requirement.

This section does not apply to persons who are licensed to practice a health profession covered by chapter 147 or to any person who performs respiratory care procedures as a first responder, emergency rescue technician, emergency medical technician-ambulance, advanced emergency medical care provider, or other person functioning as part of a rescue unit or in a hospital as authorized by chapter 147A, or to persons whose function with respect to respiratory care is limited to the home delivery and connection of oxygen tanks.

Sec. 7. Section 135F.12, Code 1989, is amended to read as follows:

135F.12 SUSPENSION AND REVOCATION OF ~~CERTIFICATES~~ LICENSES.

The department may suspend, revoke or impose probationary conditions upon a ~~certificate~~ license issued pursuant to rules adopted in accordance with section 135F.6.

Sec. 8. Section 258A.1, subsection 6, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. aa. The Iowa department of public health in licensing respiratory care practitioners pursuant to chapter 135F.

Approved April 26, 1990

CHAPTER 1194

USE OF FIREARMS NEAR A FEEDLOT

S.F. 2048

AN ACT to prohibit the discharge of firearms near a feedlot and subjecting violators to existing penalties.

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

Section 1. Section 109.123, Code 1989, is amended to read as follows:

109.123 PROHIBITED HUNTING NEAR BUILDINGS.

1. A person shall not discharge a firearm ~~at any game or fur-bearing animal~~ within two hundred yards of a building inhabited by people or domestic livestock or within two hundred yards of a feedlot unless the owner or tenant has given consent.

2. As used in this section, "feedlot" means a lot, yard, corral, or other area in which livestock are present and confined, for the purposes of feeding and growth before slaughter. The term does not include areas which are used for the raising of crops or other vegetation and upon which livestock are allowed to graze or feed.

Approved April 26, 1990

CHAPTER 1195

INCOME TAX EXEMPTION FOR AGRICULTURAL DEVELOPMENT AUTHORITY BONDS AND NOTES

S.F. 2115

AN ACT relating to state income taxation by exempting certain bonds and notes issued by the agricultural development authority and providing a retroactive applicability date.

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

Section 1. Section 422.7, subsection 19, Code Supplement 1989, is amended to read as follows:

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. 2. Section 422.35, subsection 13, Code Supplement 1989, is amended to read as follows:

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~~.

Sec. 3.

This Act is retroactively applicable for tax years beginning on or after January 1, 1989.

Approved April 26, 1990

CHAPTER 1196

SEED CAPITAL TAX CREDIT, AND EXPEDITED REGISTRATION OF SMALL ISSUES OF SECURITIES

S.F. 2411

AN ACT providing a seed capital income tax credit, authorizing expedited registration by filing for small issues under the state securities law, and providing effective and applicability dates.

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

Section 1. NEW SECTION. 422.11D SEED CAPITAL CREDIT.

1. The taxes imposed under this division less credits allowed under sections 422.10, 422.11A, 422.11B, 422.12, and 422.12B, shall be reduced by a seed capital credit. An individual may claim the seed capital 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 partnership, subchapter S corporation, or estate or trust.

2. The amount of the credit is equal to ten percent of a taxpayer's investment, during the tax year, in an initial offering of securities by a qualified business or a qualified seed capital fund.

3. A seed capital fund, to be a qualified seed capital fund under this section, must meet all of the following conditions:

a. The investment must be in shares or other equity interests, which are purchased for money consideration and carry voting rights.

b. The issue of shares or other equity interests must be registered under an expedited registration by filing system as provided in section 502.207A.

c. Its capital base must be used to make investments exclusively in the types of businesses described in subsection 4, paragraph "a".

d. Its capital base must be used to make qualified investments according to the following schedule:

(1) Invest at least thirty percent of its capital base, raised through investments for which tax credits were taken, within three years of the fiscal year in which tax credits were claimed.

(2) Invest at least fifty percent of its capital base, raised through investments for which tax credits were taken, within four years of the fiscal year in which tax credits were claimed.

(3) Invest at least seventy percent of its capital base, raised through investments for which tax credits were taken, within five years of the fiscal year in which tax credits were claimed.

e. More than twenty percent of the total funds raised for which tax credits were claimed must not be invested in any one qualified business.

4. A business, to be a qualified business under this section, must meet all of the following conditions:

a. The business must be engaged in one or more of the following activities:

(1) Interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products.

(2) Agricultural, fishery, or forestry processing.

(3) Research and development of products and processes associated with any of the activities enumerated in subparagraph (1) or (2).

b. The shares must be purchased for money consideration and carry full voting rights.

c. The shares must be sold in an offering registered under an expedited registration by filing system as provided in section 502.207A.

5. If during the tax year, the investment or a portion of the investment is disposed of prior to having been owned by the taxpayer for two years, the tax under this division is increased by the amount of the credit taken on the investment or portion of the investment.

6. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

7. An investment in securities offered by a seed capital fund or qualified business qualifies for a tax credit only if the investment is in an unaffiliated and nonrelated person, partnership, or corporation.

8. The director may conduct an examination of a seed capital fund or business to determine if it has met the requirements of this section. The director may request and if requested shall receive the assistance of the administrator of chapter 502 to conduct an examination of a seed capital fund or business.

9. The issuer must file a copy of its annual report with the director and the administrator of chapter 502 for each of the three years following the offering.

10. A violation of this section is grounds for decertification of a seed capital fund or business as a qualified seed capital fund or a qualified business. A seed capital fund or a business alleged to have violated this section, or to be out of compliance with this section, shall be allowed a one hundred twenty day grace period to remedy the violation or to comply with this section. Decertification shall cause the forfeiture of any right or interest to a tax credit under this section and shall cause the total amount of tax credit for all tax years under this section to be due and payable with income tax liability for the tax year when decertification is effective.

Sec. 2. Section 422.33, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The taxes imposed under this division shall be reduced by a seed capital credit.

a. The amount of the credit is equal to ten percent of a taxpayer's investment, during the tax year, in an initial offering of securities by a qualified business or a qualified seed capital fund.

b. A seed capital fund, to be a qualified seed capital fund under this section, must meet all of the following conditions:

(1) The investment must be in shares or other equity interests, which are purchased for money consideration and carry voting rights.

(2) The issue of shares or other equity interests must be registered under an expedited registration by filing system as provided in section 502.207A.

(3) Its capital base must be used to make investments exclusively in the types of businesses described in paragraph "c", subparagraph (1).

(4) Its capital base must be used to make qualified investments according to the following schedule:

(a) Invest at least thirty percent of its capital base, raised through investments for which tax credits were taken, within three years of the fiscal year in which tax credits were claimed.

(b) Invest at least fifty percent of its capital base, raised through investments for which tax credits were taken, within four years of the fiscal year in which tax credits were claimed.

(c) Invest at least seventy percent of its capital base, raised through investments for which tax credits were taken, within five years of the fiscal year in which tax credits were claimed.

(5) More than twenty percent of the total funds raised for which tax credits were claimed must not be invested in any one qualifying business.

c. A business, to be a qualified business under this subsection, must meet all of the following conditions:

(1) The business must be engaged in one or more of the following activities:

(a) Interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products.

(b) Agricultural, fishery, or forestry processing.

(c) Research and development of products and processes associated with any of the activities enumerated in subparagraph subdivision (a) or (b).

(2) The shares must be purchased for money consideration and carry full voting rights.

(3) The shares must be sold in an offering registered under an expedited registration by filing system as provided in section 502.207A.

d. If during the tax year, the investment or a portion of the investment is disposed of prior to having been owned by the taxpayer for two years, the tax under this division is increased by the amount of the credit taken on the investment or portion of the investment.

e. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

f. An investment in securities offered by a seed capital fund or qualified business qualifies for a tax credit only if the investment is in an unaffiliated and nonrelated person, partnership, or corporation.

g. The director may conduct an examination of a seed capital fund or business to determine if it has met the requirements of this subsection. The director may request and if requested shall receive the assistance of the administrator of chapter 502 to conduct an examination of a seed capital fund or business.

h. The issuer must file a copy of its annual report with the director and the administrator of chapter 502 for each of the three years following the offering.

i. A violation of this subsection is grounds for decertification of a seed capital fund or business as a qualified seed capital fund or a qualified business. A seed capital fund or a business alleged to have violated this subsection, or to be out of compliance with this subsection, shall be allowed a one hundred twenty day grace period to remedy the violation or to comply with this subsection. Decertification shall cause the forfeiture of any right or interest to a tax credit under this subsection and shall cause the total amount of tax credit for all tax years under this subsection to be due and payable with income tax liability for the tax year when decertification is effective.

Sec. 3. NEW SECTION. 502.207A EXPEDITED REGISTRATION BY FILING FOR SMALL ISSUERS.

1. A security meeting the conditions set forth in this section may be registered by filing as provided in this section.

2. In order to register under this section, the issuer must meet all of the following conditions:

a. The issuer must be a corporation or partnership organized under the laws of one of the states or possessions of the United States which engages in or proposes to engage in a business other than petroleum exploration or production mining or other extractive industries.

b. The securities must be offered and sold only on behalf of the issuer, and must not be used by any selling security holder to register securities for resale.

3. In order to register under this section, all of the following conditions must be satisfied:

a. The offering price for common stock, the exercise price if the securities are options, warrants, or rights for common stock, or the conversion price if the securities are convertible into common stock must be equal to or greater than five dollars per share. The issuer must not split its common stock, or declare a stock dividend, for two years after effectiveness of the registration, except that in connection with a subsequent registered public offering, the issuer may upon application and consent of the administrator take such action.

b. A commission, fee, or other remuneration shall not be paid or given, directly or indirectly, for the sale of the securities, except for a payment to a broker-dealer or agent registered under this chapter, or except for a payment as permitted by the administrator by rule or by order issued upon written application showing good cause for allowance of a commission, fee, or other remuneration.

c. The issuer or a broker-dealer offering or selling the securities is not or would not be disqualified under rule 505, 17 C.F.R. § 230.505 (2)(iii), adopted under the federal Securities Act of 1933.

d. The aggregate offering price of the offering of securities by the issuer within or outside this state must not exceed one million dollars, less the aggregate offering price for all securities sold within twelve months before the start of, and during the offering of, the securities under rule 504, 17 C.F.R. § 230.504, in reliance on any exemption under section 3(b) of the federal Securities Act of 1933 or in violation of section 5(a) of that Act; provided, that if rule 504, 17 C.F.R. § 230.504, adopted under the Securities Act of 1933, is amended after the effective date of this section, the administrator may by rule increase the limit under this paragraph to conform to that increased amount.

e. An offering document meeting the disclosure requirements of rule 502(b)(2), 17 C.F.R. § 230.502(b)(2), adopted under the Securities Act of 1933, must be delivered to each purchaser in the state prior to the sale of the securities, unless the administrator by rule or order provides for disclosure different from that rule.

f. The issuer must file with the administrator an application for registration and the offering document to be used in connection with the offer and sale of securities.

g. The issuer must pay to the administrator a fee of one hundred dollars and is not required to pay the filing fee set forth in section 502.208, subsection 2.

4. Unless the administrator issues a stop order denying the effectiveness of the registration, as provided in section 502.209, the registration becomes effective on the fifth business day after the registration has been filed with the administrator, or earlier if the administrator permits a shorter time period between registration and effectiveness.

5. In connection with an offering registered under this section, a person may be registered as an agent of the issuer under section 502.301 by the filing of an application by the issuer with the administrator for the registration of the person as an agent of the issuer and the paying of a fee of ten dollars. Notwithstanding any other provision of this chapter, the registration of the agent shall be effective until withdrawn by the issuer or until the securities registered pursuant to the registration statement have all been sold, whichever occurs first. The registration of an agent shall become effective when ordered by the administrator or on the fifth business day after the agent's application has been filed with the administrator, whichever occurs first, and the administrator shall not impose further conditions upon the registration of the agent. However, the administrator may deny, revoke, suspend, or withdraw the registration of the agent at any time as provided in section 502.304. Notwithstanding section 502.302, subsection 5, for the purposes of registration of agents under this section, the issuer and agent

are not required to post bond. An agent registered solely pursuant to this section is entitled to sell only securities registered under this section.

6. This section is not applicable to any of the following issuers:

a. An investment company, including a mutual fund.

b. An issuer subject to the reporting requirements of section 13 or 15(d) of the federal Securities Exchange Act of 1934.

c. A direct participation program, unless otherwise permitted by the administrator by rule or order for good cause.

d. A blind pool or other offering for which the specific business or properties cannot now be described, unless the administrator determines that the blind pool is a community development, seed, or venture capital fund for which the administrator permits a waiver.

7. Notwithstanding any other provision of this chapter, the administrator shall not deny effectiveness to or suspend or revoke the effectiveness of a registration under this section on the basis of section 502.209, subsection 1, paragraph "h", and the administrator shall not impose the conditions specified in section 502.208, subsection 8, subsection 9, paragraph "b", or subsection 12. The administrator may issue a stop order pursuant to section 502.209 to filers under this section for any of the following additional reasons:

a. The issuer's principal place of business is not in this state.

b. At least fifty percent of the issuer's full-time employees are not located in this state.

c. At least eighty percent of the net proceeds of the offering are not going to be used in connection with the operations of the issuer in this state.

d. If the issuer is a seed or venture capital fund, at least fifty percent of the moneys received from the sale of the securities will not be used to make seed or venture capital investments in this state.

Sec. 4. NEW SECTION. 502.207B LEGISLATIVE REVIEW AND OVERSIGHT.

The director of revenue and finance and the administrator of the securities bureau of the insurance division shall each report on an annual basis to the senate's and house of representatives' committees on ways and means concerning issuers using the seed capital tax credit, as authorized for personal taxpayers by section 422.11D and for corporate taxpayers by section 422.33, subsection 8, and the expedited filing by registration system provided by section 502.207A.

Sec. 5. Section 502.611, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This chapter may be construed and implemented to effectuate its general purpose to protect investors, and consistent with that purpose, to encourage capital formation, job creation, and free and competitive securities markets and to minimize regulatory burdens on issuers and persons subject to this chapter, especially small businesses.

Sec. 6.

Sections 1, 3, and 5 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 7.

Section 2 of this Act takes effect July 1, 1991, and applies to eligible investments made on or after that date.

Sec. 8.

Section 1 of this Act is repealed January 1, 1993.

Sec. 9.

Section 2 of this Act is repealed January 1, 1994.

Approved April 26, 1990

CHAPTER 1197

COUNTY ASSESSMENTS FOR ABATEMENT OF HAZARDS

H.F. 366

AN ACT authorizing a county to exercise certain governmental powers to protect the public health and welfare, and to levy special assessments against affected property.

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

Section 1. NEW SECTION. 331.384 ABATEMENT OF PUBLIC HEALTH AND SAFETY HAZARDS – SPECIAL ASSESSMENTS.

1. A county may:

a. Require the abatement of a nuisance, public or private, in any reasonable manner.

b. Require the removal of diseased trees or dead wood, except on publicly owned property or right-of-way.

c. Require the removal, repair, or dismantling of a dangerous building or structure.

d. Require the numbering of buildings.

e. Require connection to public drainage systems from abutting property when necessary for public health or safety.

f. Require the cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.

2. If the property owner does not perform an action required under this section within a reasonable time after notice, a county may perform the required action and assess the costs against the property for collection in the same manner as a property tax. Notice may be in the form of an ordinance or by certified mail to the property owner as shown by the records of the county auditor, and shall state the time within which action is required. However, in an emergency, a county may perform any action which may be required under this section without prior notice and assess the costs as provided in this section after notice to the property owner and hearing.

3. If any amount assessed against property under this section exceeds one hundred dollars, a county may permit the assessment to be paid in up to ten annual installments in the same manner and with the same interest rates provided for assessments against benefited property under chapter 384, division IV.

4. A special assessment levied pursuant to this section, including all interest and penalties, is a lien against the benefited property from the date of filing the schedule of assessments until the assessment is paid. A special assessment has equal precedence with ordinary taxes and is not divested by judicial sale.

5. The procedures for making and levying a special assessment pursuant to this section and for an appeal of the assessment are the same procedures as provided in sections 384.59 through 384.67 and sections 384.72 through 384.75, provided that the references in those sections to the council shall be to the board of supervisors and the references to the city shall be to the county.

Approved April 26, 1990

CHAPTER 1198

WILDLIFE CONSERVATION LAWS AND PENALTIES

H.F. 2500

AN ACT relating to the enforcement of outdoor recreation and natural resource laws, by defining repeat offenders, by requiring the reporting of hunting accidents, by providing for the suspension of licenses, permits, and certificates, and by providing penalties.

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

Section 1. NEW SECTION. 109.18 HUNTING ACCIDENTS — MANDATORY REPORTING.

A person who is involved in a hunting accident with a firearm and the accident results in injury to a person or property damage exceeding one hundred dollars, shall report the accident to the sheriff's office in the county where the accident occurred or to the department within twelve hours after the accident occurred. If an injury in the accident prevents timely reporting, the report shall be made as soon as practicable. Failure to report as required in this section is a simple misdemeanor.

Sec. 2. NEW SECTION. 109.133 SUSPENSION OF LICENSES, CERTIFICATES, AND PERMITS.

A person who is assessed damages pursuant to section 109.130 shall immediately surrender all licenses, certificates, and permits to hunt, fish, or trap in the state to the department. The licenses, permits, and certificates, and the privileges associated with them shall remain suspended until the assessed damages and any accrued interest are paid or a payment schedule is established by the court. Upon payment of the assessed damages and any accrued interest, the suspension shall be lifted. If a payment schedule is established, the suspension shall be lifted and remain so unless the person fails to make a payment pursuant to that schedule. Failure to make a payment shall cause the suspension to be renewed.

Sec. 3. NEW SECTION. 109.134 AUTHORITY TO SUSPEND OR REVOKE LICENSE — POINT SYSTEM.

The department shall establish rules pursuant to chapter 17A providing for the suspension or revocation of licenses issued by the department. For purposes of determining when to suspend or revoke a license issued by the department under this section, the department shall adopt a point system pursuant to chapter 17A for the purpose of weighing the seriousness of violations of the provisions of chapter 109, 109A, 109B, 110, 110A, or 110B. The weighted scale may be amended from time to time as experience dictates.

Sec. 4. NEW SECTION. 109.134 REPEAT OFFENDER — RECORDS, ENFORCEMENT, AND PENALTIES.

1. The commission shall establish by rule, a recordkeeping system and other administrative procedures necessary to administer this section.

2. A person who pleads guilty or is convicted of a violation of any provision of chapter 109, 109A, 109B, 110, 110A, or 110B while the person's license or licenses are suspended or revoked is guilty of a simple misdemeanor if the person has no other violations within the previous three years which occurred while the person's license or licenses have been suspended or revoked.

3. A person who pleads guilty or is convicted of a violation of any provision of chapter 109, 109A, 109B, 110, 110A, or 110B while the person's license or licenses are suspended or revoked is guilty of a serious misdemeanor if the person has one other violation within the previous three years which occurred while the person's license or licenses have been suspended or revoked.

4. A person who pleads guilty or is convicted of a violation of any provision of chapter 109, 109A, 109B, 110, 110A, or 110B while the person's license or licenses are suspended or revoked

is guilty of an aggravated misdemeanor when the person has had two or more convictions within the previous three years which occurred while the person's license or licenses have been suspended or revoked.

Approved April 26, 1990

CHAPTER 1199

WETLANDS PROTECTION, TAX EXEMPTION, AND MEDIATION

H.F. 2407

AN ACT relating to the designation, inventory, and protection of wetlands, providing for mediation, providing a civil penalty for violations, and providing a property tax exemption for wetlands.

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

Section 1. Section 108.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 4. "Wetlands" means an area of two or more acres in a natural condition that is mostly under water or waterlogged during the spring growing season and is characterized by vegetation of hydric soils.

NEW SUBSECTION. 5. "Protected wetlands" means type 3, type 4, and type 5 wetlands as described in Circular 39, Wetlands of the United States, 1971 Edition, published by the United States department of the interior. However, a protected wetland does not include land where an agricultural drainage well has been plugged causing a temporary wetland or land within a drainage district or levee district.

Sec. 2. NEW SECTION. 108.12 INVENTORY OF PROTECTED WETLANDS.

The department shall inventory the wetlands and marshes of each county and make a preliminary designation as to which constitute protected wetlands. The department shall consult with the county conservation board in making the preliminary designations. Upon completion of the inventory with preliminary designations, the department shall use an existing map or prepare a map and a list of the marshes and wetlands which are designated as protected wetlands in each county. The department shall file at least one copy of the list and map with the county conservation board and the county recorder. The department shall notify the landowners affected by the preliminary wetlands designation by certified mail. The notice shall state that any person may challenge the designation of the protected wetlands or may request the designation of additional marshes or wetlands as protected wetlands, by doing one of the following:

1. Filing a petition for a hearing with the director within sixty days following the date of notice. The petition shall state specifically the reasons for disputing the preliminary designations of the department. The hearing shall be held in the county within sixty days following the expiration of the sixty-day period for filing petitions.

2. Filing a request for mediation with the farm mediation service as provided in section 654A.16 within sixty days following the date of the notice. The department shall participate in mediation as provided in section 654A.16.

Within sixty days following the completion of the hearing, or the issuance of a mediation release in which both parties agree to the designation or no agreement is reached, the director shall issue an order designating the protected wetlands in the county. The order shall be considered a final decision of the department in a contested case for the purposes of judicial review pursuant to chapter 17A.

Sec. 3. NEW SECTION. 108.13 PROTECTION OF WETLANDS.

1. A person shall not drain a protected wetland without first obtaining a permit from the department.

2. The department shall not issue a permit to drain a protected wetland except under one of the following conditions:

a. The protected wetland is replaced by the applicant with a wetland of equal or greater value as determined by the department.

b. The protected wetland does not meet the criteria for continued designation as a protected wetland.

3. This section does not prevent a landowner from utilizing the bed of a protected wetland for pasture or cropland during a period of drought if there is no construction of dikes, ditches, tile lines, or buildings and the agricultural use does not result in drainage.

Sec. 4. NEW SECTION. 108.14 CIVIL PENALTY.

A person who violates the permit requirement of section 108.13 is subject to a civil penalty of not more than five hundred dollars for each day that the violation continues. A civil penalty assessed under this section shall not apply until the fourth day after a violator is given written notification of the violation.

Sec. 5. Section 427.1, subsection 36, unnumbered paragraphs 1 and 2, Code Supplement 1989, are amended to read as follows:

~~Wetlands, recreational~~ Recreational lakes, forest covers, rivers and streams, river and stream banks, and open prairies as designated by the board of supervisors of the county in which located. The board of supervisors shall annually designate the real property, not to exceed in the aggregate for the fiscal year beginning July 1, 1983 the greater of one percent of the acres assessed as agricultural land or three thousand acres in each county, for which this exemption shall apply. For subsequent fiscal years, the limitation on the maximum acreage of real property that may be granted exemptions shall be the limitation for the previous fiscal year, unless the amount of acreage granted exemptions for the previous fiscal year equaled the limitation for that year, then the limitation for the subsequent fiscal year is the limitation for the previous fiscal year plus an increase, not to exceed three hundred acres, of ten percent of that limitation. The procedures of this subsection shall be followed for each assessment year to procure an exemption for the fiscal year beginning in the assessment year. The exemption shall be only for the fiscal year for which it is granted~~, except that an exemption granted for wetlands shall be for three fiscal years~~. A parcel of property may be granted subsequent exemptions. The exemption shall only be granted for parcels of property of two acres or more.

Application for this exemption shall be filed with the commissioners of the soil and water conservation district in which the property is located, ~~or if not located in a district, to the board of supervisors,~~ not later than April 15 of the assessment year, on forms provided by the department of revenue and finance. ~~However, in the case of an exemption granted for wetlands an application does not have to be filed for the second and third years of the three-year exemption period.~~ The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted. In the case of an open prairie which is or includes a gully area susceptible to severe erosion, an approved erosion control plan must accompany the application. Upon receipt of the application, the commissioners ~~or the board of supervisors, if the property is not located in a soil and water conservation district,~~ shall certify whether the property is eligible to receive the exemption. The commissioners ~~or board~~ shall not withhold certification of the eligibility of property because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the commissioners certify that the property is eligible, the application shall be forwarded to the board of supervisors by May 1 of that assessment year with the certification of the eligible acreage. An application must

be accompanied by an affidavit signed by the applicant that if an exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted.

Sec. 6. Section 427.1, subsection 36, unnumbered paragraph 5, Code Supplement 1989, is amended to read as follows:

The board of supervisors does not have to grant tax exemptions under this subsection, grant tax exemptions in the aggregate of the maximum acreage which may be granted exemptions, or grant a tax exemption for the total acreage for which the applicant requested the exemption. Only real property in parcels of two acres or more which is ~~wetlands,~~ recreational lakes, forest cover, river and stream, river and stream banks, or open prairie and which is utilized for the purposes of providing soil erosion control or wildlife habitat or both, and which is subject to property tax for the fiscal year for which the tax exemption is requested, is eligible for the exemption under this subsection. However, in addition to the above, in order for a gully area which is susceptible to severe erosion to be eligible, there must be an erosion control plan for it approved by the commissioners of the soil and water conservation district in which it is located ~~or the state soil conservation committee if not located in a district~~. In the case of an exemption for river and stream or river and stream banks, the exemption shall not be granted unless there is included in the exemption land located at least thirty-three feet from the ordinary high water mark of the river and stream or river and stream banks. Property shall not be denied an exemption because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the real property is located within a city, the approval of the governing body must be obtained before the real property is eligible for an exemption. For purposes of this subsection:

Sec. 7. Section 427.1, subsection 36, paragraph a, Code Supplement 1989, is amended by striking the paragraph.

Sec. 8. Section 427.1, subsection 37, Code Supplement 1989, is amended to read as follows:

37. NATIVE PRAIRIE AND WETLAND. Land designated as native prairie ~~by a county conservation board or by the department of natural resources in an area not served by a county conservation board~~ or land designated as a protected wetland by the department of natural resources pursuant to section 108.12. Application for the exemption shall be made on forms provided by the department of revenue and finance. Land designated as a protected wetland shall be assessed at a value equal to the average value of the land where the wetland is located and which is owned by the person granted the exemption. The application forms shall be filed with the assessing authority not later than the first of February of the year for which the exemption is requested. The application must be accompanied by an affidavit signed by the applicant that if the exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted. If the property is used for economic gain during the assessment year in which the exemption is granted, the property shall lose its tax exemption and shall be taxed at the rate levied by the county for the fiscal year beginning in that assessment year. The first annual application shall be accompanied by a certificate from ~~the county conservation board serving the area in which the property is located or if none exists,~~ the department of natural resources stating that the land is native prairie or protected wetland. The ~~county conservation board or the~~ department of natural resources shall issue ~~the~~ a certificate for the native prairie exemption if the board or department finds that the land has never been cultivated, is unimproved, is primarily a mixture of warm season grasses interspersed with flowering plants, and meets the other criteria established by the natural resource commission for native prairie. The department of natural resources shall issue a certificate for the wetland exemption if the department finds the land is a protected wetland, as defined under section 108.1, or if the wetland was previously drained and cropped but has been restored under a nonpermanent restoration agreement with the department or other county, state, or federal agency or private conservation group. A taxpayer may seek judicial

review of a decision of ~~a board or~~ the department according to chapter 17A. The natural resource commission shall adopt rules to implement this subsection.

The assessing authority each year may submit to the department a claim for reimbursement of tax revenue lost from the exemption. Upon receipt of the claim, the department shall reimburse the assessing authority an amount equal to the lost tax revenue based on the value of the protected wetland as assessed by the authority, unless the department reimburses the authority based upon a departmental assessment of the protected wetland. The authority may contest the department's assessment as provided in chapter 17A. The department is not required to honor a claim submitted more than sixty days after the authority has assessed land where the protected wetland is located and which is owned by the person granted the exemption.

Sec. 9. NEW SECTION. 654A.16 WETLAND DESIGNATION.

The farm mediation service shall provide for mediation between the department of natural resources and a landowner affected by the preliminary wetland designation provided in section 108.12. The department shall cease actions relating to inventorying or designating affected land until a mediation release is issued by the farm mediation service. The mediation process shall be conducted according to rules adopted by the attorney general after consultation with the farm mediation service. The rules shall to the extent practical be based on mediation provided under this chapter for borrowers and lenders.

Sec. 10. Section 654B.8, subsection 4, as enacted in 1990 Iowa Acts, House File 2404, section 22, is amended to read as follows:

4. If the parties waive mediation, or if a mediation agreement is not reached, the parties may sign a statement prepared by the mediator that mediation was waived or that the parties did not reach an agreement. If any party does not sign the statement, the mediator shall sign the statement. The statement constitutes a mediation release. ~~Unless the farm resident waives mediation, the department shall not receive a mediation release until the party has participated in at least one mediation meeting.~~

Sec. 11. Section 654A.16 is repealed effective upon the repeal of sections 654A.1 through 654A.14.

Approved April 26, 1990

CHAPTER 1200

COMMUNITY CLUSTERS

H.F. 2560

AN ACT relating to the formation of community clusters by certain governmental units for the joint exercise of powers.

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

Section 1. NEW SECTION. 28E.35 DEFINITIONS.

As used in this division unless the context otherwise requires:

1. "Community cluster" means a cooperative community unit established pursuant to this chapter for the joint exercise of powers by two or more governmental units.

2. "Governmental unit" means a city, county, or special taxing district.

Sec. 2. NEW SECTION. 28E.36 ESTABLISHMENT OF COMMUNITY CLUSTER.

Two or more governmental units located in the state may establish a community cluster by entering into an agreement for the joint exercise of powers pursuant to this chapter to make more efficient use of their resources by providing for joint functions, services, facilities, development of infrastructure and for revenue sharing, and to foster economic development.

Sec. 3. NEW SECTION. 28E.37 DESIGNATION OF TOWNSHIPS.

A county entering into an agreement to establish a community cluster may limit the area of the county included in the community cluster to designated townships.

Sec. 4. NEW SECTION. 28E.38 REVENUE SHARING.

The agreement establishing a community cluster may provide for the sharing of revenues by the governmental units forming the community cluster.

Sec. 5. NEW SECTION. 28E.39 REFERENDUM FOR AD VALOREM TAX SHARING.

An agreement establishing a community cluster shall require the approval of the qualified electors residing within the area of the cluster if the agreement provides for the sharing of revenues from ad valorem property taxes. The proposition shall be submitted to the electorate by each governmental unit forming the community cluster to the electors residing within the area of the governmental unit at a general election or at a special election. However, if a county has designated only certain townships as being included within the community cluster, the proposition shall be submitted to the electorate of the county residing only in the townships included in the community cluster.

The ballot for the election shall be prepared in substantially the form for submitting special questions at general elections.

If a majority of the qualified electors in the area of each governmental unit within the proposed community cluster voting on the proposition vote in favor of the proposition then the agreement establishing the community cluster shall take effect and the sharing of revenues from ad valorem property taxes is authorized. If the proposition fails in the area of one or more governmental units within the proposed community cluster voting on the proposition then the governmental units in which the proposition passed may establish the community cluster in those areas in which the proposition passed and the sharing of revenues from ad valorem property taxes is authorized.

Sec. 6.

The Code editor shall codify sections 1 through 5 of this Act as a separate division of chapter 28E.

Approved April 26, 1990

CHAPTER 1201

TRADE SECRETS

S.F. 2395

AN ACT relating to the protection of trade secrets and providing remedies.

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

Section 1. NEW SECTION. 550.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Uniform Trade Secrets Act".

Sec. 2. NEW SECTION. 550.2 DEFINITIONS.

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

1. "Improper means" means theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage, including but not limited to espionage through an electronic device.

2. "Knows" or "knowledge" means that a person has actual knowledge of information or a circumstance or that the person has reason to know of the information or circumstance.

3. "Misappropriation" means doing any of the following:

a. Acquisition of a trade secret by a person who knows that the trade secret is acquired by improper means.

b. Disclosure or use of a trade secret by a person who uses improper means to acquire the trade secret.

c. Disclosure or use of a trade secret by a person who at the time of disclosure or use, knows that the trade secret is derived from or through a person who had utilized improper means to acquire the trade secret.

d. Disclosure or use of a trade secret by a person who at the time of disclosure or use knows that the trade secret is acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use.

e. Disclosure or use of a trade secret by a person who at the time of disclosure or use knows that the trade secret is derived from or through a person who owes a duty to maintain the trade secret's secrecy or limit its use.

f. Disclosure or use of a trade secret by a person who, before a material change in the person's position, knows that the information is a trade secret and that the trade secret has been acquired by accident or mistake.

4. "Trade secret" means information, including but not limited to a formula, pattern, compilation, program, device, method, technique, or process that is either of the following:

a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by a person able to obtain economic value from its disclosure or use.

b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Sec. 3. NEW SECTION. 550.3 INJUNCTIVE RELIEF.

1. The owner of a trade secret may petition the district court to enjoin an actual or threatened misappropriation. Upon application to the district court, an injunction shall be terminated when the trade secret has ceased to exist. However, the injunction may be continued for an additional reasonable period of time in order to eliminate a commercial advantage that otherwise would be derived from the misappropriation.

2. In exceptional circumstances, an injunction may condition future use of a trade secret upon payment of a reasonable royalty. The payment of a royalty shall continue for a period no longer than the period for which use of the trade secret may be prohibited. Exceptional circumstances include, but are not limited to, a material and prejudicial change of position of the person prior to acquiring knowledge of a misappropriation that renders a prohibitive injunction inequitable.

3. In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

Sec. 4. NEW SECTION. 550.4 DAMAGES.

1. Except to the extent that a material and prejudicial change of a person's position occurs prior to acquiring knowledge of a misappropriation and renders a monetary recovery inequitable, an owner of a trade secret is entitled to recover damages for the misappropriation. Damages may include the actual loss caused by the misappropriation, and the unjust enrichment caused by the misappropriation which is not taken into account in computing the actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a person's unauthorized disclosure or use of a trade secret.

2. If a person commits a willful and malicious misappropriation, the court may award exemplary damages in an amount not exceeding twice the award made under subsection 1.

Sec. 5. NEW SECTION. 550.5 DEFENSE – CONSENT OF DISCLOSURE.

In an action for injunctive relief or damages against a person under this chapter, it shall be a complete defense that the person disclosing a trade secret made the disclosure with the implied or express consent of the owner of the trade secret.

Sec. 6. NEW SECTION. 550.6 ATTORNEY FEES.

The court may award actual and reasonable attorney fees to the prevailing party in an action under this chapter if any the following is applicable:

1. A claim of misappropriation is made in bad faith.
2. A motion to terminate an injunction is made or resisted in bad faith.
3. A person acts willfully and maliciously in the misappropriation.

Sec. 7. NEW SECTION. 550.7 PRESERVATION OF SECRECY.

In an action brought under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, including but not limited to granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering a person involved in the litigation not to disclose an alleged trade secret without prior court approval.

Sec. 8. NEW SECTION. 550.8 STATUTE OF LIMITATIONS.

An action for misappropriation under this chapter must be brought within three years after the misappropriation is discovered or should have been discovered by the exercise of reasonable diligence. For purposes of this section, a continuing misappropriation constitutes a single claim.

Approved April 27, 1990

CHAPTER 1202

CHARITABLE ORGANIZATION REGULATION

S.F. 2412

AN ACT relating to the regulation of certain charitable organizations, providing a fee, and providing a penalty.

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

Section 1. Section 122.1, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following:

122.1 DEFINITIONS.

1. "Charitable organization" means a person who solicits or purports to solicit contributions for a charitable purpose and which receives contributions. "Charitable organization" does not include a political organization, a religious organization, or a state, regionally, or nationally accredited college or university.

2. "Charitable purpose" means a benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable objective. In the case of law enforcement, emergency medical technician, paramedic, and fire fighter organizations, "charitable purpose" does not include funds raised through the sale of advertisements, products, or tickets for an event unless the organization represents that part of proceeds will be used to assist individuals other than the organization, its members, or their families.

3. "Political organization" means a political party, a candidate for office, or a political action committee required to file financial information with federal or state election or campaign commissions.

4. "Professional commercial fund-raiser" means any person who for compensation solicits contributions in Iowa for a charitable organization other than the person. A person whose sole responsibility is to mail fund-raising literature is not a professional commercial fund-raiser. A lawyer, investment counselor, or banker who advises a person to make a charitable contribution is not, as a result of such advice, a professional commercial fund-raiser. A bona fide salaried officer, employee, or volunteer of a charitable organization is not a professional commercial fund-raiser.

5. "Religious organization" means a religious corporation, trust, foundation, association, or organization incorporated or established for religious purposes.

6. "Solicit" or "solicitation" means the request, directly or indirectly, for a contribution on the pleas or representation that the contribution will be used for a charitable purpose. A solicitation is deemed to have taken place whether or not the person making the solicitation receives a contribution. "Solicitation" does not include an application for a grant from any governmental entity or private nonprofit foundation.

Sec. 2. Section 122.2, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following:

122.2 REGISTRATION PERMIT REQUIRED — FEE — EXPIRATION.

1. a. A professional commercial fund-raiser shall not solicit contributions for charitable purposes in this state unless the professional commercial fund-raiser has registered with the attorney general, has provided the attorney general with a listing of the professional commercial fund-raiser's clients, and has obtained a registration permit from the attorney general. The attorney general may require that registration information be updated on a quarterly basis.

b. The attorney general shall prescribe and furnish the registration permit application form which shall include provisions for financial disclosure information concerning contributions received and disbursements made during the previous year by the professional commercial fund-raiser applying for registration. Financial disclosure information shall not include an applicant's donor lists.

c. In lieu of filing the financial disclosure information at the time of registration, the professional commercial fund-raiser may file a statement with its permit application where it agrees to provide, without cost, the financial disclosure information required to be disclosed pursuant to this subsection to a person or government entity requesting the information within one day of the request. The statement shall include the telephone number, mailing address, and names of persons to be contacted to obtain the financial disclosure information of the fund-raiser. Failure to provide this information upon request shall be a violation of this chapter.

2. A charitable organization shall provide, upon request and without cost to the requesting party, financial disclosure information concerning contributions received and disbursements for the organization's last complete fiscal year, or, if the organization has not completed a full

fiscal year, for its current fiscal year, to the attorney general or a person requesting the information within five days of the request.

3. a. If a professional commercial fund-raiser or charitable organization fails to provide financial information as required or requested, the fund-raiser or organization shall file the financial disclosure information with the attorney general within seven days of its failure to have provided the disclosure information and, thereafter, file, if required by the attorney general, annual financial disclosure information with the attorney general.

b. The attorney general may seek an injunction pursuant to section 714.16 prohibiting the professional commercial fund-raiser or charitable organization from soliciting contributions until the required financial information has been disclosed to the attorney general, person, or government entity making the request.

4. The client lists of a professional commercial fund-raiser, if required to be filed as part of the application for registration, shall be confidential and may be used only for law enforcement purposes.

5. The attorney general shall collect a fee of ten dollars for each registration permit issued. A permit shall expire twelve months following the date of issuance.

6. The attorney general may make reasonable rules to enforce the provisions of this chapter.

Sec. 3. NEW SECTION. 122.2A USE OF ANOTHER ORGANIZATION'S NAME IN SOLICITATION – PENALTY.

A charitable organization shall not solicit contributions for a charitable purpose in this state, where the charitable organization claims that a portion or all of the contributions received will be given to another charitable organization in this state, without permission from the other charitable organization that its name may be referred to as part of the solicitation.

Sec. 4. Section 122.3, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following:

122.3 ENFORCEMENT – PENALTY.

The attorney general shall enforce the provisions of this chapter.

A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a". The provisions of section 714.16, including but not limited to provisions relating to investigation, injunctive relief, and penalties, shall apply to this chapter.

Sec. 5. Section 122.6, Code 1989, is repealed.

Sec. 6. Sections 122.4, 122.5, and 122.7, Code Supplement 1989, are repealed.

Approved April 27, 1990

CHAPTER 1203

DELINQUENT TAX LIENS

S.F. 2416

AN ACT relating to transfer and expiration of the delinquent tax liens and the service of notice of expiration of the right of redemption from tax sales on certain persons with an interest in the real estate, and providing an effective date.

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

Section 1. Section 446.16, Code 1989, is amended to read as follows:

446.16 BID – PURCHASER.

The person who offers to pay the amount of taxes which are a lien on any parcel of land or city lot for the smallest portion thereof shall be the purchaser, and when ~~such~~ the purchaser

shall designate the portion of any tract of land or city lot for which the purchaser will pay the whole amount of taxes for which it may be sold, the portion thus designated shall be an undivided portion. The delinquent tax lien transfers with the tax sale certificate, whether held by the county or if paid by an individual, by assignment or purchased at the tax sale. The delinquent tax lien expires when the tax sale certificate expires.

Sec. 2. Section 446.29, Code 1989, is amended to read as follows:

446.29 CERTIFICATE OF PURCHASE.

The treasurer shall prepare, sign, and deliver to the purchaser of any real estate sold for the nonpayment of taxes a certificate of purchase, describing it as shown in the record of sales, giving the part of each tract or lot sold, the amount of each kind of tax, interest, and costs for each tract or lot as described in the record, and that payment has been made. Not more than one parcel or description shall be entered upon each certificate of purchase. The delinquent tax lien transfers with the tax sale certificate, whether held by the county or if paid by an individual, by assignment or purchased at the tax sale. The delinquent tax lien expires when the tax sale certificate expires.

Sec. 3. Section 447.9, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

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. 4.

Notwithstanding any other provision of law, a county board of supervisors shall abate the property taxes due and payable or refund the property taxes, if paid, which were due and payable in the fiscal year beginning July 1, 1989, of a nonprofit entity formed for historical purposes that is exempt from federal income taxation if that nonprofit entity failed to apply for a property tax exemption and the exemption would have been granted if the entity had applied. This section is repealed August 15, 1990.

Sec. 5.

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

Approved April 27, 1990

CHAPTER 1204

INSPECTIONS AND APPEALS DEPARTMENT AUTHORITY

H.F. 178

AN ACT relating to the department of inspections and appeals and its licensing, rulemaking, and enforcement authority with respect to health and human resources matters, and providing properly related matters.

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

Section 1. Section 10A.402, subsection 5, Code 1989, is amended to read as follows:

5. Investigations and collections relative to the liquidation of overpayment debts owed to the department of human services. Collection methods include but are not limited to small

claims filings, debt setoff, and repayment agreements, and are subject to approval by the department of human services.

Sec. 2. Section 135B.1, Code 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 4. "Department" means the department of inspections and appeals.

Sec. 3. Section 135B.4, Code 1989, is amended to read as follows:
135B.4 APPLICATION FOR LICENSE.
Licenses shall be obtained from the department ~~of inspections and appeals~~. Applications shall be upon ~~such~~ forms and shall contain ~~such~~ information as the ~~said~~ department may reasonably require, which may include affirmative evidence of ability to comply with ~~such~~ reasonable standards and rules ~~as may be lawfully~~ prescribed ~~hereunder~~ under this chapter. Each application for license shall be accompanied by the license fee, which shall be refunded to the applicant if the license is denied and which shall be ~~paid over~~ deposited into the state treasury and credited to the general fund if the license is issued. ~~In case of death of any person holding such license or the sale of any hospital licensed hereunder within the first year of the tenure of such license the department of inspections and appeals shall certify to the director of revenue and finance a claim on behalf of the licensee for refund of a proportionate share of the license fee. Said refund shall be based on one-twelfth the amount thereof multiplied by the remaining months in the year. The director of revenue and finance shall thereupon draw a warrant against the general fund payable to the order of the licensee.~~ Hospitals having fifty beds or less shall pay an initial license fee of fifteen dollars; hospitals of more than fifty beds and not more than one hundred beds shall pay an initial license fee of twenty-five dollars; all other hospitals shall pay an initial license fee of fifty dollars.

Sec. 4. Section 135B.5, unnumbered paragraph 1, Code 1989, is amended to read as follows:
Upon receipt of an application for license and the license fee, the department ~~of inspections and appeals~~ shall issue a license if the applicant and hospital facilities comply with ~~the provisions of~~ this chapter and the ~~regulations~~ rules of the ~~said~~ department. Each ~~such license, unless sooner suspended or revoked, shall be renewable annually~~ licensee shall receive annual reapproval upon payment of ten dollars and upon filing ~~by the licensee, and approval by the department of inspections and appeals, of an annual report upon such uniform dates and containing such information in such form as the state department of health, with the advice of the hospital licensing board, shall prescribe by regulation~~ of an application form which is available from the department. Licenses ~~issued hereunder~~ shall be either general or restricted in form. ~~In those instances where an applicant for hospital license was licensed as a hospital on December 31, 1960, or had an application for hospital license pending on April 1, 1961, and the facilities of such applicant are suitable or adequate for only certain types of hospital care or treatment, the specific types of care or treatment for which such hospital is properly equipped shall be set forth on the face of the license and the lawful operation of the hospital shall be thereby restricted to the types of care and treatment so specified.~~ Each license shall be issued only for the premises and persons or governmental units named in the application and ~~shall~~ is not ~~be~~ transferable or assignable except with the written approval of the department ~~of inspections and appeals~~. Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by ~~regulation~~ rule of the ~~said~~ department.

Sec. 5. Section 135B.6, Code 1989, is amended to read as follows:
135B.6 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE — HEARINGS AND REVIEW.
The department ~~of inspections and appeals shall have the authority to~~ may deny, suspend, or revoke a license in any case where it finds that there has been a substantial failure to comply with ~~the provisions of~~ this chapter or the rules or minimum standards ~~promulgated under~~ adopted pursuant to this chapter.
~~Such~~ A denial, suspension, or revocation shall be effected by mailing to the applicant or licensee by certified mail, or by personal service of, a notice setting forth the particular reasons

for ~~such~~ the action. ~~Such~~ A denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or licensee, within ~~such~~ the thirty-day period ~~shall give~~ gives written notice to the department ~~of inspections and appeals~~ requesting a hearing, in which case the notice ~~shall be deemed to be~~ is suspended. If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the department ~~of inspections and appeals~~. At any time at or prior to hearing, the department may rescind the notice of denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. On the basis of ~~any such~~ a hearing, or upon default of the applicant or licensee, the determination involved in the notice may be affirmed, modified, or set aside, by the department. A copy of ~~such~~ the decision, setting forth the finding of facts and the particular reasons for the decision shall be sent by certified mail, or served personally upon, the applicant or licensee.

The procedure governing hearings authorized by this section shall be in accordance with rules ~~promulgated~~ adopted by ~~said~~ the department ~~with the advice of the hospital licensing board~~. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless judicial review is sought pursuant to section 135B.14. A copy or copies of the transcript may be obtained by an interested party on payment of the cost of preparing ~~such~~ the copy or copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by ~~the aforesaid rules~~ rule.

Sec. 6. Section 135B.7, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The ~~state~~ department, ~~of health~~ with the advice and approval of the hospital licensing board and approval of the state board of health, shall adopt ~~and enforce~~ rules ~~and~~ setting out the standards for the different types of hospitals to be licensed under this chapter, ~~to further the purposes of the chapter~~. The department shall enforce the rules. Rules or standards shall not be adopted or enforced which would have the effect of denying a license to a hospital or other institution required to be licensed, solely by reason of the school or system of practice employed or permitted to be employed by physicians in the hospital, if the school or system of practice is recognized by the laws of this state.

Sec. 7. Section 135B.9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department ~~of inspections and appeals~~ shall make or cause to be made ~~such~~ inspections as it ~~may deem~~ deems necessary in order to determine compliance with applicable rules. ~~The Iowa department of public health shall, with the advice of the hospital licensing board, prescribe by regulations that any~~ A licensee or applicant for a license desiring to make ~~specified types~~ a specific type of alteration or addition to its facilities or to construct new facilities shall, before commencing ~~such~~ the alteration, addition, or new construction, submit plans and specifications ~~therefor~~ to the department ~~of inspections and appeals~~ for preliminary inspection and approval or recommendations with respect to compliance with the ~~regulations~~ applicable rules and standards ~~herein authorized~~.

Sec. 8. Section 135B.10, Code 1989, is amended to read as follows:

135B.10 HOSPITAL LICENSING BOARD.

The governor shall appoint five individuals who possess recognized ability in the field of hospital administration, ~~who shall function~~ to serve as ~~and be~~ the hospital licensing board within the department ~~of inspections and appeals~~.

Sec. 9. Section 135B.11, subsections 1 and 2, Code 1989, are amended to read as follows:

1. To consult with and advise ~~with~~ the ~~Iowa~~ department ~~of public health~~ in matters of policy affecting administration of this chapter, and in the development of rules, ~~regulations~~ and standards provided for ~~hereunder~~ under this chapter.

2. To review and approve rules and standards authorized under this chapter prior to their approval by the state board of health and adoption by the department ~~of inspections and appeals~~.

Sec. 10. Section 135B.12, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

135B.12 CONFIDENTIALITY.

The department's final findings or the final survey findings of the joint commission on the accreditation of health care organizations with respect to compliance by a hospital with requirements for licensing or accreditation shall be made available to the public in a readily available form and place. Other information relating to a hospital obtained by the department which does not constitute the department's findings from an inspection of the hospital or the final survey findings of the joint commission on the accreditation of health care organizations shall not be made available to the public, except in proceedings involving the denial, suspension, or revocation of a license under this chapter. The name of a person who files a complaint with the department shall remain 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 or agents involved in the investigation of the complaint.

Sec. 11. Section 135B.13, Code 1989, is amended to read as follows:

135B.13 ANNUAL REPORT OF DEPARTMENT.

The department ~~of inspections and appeals~~ shall prepare and publish an annual report of its activities ~~and operations~~ under this chapter.

Sec. 12. Section 135B.14, Code 1989, is amended to read as follows:

135B.14 JUDICIAL REVIEW.

Judicial review of the action of the department ~~of inspections and appeals~~ may be sought in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A. Notwithstanding the terms of ~~said~~ chapter 17A, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the hospital is located or to be located, and the status quo of the petitioner or licensee shall be preserved pending final disposition of the matter in the courts.

Sec. 13. Section 135C.10, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. In the case of a license applicant or existing licensee which is an entity other than an individual, the department may deny, suspend, or revoke a license if any individual, who is in a position of control or is an officer of the entity, engages in any act or omission proscribed by this section.

Sec. 14. Section 135C.14, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The department shall, in accordance with chapter 17A, and with the approval of the state board of health adopt and enforce rules setting minimum standards for health care facilities. In so doing, the department, with the approval of the state board of health, may adopt by reference, with or without amendment, nationally recognized standards and rules, which shall be specified by title and edition, date of publication, or similar information. The rules and standards required by this section shall be formulated in consultation with the director of human services or the director's designee and with affected industry, professional, and consumer groups ~~affected thereby~~, and shall be designed to further the accomplishment of the purposes of this chapter and shall relate to:

Sec. 15. Section 135C.16, subsection 1, Code 1989, is amended to read as follows:

1. In addition to the inspections required by sections 135C.9 and 135C.38 the department shall make or cause to be made such further unannounced inspections as it ~~may deem~~ deems necessary to adequately enforce this chapter, including at least one general inspection in each calendar year of every licensed health care facility in the state made without providing advance notice of any kind to the facility being inspected. The inspector shall show identification to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. Any employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section 135C.38 shall be disciplined as determined by the director, except that if the employee is employed pursuant

to the merit system provisions of chapter 19A the discipline shall not exceed that authorized pursuant to that chapter.

Sec. 16. Section 135C.19, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~Each~~ A citation for a class I or class II violation which is issued to a health care facility and which has become final, or a copy ~~or copies thereof~~ of the citation, shall be prominently posted as prescribed in rules ~~to be adopted by the department~~, until the violation is corrected to the department's satisfaction. The citation or copy shall be posted in a place ~~or places~~ in plain view of the residents of the facility cited, persons visiting the residents, and persons inquiring about placement in the facility.

Sec. 17. Section 135C.19, subsection 3, Code 1989, is amended to read as follows:

3. If the facility cited subsequently advises the department of human services that the violation has been corrected to the satisfaction of the department of ~~health~~ inspections and appeals, the department of human services ~~must~~ shall maintain this advisory in the same file with the copy of the citation. The department of human services shall not disseminate to the public any information regarding citations issued by the department of ~~health~~ inspections and appeals, but shall forward or refer ~~such~~ inquiries to the department of ~~health~~ inspections and appeals.

Sec. 18. Section 135E.1, subsection 3, Code 1989, is amended to read as follows:

3. "Nursing home" means an institution or facility, or part thereof, whether proprietary or nonprofit, licensed as an intermediate care facility or a skilled nursing facility, but not including an intermediate care facility for the mentally retarded or an intermediate care facility for the mentally ill, defined as such for licensing purposes under state law or ~~pursuant to the rules for nursing homes promulgated by the state board of health, in consultation with the department of inspections and appeals, whether proprietary or nonprofit~~ administrative rule adopted pursuant to section 135C.2, including but not limited to, a nursing ~~homes~~ home owned or administered by the federal or state government or an agency or political subdivision of government.

Sec. 19. Section 147.87, Code 1989, is amended to read as follows:

147.87 ENFORCEMENT.

The department shall enforce the provisions of this and the following chapters of this title and for that purpose ~~shall~~ may request the department of inspections and appeals to make necessary investigations ~~relative thereto~~. Every licensee and member of an examining board shall furnish the department or the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

Sec. 20. Section 147.88, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

147.88 INSPECTIONS.

The department of inspections and appeals may perform inspections as required by this title, except for the board of medical examiners, board of pharmacy examiners, board of nursing, and the board of dental examiners. The department of inspections and appeals shall employ personnel related to the inspection functions.

Sec. 21. Section 147.90, Code 1989, is amended to read as follows:

147.90 RULES AND FORMS.

The Iowa department of public health and the department of inspections and appeals shall each establish the necessary rules and forms for carrying out the duties imposed upon it by ~~the provisions of this and the following chapters of~~ this title.

Sec. 22. Section 147.91, subsection 2, Code 1989, is amended to read as follows:

2. The rules of the Iowa department of public health and the department of inspections and appeals relative to licenses.

Sec. 23. Section 157.7, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

157.7 INSPECTORS AND CLERICAL ASSISTANTS.

The department of inspections and appeals shall employ personnel under chapter 19A to perform duties related to inspection functions under this chapter. The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 158.

The Iowa department of public health may employ clerical assistants under chapter 19A to administer and enforce this chapter. The costs and expenses of the clerical assistants shall be paid from funds appropriated to the department of public health.

Sec. 24. Section 158.6, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

158.6 INSPECTORS AND CLERICAL ASSISTANTS.

The department of inspections and appeals shall employ personnel under chapter 19A to perform duties related to inspection functions under this chapter. The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 157.

The Iowa department of public health may employ clerical assistants under chapter 19A to administer and enforce this chapter. The costs and expenses of the clerical assistants shall be paid from funds appropriated to the department of public health.

Sec. 25. Section 170.5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department of inspections and appeals, or a municipal corporation pursuant to section 170.55, shall collect the following fees for licenses:

Sec. 26. Section 170.5, unnumbered paragraph 4, Code 1989, is amended to read as follows:

After collection, the fees collected by the department shall be deposited in the general fund of the state. The fees collected by a municipal corporation shall be retained by the corporation for its own use.

Sec. 27. Section 170.8, Code 1989, is amended to read as follows:

170.8 REVOCATION.

Any license issued under this chapter may be revoked by the department for violation by the licensee of any provision of this chapter or any rules ~~of the department~~ adopted pursuant to this chapter.

Sec. 28. Section 170.10, Code 1989, is amended to read as follows:

170.10 FOOD ESTABLISHMENTS WITH PRIVATE WATER AND SEWER FACILITIES.

When a food establishment is served by privately owned water or waste treatment facilities these facilities shall meet the technical requirements of the local board of health, ~~the Iowa department of public health,~~ and the department of natural resources.

Sec. 29. Section 170.16, Code 1989, is amended to read as follows:

170.16 TOILET AND LAVATORY FACILITIES.

A food establishment shall provide toilet and lavatory facilities in accordance with rules adopted ~~by the department~~ pursuant to this chapter ~~17A~~.

Sec. 30. Section 170.47, Code 1989, is amended to read as follows:

170.47 INSPECTION ~~UPON COMPLAINT~~.

Upon receipt of a verified complaint signed by a customer of a food establishment and stating facts indicating the place is in an insanitary condition, the department ~~may~~ shall conduct an inspection.

Sec. 31. Section 170.56, Code 1989, is amended to read as follows:

170.56 ADOPTION BY RULE.

The director shall adopt the retail food store sanitation code by rule as part of the Iowa retail food store sanitation code with the following ~~exception~~ exceptions:

~~1.2-101~~ 1. 2-101 shall be amended to allow food licensed under chapter 170C or food specified under section 170.1, subsection 2, paragraph "d", to be used or offered for sale.

2. 9-103 shall be deleted. Section 9-103 repeals "all codes and parts of codes" in conflict with the retail food store sanitation code.

3. Food establishments shall be inspected before a license is granted and annually thereafter.

Sec. 32. Section 170A.3, Code 1989, is amended to read as follows:

170A.3 ADOPTION BY RULE.

As soon as practicable, the director shall adopt the food service sanitation ordinance, section 170A.2, subsection 12, by rule as part of the Iowa food service sanitation code with the following exceptions:

1. 1-102(h), (i), and (z) shall be deleted. Sections 1-102(h), (i), and (z) define "food processing establishment", "food service establishment", and "temporary food service establishment".

2. 1-104 shall be deleted. Section 1-104 refers to the effective date of the ordinance and repeals all ordinances and parts of ordinances in conflict with the food service sanitation ordinance.

3. 10-101 shall be amended so that the following food service establishments ~~are exempt from the license requirement~~ have the described exemptions:

a. Food service operations in schools are exempt from the license fee requirement.

b. Places used by churches, fraternal societies, and civic organizations which engage in the serving of food not more often than ~~ten times per month~~ once per week are exempt from the license requirement.

~~10-101 shall also be amended so that a license issued by the department of agriculture prior to January 1, 1979, shall be valid until its expiration date.~~ Section 10-101 states general compliance procedures.

4. 10-201 shall be amended so that food service operations in schools and summer camps shall be inspected at least once every year instead of twice every year. Section 10-201 refers to the frequency of inspections.

5. 10-601 shall be deleted. Section 10-601 refers to federal penalties.

6. 2-101 shall be amended to allow food licensed under chapter 170C and food specified under section 170.1, subsection 2, paragraph "d", to be used or offered for sale.

Sec. 33. Section 170A.7, Code 1989, is amended to read as follows:

170A.7 TOILET AND LAVATORY FACILITIES.

A food service establishment that is not a mobile food unit, pushcart, or temporary food service establishment shall provide toilet and lavatory facilities in accordance with rules adopted ~~by the department~~ pursuant to this chapter ~~17A~~.

Sec. 34. Section 170A.8, Code 1989, is amended to read as follows:

170A.8 PLUMBING IN FOOD SERVICE ESTABLISHMENTS.

A food service establishment shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The water supply service and sewerage system of a food service establishment shall meet the technical requirements of the local board of health, ~~the Iowa department of public health,~~ and the department of natural resources.

Sec. 35. Section 170A.10, Code 1989, is amended to read as follows:

170A.10 INSPECTION ~~UPON COMPLAINT~~.

Upon receipt of a verified complaint signed by a customer of a food service establishment and stating facts indicating the place is in an insanitary condition, the regulatory authority ~~may~~ shall conduct an inspection.

Sec. 36. Section 170B.7, Code 1989, is amended to read as follows:

170B.7 LICENSE REVOCATION.

A license issued under the Iowa hotel sanitation code may be revoked by the regulatory authority for violation by the licensee of a provision of the Iowa hotel sanitation code or applicable rule ~~of the department~~ adopted pursuant to this chapter.

Sec. 37. Section 170B.8, Code 1989, is amended to read as follows:

170B.8 TOILET AND LAVATORY FACILITIES.

A hotel shall provide toilet and lavatory facilities in accordance with rules adopted ~~by the department~~ pursuant to this chapter ~~17A~~.

Sec. 38. Section 170B.9, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A hotel beyond the reach of a central water or sewerage system shall be served by on-site facilities which meet the technical requirements of the local board of health~~, the Iowa department of public health~~, and the department of natural resources.

Sec. 39. Section 170B.15, Code 1989, is amended to read as follows:

170B.15 INSPECTION ~~UPON COMPLAINT~~.

Upon receipt of a verified complaint signed by a guest of a hotel and stating facts indicating the place is in an insanitary condition, the regulatory authority ~~may~~ shall conduct an inspection.

Sec. 40. Section 191A.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 14. "Food and beverage vending machine ordinance" means the 1978 edition of the federal food and drug administration food and beverage vending machine ordinance.

Sec. 41. Section 191A.8, Code 1989, is amended to read as follows:

191A.8 INSPECTION.

The regulatory authority shall inspect all vending machine commissaries at least once each calendar year, and shall inspect representative vending machines and vehicles as often as deemed necessary to determine compliance with this chapter and applicable rules of the department. ~~Section 170B.15 shall be applicable to the operation of vending machines.~~ Upon receipt of a verified complaint signed by a customer of a vending machine and stating facts indicating the machine is in an insanitary condition, the regulatory authority shall conduct an inspection.

Sec. 42. Section 191A.10, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

191A.10 ADOPTION BY RULE.

As soon as practicable, the director shall adopt the food and beverage vending machine ordinance, section 191A.1, subsection 14, by rule as part of the Iowa food and beverage vending machine code with the following exceptions:

1. 1-104 shall be deleted. Section 1-104 states the effective date of the ordinance and repeals all ordinances and parts of ordinances in conflict with the ordinance.

2. 6-601 shall be deleted. Section 6-601 refers to federal penalties.

3. 6-201 shall be amended so that only one inspection per calendar year is required. Section 6-201 refers to the frequency of inspections.

Sec. 43. NEW SECTION. 191A.15 INJUNCTION.

A person operating a vending machine in violation of this chapter may be restrained by injunction from further operating that vending machine. If an imminent health hazard exists, the person shall cease operation of the vending machine and shall not resume operation until authorized by the department.

Sec. 44. NEW SECTION. 191A.16 DUTY OF COUNTY ATTORNEY.

The county attorney in each county shall assist in the enforcement of this chapter.

Sec. 45. Section 225C.4, subsection 1, paragraph s, Code 1989, is amended to read as follows:

s. In co-operation with the ~~state~~ department of ~~health~~ inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to mentally ill and mentally retarded persons residing in county care facilities.

Sec. 46. Section 227.6, Code 1989, is amended to read as follows:

227.6 REMOVAL OF RESIDENTS.

If a county care facility fails to comply with rules and standards adopted under this chapter, the administrator may remove all mentally ill and mentally retarded persons cared for in the county care facility at public expense, to the proper state mental health institute or hospital-school, or to some private or county institution or hospital for the care of the mentally ill or mentally retarded that has complied with the rules prescribed by the administrator. ~~The removal of residents, if~~ Residents being transferred to a state mental health institute or hospital-school~~,~~ shall be ~~made~~ accompanied by an attendant or attendants sent from the institute or hospital-school. If a resident is ~~removed~~ transferred under this section, at least one attendant shall be of the same sex. If the administrator finds that the needs of mentally ill and mentally retarded residents of any other county or private institution are not being adequately met, those residents may be removed from that institution upon order of the administrator~~, in consultation with the director of public health~~.

Sec. 47. Section 232.142, subsection 5, Code 1989, is amended to read as follows:

5. The director shall approve annually all such homes established and maintained under the provisions of this chapter. ~~No such~~ A home shall not be approved unless it complies with minimal rules and standards adopted by the director and has been inspected by the department of inspections and appeals.

Sec. 48. Section 234.12, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon request by the department of human services, the department of inspections and appeals shall conduct investigations into possible fraudulent practices, as described in section 234.13, relating to food programs administered by the department of human services.

Sec. 49. Section 235.3, subsection 8, Code Supplement 1989, is amended to read as follows:

8. License ~~and inspect maternity hospitals, and~~ private child-placing agencies;, make reports regarding them, and revoke such licenses.

Sec. 50. Section 235.5, Code 1989, is amended to read as follows:

235.5 LICENSES.

Licenses issued to ~~maternity hospitals,~~ private boarding homes for children~~,~~ and private child-placing agencies by the administrator~~,~~ shall remain in effect for the period for which issued, unless sooner revoked according to law. Thereafter ~~it shall be the duty of~~ each of such agencies ~~to~~ shall apply to the administrator for a new license, and ~~to~~ shall submit to such rules regarding ~~the same~~ licensing as the administrator ~~may prescribe~~ prescribes.

Sec. 51. NEW SECTION. 235.5A INSPECTIONS.

The department of inspections and appeals shall conduct inspections of private institutions for the care of dependent, neglected, and delinquent children in accordance with procedures established pursuant to chapters 10A and 17A.

Sec. 52. Section 235B.1, subsection 8, paragraph a, Code 1989, is amended to read as follows:

a. If, upon completion of the evaluation or upon referral from the ~~Iowa~~ department of ~~public health~~ inspections and appeals, the department of human services determines that the best interests of the dependent adult require district court action, the department shall initiate action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229, or 633. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

Sec. 53. Section 237.7, Code 1989, is amended to read as follows:

237.7 REPORTS AND INSPECTIONS.

The administrator may require submission of reports by a licensee, and shall cause at least one annual unannounced inspection of each facility to assess the quality of the living situation and to determine compliance with applicable requirements and standards. The inspections shall be conducted by the department of inspections and appeals. The ~~administrator~~ director of the department of inspections and appeals may examine records of a licensee, including but not limited to corporate records and board minutes, and may inquire into matters concerning a licensee and its employees relating to requirements and standards for child foster care under this chapter.

Sec. 54. Section 237A.8, Code 1989, is amended to read as follows:

237A.8 SUSPENSION AND REVOCATION.

The administrator, after notice and opportunity for an evidentiary hearing before the department of inspections and appeals, may suspend or revoke a license or certificate of registration issued under this chapter if the person to whom a license or certificate is issued violates a provision of this chapter or if the person makes false reports regarding the operation of the child day care facility to the administrator or a designee of the administrator. The administrator shall notify the parent, guardian, or legal custodian of each child for whom the person provides child day care, if the license or certificate of registration is suspended or revoked or if there has been a substantiated child abuse case against an employee, owner, or operator of the child day care facility.

Sec. 55. Section 238.19, Code 1989, is amended to read as follows:

238.19 INSPECTION GENERALLY.

Authorized ~~officers and agents~~ employees of the ~~administrator~~ department of inspections and appeals may inspect the premises and conditions of ~~such~~ the agency at any time and examine every part ~~thereof~~ of the agency; and may inquire into all matters concerning ~~such agencies~~ the agency and the children in the care ~~thereof~~ of the agency.

Sec. 56. Section 238.20, Code 1989, is amended to read as follows:

238.20 MINIMUM INSPECTION – RECORD.

Authorized ~~officers and agents~~ employees of the ~~administrator~~ department of inspections and appeals shall visit and inspect the premises of licensed child-placing agencies at least once every six months and make and preserve written reports of the conditions found.

Sec. 57. Section 238.21, Code 1989, is amended to read as follows:

238.21 OTHER INSPECTING AGENCIES.

Authorized agents of the ~~Iowa department of public health and of the~~ local board of health in whose jurisdiction a licensed child-placing agency is located may make inspection of the premises.

Sec. 58. Section 239.7, Code 1989, is amended to read as follows:

239.7 APPEAL – JUDICIAL REVIEW.

If an application is not acted upon within a reasonable time, if it is denied in whole or in part, or if ~~any~~ an award of assistance is modified, suspended, or canceled under ~~any~~ a provision of this chapter, the applicant or recipient may appeal to the department of human services which shall request the department of inspections and appeals to conduct a hearing. ~~The department shall give the appellant reasonable notice and opportunity for a fair hearing before the director or the director's designee.~~ Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services. Judicial review of the ~~result of such hearing~~ actions of the department of human services may be sought in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A. Upon receipt of ~~the~~ a notice of the filing of a petition for judicial review, the department of human services shall furnish the petitioner with a copy of any papers filed in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision.

Sec. 59. Section 249.5, Code 1989, is amended to read as follows:

249.5 JUDICIAL REVIEW.

If an application is not acted upon within a reasonable time, if it is denied in whole or in part, or if ~~any~~ an award of assistance is modified, suspended, or canceled under ~~any~~ a provision of this chapter, the applicant or recipient may appeal to the department of human services, which shall ~~give the appellant reasonable notice and opportunity for a fair hearing before the director or the director's designee~~ request the department of inspections and appeals to conduct a hearing. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services. Judicial review of the actions of the ~~commission~~ department of human services may be sought in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A. Upon receipt of the petition for judicial review, the department of human services shall furnish the petitioner with a copy of any papers filed by the petitioner in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision.

Sec. 60. Section 249.11, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of inspections and appeals shall conduct investigations and audits as deemed necessary to ensure compliance with state supplementary assistance programs administered under this chapter. The department of inspections and appeals shall cooperate with the department of human services on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements.

Sec. 61. Section 249A.4, subsection 10, Code Supplement 1989, is amended to read as follows:

10. Shall provide ~~for granting~~ an opportunity for a fair hearing before the ~~director of human services or the director's authorized representative~~ department of inspections and appeals to ~~any~~ an individual whose claim for medical assistance under this chapter is denied or is not acted upon with reasonable promptness. Upon completion of a hearing, the department of inspections and appeals shall issue a decision which is subject to review by the department of human services.

Sec. 62. Section 249A.4, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

Judicial review of the ~~actions~~ decisions of the ~~director or~~ department of human services may be sought in accordance with ~~the terms of the Iowa administrative procedure Act~~ chapter 17A. ~~In the event~~ If a petition for judicial review is filed, the ~~director or the director's authorized representative~~ department of human services shall furnish the petitioner with a copy of the application and all supporting papers, a transcript of the testimony taken at the hearing, if any, and a copy of its decision.

Sec. 63. Section 249A.7, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of inspections and appeals shall conduct investigations and audits as deemed necessary to ensure compliance with the medical assistance program administered under this chapter. The department of inspections and appeals shall cooperate with the department of human services on the development of procedures relating to such investigations and audits to ensure compliance with federal and state single state agency requirements.

Sec. 64. Section 600.2, subsection 2, Code 1989, is amended to read as follows:

2. "Investigator" means a natural person who is certified or approved, by the department of human services, after inspection by the department of inspections and appeals, as being capable of conducting an investigation under section 600.8.

Sec. 65. REPEALS.

1. Chapter 135A, Code 1989, is repealed.

2. Sections 147.116, 170.12, 170.19, 170.25, 170.26, 170.27, 170.28, 191A.9, and 253.12, Code 1989, are repealed.

Sec. 66. CODIFICATION TRANSFERS.

1. The Code editor shall transfer sections 135.90 through 135.96 to a new chapter.

2. The Code editor shall transfer chapters 170, 170A, 170B, and 191A to Title VII of the Code, unless the Code editor determines that a different Code arrangement would be preferable.

Approved April 27, 1990

CHAPTER 1205

CORPORATION LAW AND NOTARIAL ACTS

H.F. 2488

AN ACT relating to civil law, including notarial acts and corporate law and procedures, including the characterization of certain corporate shares as issued, but not outstanding, shares, and making conforming amendments to reflect adoption of chapter 490, the new Iowa model business corporation Act, and including an effective date.

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

Section 1. Section 15.262, subsections 2 and 6, Code 1989, are amended to read as follows:

2. "Corporation" or "development corporation" means a private sector small business economic development corporation organized under chapter 504A or organized for pecuniary profit under chapter ~~496A~~ 490 and includes development corporations organized under chapter 496B.

6. "Investor" means a private entity which invests money in a corporation organized for pecuniary profit under chapter ~~496A~~ 490.

Sec. 2. Section 28.107, unnumbered paragraph 1, Code 1989, is amended to read as follows:

There may be incorporated under chapter ~~496A~~ 490 a corporation which shall be known as the Iowa export trading company. If incorporated, this corporation shall be established by the director of the Iowa department of economic development. The initial board of directors shall consist of the director and six additional members appointed by the director. The six members appointed by the director shall be knowledgeable in the area of farming, exporting, or marketing finance. The department may expend an amount not to exceed one hundred thousand dollars necessary to establish and operate the export trading company until the completion of the public offering of stock. The funds used shall be repaid to the department upon completion of its public offering of stock. Financing for the export trading company shall initially come from its public offering of stock to residents of this state. In preparation for this sale, a detailed marketing study shall be conducted which will serve as the basis for the company work plan and the company prospectus. After the sale of stock, provision shall be made for the election of a board of directors by the stockholders to replace the initial board of directors. However, the director of the department shall be an ex officio member of the board representing the state of Iowa. The director of the department shall also serve as an agent for the company.

Sec. 3. Section 28.108, subsection 2, Code 1989, is amended to read as follows:

2. The Iowa export trading company has the powers necessary to fulfill the purposes of this division and those provided in chapter ~~496A~~ 490 and the Export Trading Company Act of 1982, Pub. L. No. 97-290 which are not inconsistent with or limited by this division.

Sec. 4. NEW SECTION. 77A.10A NOTARIAL ACTS IN OTHER JURISDICTIONS OF THE UNITED STATES.

1. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if the notarial act is performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

a. A notary public of that jurisdiction.

b. A judge, clerk, or deputy clerk of a court of that jurisdiction.

c. Any other person authorized by the law of that jurisdiction to perform notarial acts.

2. Notarial acts performed in other jurisdictions of the United States under federal authority as provided in section 77A.10B 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.

4. The signature and indicated title of an officer listed in subsection 1, paragraph "a" or "b" conclusively establish the authority of a holder of that title to perform a notarial act.

Sec. 5. NEW SECTION. 77A.10B NOTARIAL ACTS UNDER FEDERAL AUTHORITY.

1. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if the notarial act is performed anywhere by any of the following persons under authority granted by the law of the United States:

a. A judge, clerk, or deputy clerk of a court.

b. A commissioned officer on active duty in the military service of the United States.

c. An officer of the foreign service or consular officer of the United States.

d. Any other person authorized by federal law to perform notarial acts.

2. 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.

3. The signature and indicated title of an officer listed in subsection 1, paragraph "a", "b", or "c", conclusively establish the authority of a holder of that title to perform a notarial act.

4. A certificate of a notarial act on an instrument to be recorded must also comply with the requirements of section 331.602, subsection 1.

Sec. 6. NEW SECTION. 77A.10C FOREIGN NOTARIAL ACTS.

1. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if the notarial act is performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

a. A notary public or notary.

b. A judge, clerk, or deputy clerk of a court of record.

c. Any other person authorized by the law of that jurisdiction to perform notarial acts.

2. An "apostille" in the form prescribed by the Hague convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

3. A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

4. An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

5. An official stamp or seal of an officer listed in subsection 1, paragraph "a" or "b", is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

6. If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

Sec. 7. NEW SECTION. 77A.10D CERTIFICATE OF NOTARIAL ACTS.

1. A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of the office. If the officer is a notary public, the certificate may, but need not indicate the date of expiration, if any, of the commission of office. If the notarial officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

2. A certificate of a notarial act is sufficient if it meets the requirements of subsection 1, and is in any of the following forms:

a. The short form set forth in section 77A.10E.

b. A form otherwise prescribed by the law of this state, including those forms set out in chapter 558.

c. A form prescribed by the laws or regulations applicable in the place in which the notarial act was performed.

d. A form which sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

3. By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by section 77A.9.

Sec. 8. NEW SECTION. 77A.10E SHORT FORMS.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 77A.10D, subsection 1.

1. For an acknowledgment in an individual capacity:

State of _____

(County) of _____

This instrument was acknowledged before me on _____ by _____.

(date) (name(s) of person(s))

_____

(signature of notarial officer)

(Seal, if any)

_____

Title (and Rank)

[My commission expires: ____]

2. For an acknowledgment in a representative capacity:

State of _____

(County) of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

_____

(signature of notarial officer)

(Seal, if any)

_____

Title (and Rank)

[My commission expires: ____]

3. For a verification upon oath or affirmation:

State of _____

(County) of _____

Signed and sworn to (or affirmed) before me on
_____ by _____.
(date) (name(s) of person(s) making statement)

_____
(signature of notarial officer)

(Seal, if any)

_____
Title (and Rank)
[My commission expires: ____]

4. For witnessing or attesting a signature:
State of _____
(County) of _____
Signed or attested before me on _____ by _____.
(date) (name(s) of person(s))

_____
(signature of notarial officer)

(Seal, if any)

_____
Title (and Rank)
[My commission expires: ____]

5. For attestation of a copy of a document:
State of _____
(County) of _____
I certify that this is a true and correct copy of a document in the possession of _____.
Dated _____

_____
(signature of notarial officer)

(Seal, if any)

_____
Title (and Rank)
[My commission expires: ____].

Sec. 9. Section 86.36, subsection 5, Code 1989, is amended to read as follows:

5. ~~The term nonresident employer~~ "Nonresident employer", as used in section 85.3 and this section ~~shall not be construed to~~ does not mean foreign corporations lawfully qualified to transact business within the state of Iowa under chapter 494 or chapter ~~496A~~ 490.

Sec. 10. Section 312.8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Where a tract of land is owned by a corporation organized under the provisions of chapter ~~491~~ 490 with assets of the value of one million dollars or more, and having one or more platted villages located within the territorial limits of said tract of land, all of the territory within the plats of said villages with their addition or subdivisions shall, for the purposes of this chapter, be deemed to be one incorporated city. All funds to become due to said villages so consolidated shall be paid to the county auditor of the county in which said tract of land and said villages are situated. Said fund shall, thereupon, be administered and expended by the county board of supervisors of said county for the construction, reconstruction, repair, and maintenance of roads and streets within the plats of such villages in the same manner and with the same powers and duties as city councils in cities. In the event the population of such villages shall not have been separately enumerated in the federal census, then said county board of supervisors shall cause a census of said villages to be taken as soon as may be after this chapter becomes effective, which census shall be used in lieu of the federal census provided for in section 312.3, subsection 2.

Sec. 11. Section 331.602, subsection 27, Code 1989, is amended to read as follows:

27. Carry out duties relating to the recordation of articles of incorporation and other instruments for business corporations as provided in section ~~496A.53~~ 490.130.

Sec. 12. Section 455B.397, Code 1989, is amended to read as follows:

455B.397 FINANCIAL DISCLOSURE.

Immediately upon the incurrence of any liability to the state under this part, the debtor shall submit to the director a report consisting of documentation of the debtor's liabilities and assets, including if filed, a copy of the annual report submitted to the secretary of state pursuant to chapter ~~496~~ 490. A subsequent report pursuant to this section shall be submitted annually on April 15 for the life of the debt. These reports shall be kept confidential and shall not be available to the public.

Sec. 13. Section 455B.430, subsection 5, Code 1989, is amended to read as follows:

5. Immediately upon the listing of real property in the registry of abandoned or uncontrolled disposal sites, a person liable for cleanup costs shall submit to the director a report consisting of documentation of the responsible person's liabilities and assets, including if filed, a copy of the annual report submitted to the secretary of state pursuant to chapter ~~496~~ 490. A subsequent report pursuant to this section shall be submitted annually on April 15 for the period the site remains on the registry.

Sec. 14. Section 468.327, Code Supplement 1989, is amended to read as follows:

468.327 TRUSTEE CONTROL.

A district formed pursuant to this part, under the control of a city council, may be placed under the control and management of a board of trustees as provided in subchapter III of this chapter. Each trustee shall be a citizen of the United States not less than eighteen years of age and a bona fide owner of benefited land in the district for which the trustee is elected. If the owner is a family farm corporation as defined by section 172C.1, subsection 8, a business corporation organized and existing under chapter 490, 491, or 494, ~~or 496A,~~ or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

Sec. 15. Section 468.506, subsection 4, Code Supplement 1989, is amended to read as follows:

4. In a district which is a levee and drainage district which has eighty-five percent of its acreage within the corporate limits of a city and has been under the control of a city under subchapter II, part 3, a bona fide owner of benefited land in the district. If the owner is a family farm corporation as defined by section 172C.1, subsection 8, a business corporation organized and existing under chapter 490, 491, or 494, ~~or 496A,~~ or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

Sec. 16. Section 490.120, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The secretary of state may adopt rules for the electronic filing of documents and the certification of electronically filed documents.

Sec. 17. Section 490.122, subsection 3, paragraph a, Code Supplement 1989, is amended to read as follows:

a. $ ~~.50~~ 1.00 a page for copying.

Sec. 18. Section 490.127, Code Supplement 1989, is amended to read as follows:

490.127 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~~ the secretary of state, is conclusive evidence that the original document is on file with the secretary of state.

Sec. 19. Section 490.128, subsection 2, paragraph e, Code Supplement 1989, is amended to read as follows:

e. ~~That~~ If it is a domestic corporation, that articles of dissolution have not been filed.

Sec. 20. Section 490.401, subsection 2, paragraph b, Code Supplement 1989, is amended to read as follows:

b. A corporate name reserved or registered under section 490.402, ~~or~~ 490.403, or 504A.7.

Sec. 21. Section 490.401, subsection 2, paragraph c, Code Supplement 1989, is amended to read as follows:

c. The fictitious name adopted by a foreign corporation or a not-for-profit foreign corporation authorized to transact business in this state because its real name is unavailable.

Sec. 22. Section 490.401, subsection 5, Code Supplement 1989, is amended to read as follows:

5. This chapter does not control the use of fictitious names; however, if a corporation or a foreign 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. 23. Section 490.631, subsection 1, Code Supplement 1989, is amended to read as follows:

1. A corporation may acquire its own shares and, except as may be otherwise provided pursuant to section 490.632, shares so acquired constitute authorized but unissued shares.

Sec. 24. NEW SECTION. 490.632 REACQUIRED SHARES AS ISSUED BUT NOT OUTSTANDING SHARES.

1. A corporation which, as of December 30, 1989, treated any of its shares which it had reacquired as issued but not outstanding shares may continue to treat those shares as issued but not outstanding shares.

2. When a corporation reacquires its own shares after December 30, 1989, but prior to January 1, 1991, those shares shall constitute issued but not outstanding shares as of and after their reacquisition if either of the following is applicable:

a. If the shares are reacquired, the articles of incorporation contain a provision specifying that reacquired shares constitute issued but not outstanding shares.

b. Prior to January 1, 1991, the board of directors adopts a resolution specifying that shares reacquired after December 30, 1989, and prior to January 1, 1991, constitute issued but not outstanding shares.

3. If a corporation reacquires its own shares after December 31, 1990, those shares constitute issued but not outstanding shares if, at the time they are reacquired by the corporation, either of the following is applicable:

a. The articles of incorporation contain a provision specifying that reacquired shares constitute issued but not outstanding shares.

b. The board of directors has adopted a resolution specifying that reacquired shares constitute issued but not outstanding shares.

4. Unless otherwise provided in its articles of incorporation, a corporation may at any time, by resolution adopted by its board of directors, cancel or otherwise restore to the status of authorized but unissued shares any of its shares which it has previously reacquired and treated as issued but not outstanding shares.

Sec. 25. Section 490.728, subsection 1, Code Supplement 1989, is amended to read as follows:

1. Unless otherwise provided in the articles of incorporation, directors are elected by a ~~plurality~~ majority of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

Sec. 26. Section 490.832, Code Supplement 1989, is amended to read as follows:

490.832 ~~INDEMNIFICATION OF~~ PERSONAL LIABILITY — 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 490.833. 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. 27. Section 490.1530, subsection 1, Code Supplement 1989, is amended to read as follows:

1. The foreign corporation does not deliver its annual report to the secretary of state in a form that meets the requirements of section 490.1622 within sixty days after it is due.

Sec. 28. NEW SECTION. 490.1705 REINSTATEMENT OF CORPORATIONS EXISTING PRIOR TO DECEMBER 31, 1989.

1. A corporation subject to this chapter, whose certificate of incorporation was canceled pursuant to former section 496A.130 after December 30, 1981, and before December 31, 1989, may apply to the secretary of state for reinstatement pursuant to section 490.1422 on or before December 31, 1991.

2. A corporation whose certificate of incorporation was canceled pursuant to former section 496A.130 after December 30, 1979, and before December 31, 1981, may apply to the secretary of state for reinstatement pursuant to section 490.1422 at any time within ten years of the date of the issuance of the certificate of cancellation.

3. A corporation whose corporate rights have been canceled and forfeited in the manner provided in section 496.9 prior to December 31, 1989, or which has a right to renew pursuant to sections 491.25 through 491.28, may apply to the secretary of state for reinstatement pursuant to section 490.1422 on or before December 31, 1991.

4. This section applies to all reinstatements delivered to the office of the secretary of state for filing on or after December 31, 1989.

Sec. 29. Section 491.3, subsection 8, Code 1989, is amended to read as follows:

8. A corporation organized under or subject to this chapter may make indemnification as provided in ~~section 496A.4A~~ sections 490.850 through 490.858.

Sec. 30. Section 491.16, Code 1989, is amended to read as follows:

491.16 INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS – INSURANCE.

~~The provisions of section 496A.4A shall~~ Sections 490.850 through 490.858 apply to corporations organized under or subject to this chapter.

Sec. 31. Section 496C.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~As~~ For words used in this chapter, unless the context otherwise requires, the definitions contained in the Iowa business corporation Act ~~[chapter 496A]~~, chapter 490, apply, and:

Sec. 32. Section 496C.5, Code 1989, is amended to read as follows:

496C.5 CORPORATE NAME.

The corporate name of a professional corporation, the corporate name of a foreign professional corporation or its name as modified for use in this state, and any ~~assumed~~ fictitious name or trade name adopted by a professional corporation or foreign professional corporation shall contain the words "professional corporation" or the abbreviation "P.C.", and except for the addition of such words or abbreviation, shall be a name which could lawfully be used by a licensed individual or by a partnership of licensed individuals in the practice in this state of a profession which the corporation is authorized to practice. Each regulating board may by rule or regulation adopt additional requirements as to the corporate names and ~~assumed~~ fictitious or trade names of professional corporations and foreign professional corporations which are authorized to practice a profession which is within the jurisdiction of the regulating board.

Sec. 33. Section 504A.4, subsection 14, Code 1989, is amended to read as follows:

14. A corporation operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in ~~section 496A.4A~~ sections 490.850 through 490.858.

Sec. 34. Section 504A.6, subsection 5, Code Supplement 1989, is amended to read as follows:

5. This chapter does not control the use of fictitious names; however, if a corporation or a foreign 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. 35. Section 508B.2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A plan of conversion may provide that a mutual company may convert into a domestic stock company, convert and merge, or convert and consolidate with a domestic stock company, as provided in chapter 490 or 491 ~~or 496A~~, whichever is applicable. However, the mutual company is not required to comply with sections 491.102 through 491.105 or sections ~~496A.68 through 496A.70~~ 490.1101 and 490.1103 relating to approval of merger or consolidation plans by boards of directors and shareholders, if at the time of approval of the plan of conversion the board of directors approves the merger or consolidation and if at the time of approval of the plan by policyholders as provided in section 508B.6, the policyholders approve the merger or consolidation. This chapter supersedes any conflicting provisions of chapters 521 and 521A. A mutual company may convert, merge, or consolidate as part of a plan of conversion in which a majority or all of the common shares of the stock company are acquired by another corporation, which may be a corporation organized for that purpose, or in which the new stock company consolidates with a stock company to form another stock company.

Sec. 36. Section 514.23, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A corporation organized and governed by this chapter may become a mutual insurer under a plan which is approved by the commissioner of insurance. The plan shall state whether the insurer will be organized as a for-profit corporation pursuant to chapter 490 or 491 ~~or 496A~~ or a nonprofit corporation pursuant to chapter 504A. Upon consummation of the plan, the corporation shall ~~thereafter~~ fully comply with the requirements of the law that apply to a mutual insurance company. If the insurer is to be organized under chapter 504A, then at least seventy-five percent of the initial board of directors of the mutual insurer so formed shall be policyholders who are also nonproviders of health care. All directors comprising this initial board of directors shall be selected by an independent committee appointed by the state commissioner of insurance. This independent committee shall consist of seven to eleven persons who are current policyholders, who are nonproviders of health care, and who are not directors of ~~any~~ a corporation subject to this chapter. For purposes of this subsection, a "nonprovider of health care" is an individual who is not any of the following:

Sec. 37. Section 524.303, subsection 2, Code 1989, is amended to read as follows:

2. Applicable fees, payable to the secretary of state as specified in section ~~496A.124~~ 490.122, for the filing and recording of the articles of incorporation.

Sec. 38. Section 524.306, Code 1989, is amended to read as follows:

524.306 ISSUANCE OF CERTIFICATE OF INCORPORATION.

The receipt of the approved articles of incorporation of a state bank by the secretary of state ~~shall constitute~~ constitutes filing ~~thereof~~ with that office. The secretary of state shall record the articles of incorporation and forward a copy ~~thereof~~ of them to the county recorder of the county in which the state bank is to have its principal place of business ~~who~~. The county recorder shall record ~~same~~ the articles, all as ~~required~~ provided by ~~section 496A.53~~ section 490.130. The secretary of state upon the filing of ~~such~~ the articles of incorporation shall issue a certificate of incorporation and send the ~~same~~ certificate to the incorporators.

Sec. 39. Section 524.801, subsection 8, Code 1989, is amended to read as follows:

8. To indemnify ~~any~~ a director, officer, or employee, or a former director, officer, or employee of the state bank in the manner and in the instances authorized by ~~section 496A.4A~~ sections 490.850 through 490.858.

Sec. 40. Section 524.1301, subsection 1, Code 1989, is amended to read as follows:

1. Subsequent to the issuance of the certificate of incorporation and prior to the issuance of the authorization to do business, a state bank which has not issued any shares may be voluntarily dissolved by its incorporators. In such case the articles of dissolution shall be prepared and filed in the manner provided in section ~~496A.79~~ 490.1401. The articles of dissolution shall be delivered to the superintendent, together with the applicable filing and recording fees, who shall deliver the same to the secretary of state for filing and recording in the office of the county recorder.

Sec. 41. Section 524.1305, subsections 5 and 6, Code 1989, are amended to read as follows:

5. Safe-deposit boxes, the contents of which have not been removed by the owners after the date specified in the notice given under paragraph "b" of subsection 2 of this section, shall be opened under the supervision of the superintendent and the contents placed in sealed packages which, together with unclaimed property held by the state bank in safekeeping, shall be transmitted to the treasurer of state. Amounts due to depositors who are unknown, or who are under a disability and there is no person legally competent to receive ~~such~~ the amount, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state, together with a statement giving the name of the person, if known, entitled to ~~such~~ the amount, the person's last known address, the amount due ~~such~~ the person, and ~~such~~ other information about ~~such~~ the person as the treasurer of state may reasonably require. All property transmitted to the treasurer of state pursuant to this subsection shall be treated as abandoned, retained by the treasurer of state, and subject to claim, in the manner provided for in sections 556.14 to 556.21. All amounts due creditors described in section ~~496A.101~~ 490.1440 shall be deposited with the treasurer of state in accordance with ~~the provisions of~~ that section. Such amounts shall be retained by the treasurer of state and are subject to claim in the manner provided for in ~~said~~ section ~~496A.101~~ 490.1440.

6. Upon approval by the superintendent, assets remaining after the performance of all obligations of the state bank under subsections 3, 4, and 5 of this section shall be distributed to its shareholders according to their respective rights and preferences. Partial distributions to shareholders may be made prior to such time only if, and to the extent, approved by the superintendent. All amounts due shareholders described in section ~~496A.101~~ 490.1440 shall be deposited with the treasurer of state in accordance with ~~the provisions of~~ that section. Such amounts shall be retained by the treasurer of state and are subject to claim in the manner provided for in said section ~~496A.101~~ 490.1440.

Sec. 42. Section 524.1306, subsection 1, Code 1989, is amended to read as follows:

1. A state bank may, at any time prior to the issuance of the approved copy of the statement of intent to dissolve by the secretary of state, revoke voluntary dissolution proceedings ~~by consent of the shareholders in the manner~~ as provided for in section ~~496A.85 or by act of the state bank as provided for in section 496A.86, except that the vote taken on the resolution referred to in subsection 3 of section 496A.86 shall be adopted only upon the affirmative vote of the holders of at least three-fourths of the shares entitled to vote thereon~~ 490.1404.

Sec. 43. Section 524.1309, Code 1989, is amended to read as follows:

524.1309 BECOMING SUBJECT TO CHAPTER ~~496A~~ 490.

In lieu of the dissolution procedure prescribed in sections 524.1303 to 524.1308, a state bank may cease to carry on the business of banking and, after compliance with ~~the provisions of~~ this section, continue as a corporation subject to ~~the provisions of~~ chapter ~~496A~~ 490.

1. A state bank which has commenced business may propose to voluntarily cease to carry on the business of banking and become a corporation subject to ~~the provisions of~~ chapter ~~496A~~

490 upon the affirmative vote of the holders of at least three-fourths of the shares entitled to vote thereon, adopting a plan involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank or national bank and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan providing for the cessation of banking business and the payment of its liabilities.

2. The application to the superintendent for approval of a plan described in subsection 1 of this section shall be treated by the superintendent in the same manner as an application for approval of a plan of dissolution under subsection 2 of section 524.1303, and shall be subject to ~~the provisions of~~ subsection 3 of section 524.1303.

3. Immediately upon adoption and approval of a plan to voluntarily cease to carry on the business of banking and become a corporation subject to ~~the provisions of~~ chapter ~~496A~~ 490, the state bank shall deliver to the superintendent a statement of its intent to cease to carry on the business of banking and become a corporation subject to ~~the provisions of said~~ chapter 490, which shall be signed by two of its duly authorized officers and shall contain the name of the state bank, the post-office address of its principal place of business, the name and address of its officers and directors, the number of shares entitled to vote on the plan and the number of shares voted for or against the plan, respectively, the nature of the business to be conducted by the corporation under ~~the provisions of said~~ chapter 490, and the general nature of the assets to be held by ~~such~~ the corporation.

4. If the statement of intent to cease to carry on the business of banking and become a corporation subject to ~~the provisions of~~ chapter ~~496A~~ 490 satisfies the requirements of this section, the superintendent shall deliver the statement with written approval to the secretary of state who shall issue to the state bank an approved copy of ~~such~~ the statement. Upon the issuance of an approved copy of the statement of intent, the state bank shall immediately surrender to the superintendent its authorization to do business as a bank and shall cease to accept deposits or carry on the banking business except insofar as may be necessary for it to complete the settlement of its affairs as a state bank in accordance with subsection 5.

5. The board of directors ~~shall~~ have full power to complete the settlement of the affairs of the state bank. Within thirty days after the issuance of an approved copy of the statement of intent to cease to carry on the business of banking and become a corporation subject to ~~the provisions of~~ chapter ~~496A~~ 490, the state bank shall give notice of its intent to persons described in subsection 2 of section 524.1305 and in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank the state bank shall also follow the procedure prescribed in subsections 3, 4 and 5 of section 524.1305.

6. Upon approval by the superintendent, assets remaining after the performance of all obligations described in this section, except those which the state bank wishes to retain when it becomes a corporation subject to ~~the provisions of~~ chapter ~~496A~~ 490, shall be distributed to its shareholders according to their respective rights and preferences.

7. Upon completion of all the requirements of this section, the state bank shall deliver to the superintendent articles of intent to be subject to chapter ~~496A~~ 490, together with the applicable filing and recording fees, which shall set forth that the state bank has complied with ~~the provisions of~~ this section, that it has ceased to carry on the business of banking, and the information required by section ~~496A.49~~ 490.202 relative to the contents of articles of incorporation under chapter ~~496A~~ 490. If the superintendent finds that the state bank has complied with ~~the provisions of~~ this section and that the articles of intent to be subject to ~~said~~ chapter 490 satisfy the requirements of this section, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office, and ~~the same~~ they shall be filed and recorded in the office of the county recorder.

8. Upon the filing of the articles of intent to be subject to chapter ~~496A~~ 490, the state bank shall cease to be a state bank subject to ~~the provisions of~~ this chapter, and shall cease to have the powers of a state bank subject to this chapter and shall become a corporation subject to ~~the provisions of~~ chapter ~~496A~~ 490. The secretary of state shall issue a certificate as to the

filing of the articles of intent to be subject to ~~the provisions of~~ chapter ~~496A~~ 490, and send the ~~same~~ certificate to the corporation or its representative. The articles of intent to be subject to chapter ~~496A~~ 490 shall be the articles of incorporation of the corporation. The provisions of chapter ~~496A~~ 490 becoming applicable to a corporation formerly doing business as a state bank shall not affect any right accrued or established, or liability or penalty incurred under ~~the provisions of~~ this chapter prior to the filing with the secretary of state of the articles of intent to be subject to chapter ~~496A~~ 490.

9. A shareholder of a state bank who objects~~, in the manner prescribed by section 496A.78,~~ to adoption by the state bank of a plan to cease to carry on the business of banking and to continue as a corporation subject to ~~the provisions of~~ chapter ~~496A~~ 490, ~~shall be~~ is entitled to the rights and remedies of a dissenting shareholder provided for in ~~that section~~ chapter 490, division XIII.

10. A state bank may, at any time prior to the issuance of the approved copy of the statement of intent to cease to carry on the business of banking and become a corporation subject to ~~the provisions of~~ chapter ~~496A~~ 490, revoke ~~such~~ the proceedings in the manner prescribed by section 524.1306.

Sec. 44. Section 524.1310, Code 1989, is amended to read as follows:

524.1310 INVOLUNTARY DISSOLUTION AFTER COMMENCEMENT OF BUSINESS — SUPERINTENDENT AS RECEIVER.

In a situation in which the superintendent has required, in accordance with ~~the provisions of~~ section 524.226, that the state bank cease to carry on its business, the superintendent shall apply to the district court for the county in which the state bank is located for appointment as receiver for the state bank. The district court shall appoint the superintendent as receiver unless the superintendent has tendered ~~such~~ the appointment to the federal deposit insurance corporation as provided for in section 524.1313, in which case the district court shall appoint the federal deposit insurance corporation as receiver. The affairs of the state bank shall thereafter be under the direction of the district court, and the assets ~~thereof~~ of the state bank shall be distributed in accordance with ~~the provisions of~~ section 524.1312. All amounts due creditors and shareholders described in section ~~496A.101~~ 490.1440 shall be deposited with the treasurer of state in accordance with ~~the provisions of~~ that section. Such amounts shall be retained by the treasurer of state and subject to claim in the manner provided for in section ~~496A.101~~ 490.1440. Amounts due to depositors who are unknown, or who are under a disability and there is no person legally competent to receive ~~such~~ the amount, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state in the manner required by section 524.1305, subsection 5. Such property shall be treated as abandoned, retained by the treasurer of state, and is subject to claim, in the manner provided for in sections 556.14 to 556.21. The attorney general, or ~~such~~ assistants ~~as shall be~~ appointed by the court, shall represent the superintendent in all proceedings connected with ~~such~~ the receivership.

Sec. 45. Section 524.1402, subsection 2, Code 1989, is amended to read as follows:

2. In the case of a state bank which is a party to the plan, if the proposed merger or consolidation will result in a state bank subject to this chapter, adoption of the plan by such state bank shall require the affirmative vote of at least a majority of the directors and approval by the shareholders, in the manner and according to the procedures prescribed in section ~~496A.70~~ 490.1103, at a meeting called in accordance with the terms of that section. In the case of a national bank, or if the proposed merger or consolidation will result in a national bank, adoption of the plan by each party thereto shall require the affirmative vote of at least such directors and shareholders whose affirmative vote thereon is required under the laws of the United States. Subject to applicable requirements of the laws of the United States in a case in which a national bank is a party to a plan, any modification of a plan which has been adopted shall be made by any method provided therein, or in the absence of such provision, by the same vote as required for adoption.

Sec. 46. Section 524.1402, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. Applicable fees payable to the secretary of state, as specified in section ~~496A.124~~ 490.122, for the filing and recording of the articles of merger or consolidation.

Sec. 47. Section 524.1406, subsection 1, Code 1989, is amended to read as follows:

1. A shareholder of a state bank, which is a party to a proposed merger or consolidation plan which will result in a state bank subject to this chapter, who objects to the plan ~~in the manner prescribed by section 496A.78, shall be~~ is entitled to the rights and remedies of a dissenting shareholder as provided in ~~that section~~ chapter 490, division XIII. Shares acquired by a state bank pursuant to payment of ~~the~~ their agreed value ~~therefor~~ or to payment of the judgment entered therefor, pursuant to ~~section 496A.78~~ chapter 490, division XIII, shall be sold at public or private sale, within one year from the time of their purchase or acquisition, unless the time is extended by the superintendent.

Sec. 48. Section 524.1408, Code 1989, is amended to read as follows:

524.1408 MERGER OF CORPORATION SUBSTANTIALLY OWNED BY A STATE BANK.

~~Any~~ A state bank owning at least ninety-five percent of the outstanding shares, of each class, of another corporation which it is authorized to own under ~~the provisions of~~ this chapter, may merge ~~such~~ the other corporation into itself without approval by a vote of the shareholders of either the state bank or the subsidiary corporation. The board of directors of the state bank shall approve a plan of merger, mail to shareholders of record of the subsidiary corporation, and prepare and execute articles of merger in the manner provided for in section ~~496A.72~~ 490.1104. The articles of merger, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent approves of the proposed merger and if the superintendent finds the articles of merger satisfy the requirements of this section, deliver them to the secretary of state for filing and recording in the secretary of state's office, and ~~the same~~ they shall be filed in the office of the county recorder. The secretary of state upon filing the articles of merger shall issue a certificate of merger and send the ~~same~~ certificate to the state bank and a copy ~~thereof~~ of it to the superintendent.

Sec. 49. Section 524.1410, subsection 3, Code 1989, is amended to read as follows:

3. The applicable fee payable to the secretary of state, ~~by reason of subsection 17 of~~ under section ~~496A.124~~ 490.122, for the filing and recording of the articles of conversion.

Sec. 50. Section 524.1902, Code 1989, is amended to read as follows:

524.1902 APPLICABILITY OF OTHER CHAPTERS.

~~The provisions of chapters~~ Chapters 490, 491, 492, and 493, ~~and 496A shall~~ do not apply to banks except ~~insofar~~ as ~~is~~ provided by this chapter.

Sec. 51. Section 533.4, subsection 27, Code 1989, is amended to read as follows:

27. To provide indemnity for the director, officer, or employee in the same fashion that a corporation organized under chapter ~~496A~~ 490 could under ~~section 496A.4A, provided that~~ sections 490.850 through 490.858; however, where ~~section 496A.4A provides~~ those sections provide for action by shareholders the ~~section~~ provision is applicable to action by members of the credit union and where the ~~section has~~ sections have reference to the corporation organized under chapter ~~496A~~ 490, ~~it~~ the provision is applicable to the association organized under this chapter.

Sec. 52. Section 533.22, subsection 2, Code 1989, is amended to read as follows:

2. All amounts due to members who are unknown, or who are under a disability and there is no person legally competent to receive ~~such~~ the amounts, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state who shall hold ~~such~~ the amounts in the manner prescribed by chapter 556. All amounts due to creditors as described in section ~~496A.101~~ 490.1440 shall be transmitted to the treasurer of state in accordance with ~~the provisions of~~ that section and shall be retained by the treasurer of state and subject to claim as provided for in that section.

Sec. 53. Section 534.102, subsection 26, Code 1989, is amended to read as follows:

26. "Service corporation" means a corporation which is organized under chapter ~~496A~~ 490 and which is owned in any part by one or more state associations or federal associations or a combination of these.

Sec. 54. Section 534.501, subsection 1, paragraph g, and subsection 4, Code 1989, is amended to read as follows:

g. If a stock association, the information specified in section ~~496A.49, subsections 4, 5, 6, and 7~~ 490.202 and sections 490.601 through 490.602.

4. AMENDMENT PROCEDURE. The procedure for amending articles of incorporation or adopting restated articles for mutual associations is that specified in section 504A.35, and for stock associations it is that specified in section 490.726 and sections ~~496A.56 and 496A.57~~ 490.1002 through 490.1005.

Sec. 55. Section 534.504, Code 1989, is amended to read as follows:

534.504 MEETINGS OF STOCKHOLDERS.

Sections ~~496A.27, 496A.28, 496A.29, 496A.30, 496A.31, 496A.32, and 496A.33~~ 490.701 through 490.731 apply to stock associations.

Sec. 56. Section 534.508, subsection 1, Code 1989, is amended to read as follows:

1. IN GENERAL. Sections ~~496A.14, 496A.15, 496A.16, 496A.17, 496A.18, 496A.19, 496A.21, 496A.22, 496A.23, 496A.24, and 496A.25~~ 490.601 through 490.604, 490.620 through 490.628, 490.630, and 490.1704 apply to stock associations.

Sec. 57. Section 534.605, subsection 4, Code 1989, is amended to read as follows:

4. ~~Any~~ An association operating under this chapter ~~shall have the power to~~ may indemnify any present or former director, officer, or employee in the manner and in the instances authorized in ~~section 496A.4A~~ sections 490.850 through 490.858. If the association is a mutual association, the references in ~~section 496A.4A~~ those sections to stockholder shall be deemed to be references to members.

Sec. 58. Section 534.607, Code 1989, is amended to read as follows:

534.607 INDEMNIFICATION.

Except as otherwise provided in section 534.602, ~~section 496A.4A applies~~ sections 490.850 through 490.858 apply to associations incorporated under this chapter.

Sec. 59. Section 556.6, Code 1989, is amended to read as follows:

556.6 PROPERTY OF BUSINESS ASSOCIATIONS AND BANKING OR FINANCIAL ORGANIZATIONS HELD IN COURSE OF DISSOLUTION.

Except as provided in section ~~496A.101~~ 490.1440, all intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization organized under the laws of or created in this state, that is unclaimed by the owner within one year after the date for final distribution, is presumed abandoned.

Sec. 60. Section 558.42, Code 1989, is amended to read as follows:

558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.

It shall not be deemed lawfully recorded, unless it has been previously acknowledged or proved in the manner prescribed in this chapter or chapter 77A, except that documents filed and recorded pursuant to section 490.130, affidavits, and certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and Uniform Commercial Code financing statements and financing statement changes need not be thus acknowledged.

Sec. 61. Section 602.8102, subsection 68, Code Supplement 1989, is amended to read as follows:

68. Certify a copy of a decree of dissolution of a business corporation to the secretary of state ~~and the recorder of the county in which the corporation is located~~ as provided in section ~~496A.100~~ 490.1433.

Sec. 62. Chapter 496, Code 1989, is repealed.

Sec. 63.

Sections 4 through 8, and sections 24 and 60 of this Act, being deemed of immediate importance, take effect upon enactment, and apply to notarial acts performed on or after the effective date of this Act.

Approved April 27, 1990

CHAPTER 1206

STORM WATER DRAINAGE SYSTEMS

H.F. 2495

AN ACT relating to the establishment, maintenance, and operation of storm water drainage systems and the payment of rates or charges.

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

Section 1. Section 362.2, subsection 22, Code 1989, is amended to read as follows:

22. "City utility" means all or part of a waterworks, gasworks, sanitary sewage system, storm water drainage system, electric light and power plant and system, or heating plant any of which are owned by a city, including all land, easements, rights of way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the utility.

Sec. 2. Section 384.84, subsection 1, Code 1989, is amended to read as follows:

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance. All rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these, if not paid as provided by ordinance of the council, or resolution of the trustees, are a lien upon the premises served by any of these services upon certification to the county treasurer that the rates or charges are due. However, the lien shall not be less than five dollars. The county treasurer may charge two dollars for each lien certified as an administrative expense, which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor and credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale. A governing body may declare all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as provided herein. The ordinance provisions for collection of rates of a storm water

drainage system may prescribe a formula for determination of the rates which may include criteria and standards by which benefits have been previously determined for special assessments for storm water public improvement projects under this chapter.

Sec. 3. NEW SECTION. 384.84A SPECIAL ELECTION.

1. The governing body of a city may institute proceedings to issue revenue bonds for storm water drainage construction projects under section 384.84, subsection 1, by causing notice of the proposed project, with a description of the proposed project and a description of the formula for the determination of the rate or rates applied to users for payment of the bonds, and a description of the bonds and maximum rate of interest and the right to petition for an election if the project meets the requirement of subsection 2, to be published at least once in a newspaper of general circulation within the city at least thirty days before the meeting at which the governing body proposes to take action to institute proceedings for issuance of revenue bonds for the storm water drainage construction project.

2. If, before the date fixed for taking action to authorize the issuance of revenue bonds for the storm water drainage construction project, a petition signed by three percent of the qualified electors of the city, asking that the question of issuing revenue bonds for the storm water drainage construction project be submitted to the qualified electors of the city, the council, by resolution, shall declare the project abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds for the storm water drainage construction project if the cost of the project and population of the city meet one of the following criteria:

a. The project cost is seven hundred fifty thousand dollars or more in a city having a population of five thousand or less.

b. The project cost is one million five hundred thousand dollars or more in a city having a population of more than five thousand but not more than seventy-five thousand.

c. The project cost is two million dollars or more in a city having a population of more than seventy-five thousand.

3. The proposition of issuing revenue bonds for a storm water drainage construction project under this section is not approved unless the vote in favor of the proposition is equal to a majority of the votes cast on the proposition.

4. If a petition is not filed, or if a petition is filed and the proposition is approved at an election, the council may issue the revenue bonds.

5. If a city is required by the federal environmental protection agency to file application for storm water sewer discharge or storm water drainage system under the federal Clean Water Act of 1987, this section does not apply to that city with respect to improvements and facilities required for compliance with EPA regulations, or any city that enters into a chapter 28E agreement to implement a joint storm water discharge or drainage system with a city that is required by the federal environmental protection agency to file application for storm water discharge or storm water drainage system.

Sec. 4. Section 388.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The proposal of a city to establish, acquire, lease, or dispose of a city utility, except a sanitary sewage or storm water drainage system, in order to undertake or to discontinue the operation of the city utility, or the proposal to establish or dissolve a combined utility system, or the proposal to establish or discontinue a utility board, is subject to the approval of the voters of the city, except that a board may be discontinued by resolution of the council when the city utility, city utilities, or combined utility system it administers is disposed of or leased for a period of over five years.

Approved April 27, 1990

CHAPTER 1207

CENTER FOR AGRICULTURAL HEALTH AND SAFETY

H.F. 2548

AN ACT relating to agricultural health and safety.

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

Section 1. Section 135.13, subsection 1, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The advisory committee shall regularly meet with the administrative head of the office as well as the director of the center for agricultural health and safety established under section 262.72. The head of the office and the director of the center shall consult with the advisory committee and provide the committee with relevant information regarding their agencies.

Sec. 2. Section 135.13, subsection 2, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Cooperate with the center for agricultural health and safety established under section 262.72, the center for health effects of environmental contamination established under section 263.17, and the department of agriculture and land stewardship. The agencies shall coordinate programs to the extent practicable.

Sec. 3. NEW SECTION. 262.72 CENTER FOR AGRICULTURAL HEALTH AND SAFETY.

1. The board of regents shall establish a center for agricultural health and safety at the university of Iowa. The center shall be a joint venture by the university of Iowa and Iowa state university of science and technology. The center shall establish farm health and safety programs designed to reduce the incidence of disabilities suffered by persons engaged in agriculture which results from disease or injury. The university of Iowa is primarily responsible for the management of agricultural health and injury programs at the center. Iowa state university of science and technology is primarily responsible for the management of the agricultural safety programs of the center.

2. The center shall cooperate with the office of rural health, established under section 135.13, the center for health effects of environmental contamination established pursuant to section 263.17, and the department of agriculture and land stewardship. The agencies shall coordinate programs to the extent practicable.

3. The president of the university of Iowa, in consultation with the president of Iowa state university of science and technology, shall employ a full-time director of the center. The center may employ staff to carry out the center's purpose. The director shall coordinate the agricultural health and safety programs of the center. The director shall regularly meet and consult with the advisory committee to the office of rural health. The director shall provide the board of regents with relevant information regarding the center.

4. The center may solicit, accept, and administer moneys contributed to the center by any source, and may enter into contracts with public or private agencies in order to carry out its purposes.

5. The center shall cooperate with public and private entities to provide support to programs emphasizing agricultural health, safety, and rehabilitation for farm families.

6. The center shall submit an annual report of the activities of the center to the governor, the secretary of the senate and the chief clerk of the house of representatives by January 15 of each year.

Sec. 4. Section 263.17, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The center shall cooperate with the office of rural health, established under section 135.13, the center for agricultural health and safety established under section 262.72, and the department of agriculture and land stewardship. The agencies shall coordinate programs to the extent practicable.

Sec. 5. INTEGRATION OF AGRICULTURAL HEALTH AND SAFETY SERVICE PILOT PROGRAMS.

The Iowa agricultural health and safety pilot program established as part of the college of medicine of the university of Iowa to provide comprehensive occupational health and safety services to persons engaged in farming pursuant to 1987 Iowa Acts, chapter 233, section 408, subsection 2, paragraph "a", subparagraph (2), as modified by 1989 Acts, chapter 304, section 802, shall be integrated under the administration of the center for agricultural health and safety established under section 262.72.

Approved April 27, 1990

CHAPTER 1208

SAVINGS AND LOAN ASSOCIATIONS

H.F. 658

AN ACT relating to savings and loan associations and their regulation by the superintendent of savings and loans.

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

Section 1. Section 534.102, subsection 23, Code 1989, is amended by striking the subsection.

Sec. 2. Section 534.108, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Every association shall file with the superintendent all monthly, quarterly, and annual reports required by and filed with the federal home loan bank board.

Sec. 3. NEW SECTION. 534.113 REFERENCES TO UNITED STATES CODE AND REGULATIONS.

All references in this chapter to the United States Code and regulations adopted pursuant to the United States Code refer to the United States Code and regulations as amended to and including January 1, 1990.

Sec. 4. Section 534.203, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A loan made by an association must be authorized by lending policies approved by the association's board of directors and made available to the superintendent upon request.

Sec. 5. Section 534.205, subsection 6, Code 1989, is amended to read as follows:

6. BALLOON PAYMENTS. An association shall mail to the borrower an offer to refinance a balloon payment under a loan at least twenty days ~~prior to~~ before the balloon payment date if at that time no payments under the loan are delinquent. The offer shall be at an interest rate no greater than one percent per annum above the index rate and with monthly payments no greater than those necessary to fully amortize the amount of the balloon payment plus interest over a term which, when added together with the term representing the number of monthly payments made ~~prior to~~ before the most recent notice to refinance, is not less than the original loan term. The association must offer to the borrower a term of at least one year before the next balloon payment. ~~Where~~ If the balloon payment is due one month after the preceding monthly payment date, the association may require the borrower to make a payment equal to the preceding monthly payment on the balloon payment date if the first payment under the note to refinance the balloon note is one month after the balloon payment

date. The association may offer repayment plans to refinance a balloon payment in addition to the plan required by this subsection. For purposes of this subsection, ~~the term~~ "loan" means the same as defined in section 535.8, subsection 1; ~~the term~~ "balloon payment" means a payment which is more than three times as big as the mean average of the payments which precede it; and ~~the term~~ "index rate" means the national average mortgage contract rate for major lenders on the purchase of previously occupied homes which is most recently published in final form by the federal home loan bank board ~~one month prior to~~ not more than four months before the date on which the balloon payment is due, or, alternatively, a rate based upon any other independently verifiable index approved by the superintendent.

Sec. 6. Section 534.207, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this subsection, "residential real estate" means real estate on which there is located, or within three years will be located following the construction of improvements financed by a real estate loan, a structure or structures designed or used primarily to provide living accommodations for people, except structures which are designed primarily to provide accommodations for transients.

Sec. 7. Section 534.212, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An association taking any such actions shall notify the superintendent of the action or actions taken.

Sec. 8. Section 534.213, subsection 1, paragraph i, Code 1989, is amended to read as follows:

i. Bonds or bond instruments secured by an interest in real estate.

Sec. 9. Section 534.213, subsection 1, paragraph j, Code 1989, is amended to read as follows:

j. Capital stock, obligations, or other securities of service corporations,; ~~provided that~~ however, the aggregate investment in service corporations shall not exceed ~~seven percent of assets of the association on or after July 1, 1984, and prior to July 1, 1985, or eight percent of assets on or after July 1, 1985 and prior to July 1, 1986, or nine percent of assets on or after July 1, 1986 and prior to July 1, 1987, or~~ ten percent of the assets ~~at any time on or after July 1, 1987~~ of the association.

Sec. 10. Section 534.213, subsection 1, paragraph k, Code 1989, is amended to read as follows:

k. An open end management investment company registered under the federal Investment Company Act of 1940, the portfolio of which is restricted to investments in which an association may invest; however, the association's total investment in the shares of any one such company shall not exceed five percent of the association's assets without prior notification of the superintendent, who may prohibit exceeding the five percent limit by order.

Sec. 11. Section 524.213,* subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. Commercial paper and corporate debt securities with investment characteristics as defined by rules adopted by the superintendent.

Sec. 12. Section 534.302, subsection 8, Code 1989, is amended to read as follows:

8. PAY ON DEATH ACCOUNTS. Any association and any federal savings and loan association may issue savings accounts in the name of one or more persons with the provision that upon the death of the owner or owners the proceeds shall be the property of the person or persons designated by the owner or owners and shown by the record of the association, ~~but~~. After payment by the institution, the proceeds shall ~~be~~ remain subject to the debts of the decedent and the payment of Iowa inheritance tax, if any, ~~provided, however, that six months after the date of the death of the owner the receipt or acquittance of the person so designated shall be a valid and sufficient release and discharge of the association for the delivery of the~~

*Section 534.213 probably intended

~~savings account or the payment so made~~. An institution paying the person or persons designated shall not be liable as a result of that action for any debts of the decedent or for any estate, inheritance, or succession taxes which may be due this state.

Sec. 13. Section 534.403, subsection 2, Code 1989, is amended to read as follows:

2. EXPENSES, PER DIEM, VACATION, AND SICK LEAVE. If the examination is made under section 534.401, subsection 3, each examiner shall file with the superintendent an itemized, certified, and sworn voucher of the examiner's expense for the time the examiner is actually engaged in an examination. On the fifteenth and last days of each month each examiner shall file in triplicate with the superintendent a certified statement of the actual days engaged in examinations. The salaries shall be included in a ~~biweekly~~ two-week payroll period. Upon approval of the superintendent, the director of revenue and finance is authorized to issue warrants for payment of the vouchers and salaries, including a prorated amount for vacation and sick leave, from the savings and loan revolving fund. Repayment to the state shall be made as provided by section 534.408, subsection 4. Savings and loan examiners shall be paid salaries at rates commensurate with, and shall be reimbursed for meals and lodging at the same rate and in the same manner as, that which is received by federal examiners operating under the federal home loan bank board.

Sec. 14. Section 534.403, subsection 3, Code 1989, is amended to read as follows:

3. RECORD REQUIRED. A record of ~~each examination~~ all examinations, reports, and related information shall be kept in the superintendent's office, showing in detail as to each association all matters connected with the conduct of ~~the~~ its business, its financial standing, and everything touching its solvency, plan of business, and integrity.

The examinations, ~~and~~ reports, and ~~other~~ information ~~connected with them,~~ shall be kept confidential in the office of the superintendent, and are not subject to publication or disclosure to others except as provided in this chapter ~~provided~~. However, ~~any~~ the superintendent may furnish any examination, report, or information to the federal savings and loan insurance corporation, federal deposit insurance corporation, or a successor deposit insurance instrumentality, federal home loan bank board, or financial institution regulatory authorities of any state. Any evidence of felonious acts on the part of the officers, directors, or employees of an association may be referred by the superintendent to proper authorities. Members of associations, other than their officers and directors, are not entitled to inspection of any such records or information, and are not entitled to any information relative to the names of the members of an association, or the amounts invested by them, as disclosed in the superintendent's office, or in the records of an association.

Sec. 15. Section 534.405, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Actions taken by the superintendent under this section are not subject to section 17A.18, subsection 3.

Sec. 16. Section 534.507, Code 1989, is amended to read as follows:

534.507 NAME.

The name of an association shall contain the words "savings bank" or the words "savings and loan association". An association shall not advertise or hold itself out to the public as a commercial bank; however, a corporate name, logo, or signage existing on January 1, 1989, depicting the name of the association may be used for as long as the association chooses to continue to use the name, logo, or signage existing on that date.

Sec. 17. Section 534.511, subsection 2, Code 1989, is amended to read as follows:

2. TYPES AUTHORIZED. An association may merge only with one or more other state associations, federal associations, association holding companies, bank holding companies, or banks.

Sec. 18. NEW SECTION. 534.518 DISSOLUTION.

The dissolution of an association shall be conducted pursuant to procedures approved by the superintendent. Upon dissolution, the association shall surrender its certificate of authority to the superintendent, and the superintendent shall publish notice of the dissolution in a newspaper of general circulation in the county of the home office of the association.

Sec. 19. NEW SECTION. 534.519 MUTUAL HOLDING COMPANIES.

1. An association may reorganize as a mutual holding company in the manner and with the effect provided in the federal National Housing Act of 1934, 12 U.S.C. § 1730a(s). The mutual holding company may engage in activities permitted by the federal National Housing Act of 1934, 12 U.S.C. § 1730a(s). For purposes of 12 U.S.C. § 1730a(s)(5)(D), investments in service corporations shall be deemed available for purchase without regard to the limitation contained in section 534.213, subsection 1, paragraph "j", on the amount of such investments.

2. A mutual holding company shall be deemed a mutual association for purposes of sections 534.401, 534.403, 534.501, 534.502, 534.503, 534.505, 534.509, 534.510, 534.511, 534.512, 534.513, 534.514, 534.601, 534.602, 545.603,* 534.604, 534.605, 534.606, 534.701, 534.702, 534.703, 534.704, and 534.705.

3. Except as otherwise provided in this chapter, a mutual holding company has all powers set forth in section 496A.4.

4. The superintendent may adopt rules pursuant to chapter 17A pertaining to mutual holding companies.

5. Proxies of the association shall continue in force as proxies of the mutual holding company.

Sec. 20. Section 534.605, subsection 2, Code 1989, is amended to read as follows:

2. To make a real estate loan or real estate contract to a director, officer, or employee of the association, or to ~~any~~ an attorney or firm of attorneys, regularly serving the association in the capacity of attorney at law, or to ~~any~~ a partnership in which ~~any such~~ a director, officer, employee, attorney, or firm of attorneys has ~~any~~ an interest, ~~and no~~ without the prior notification of the superintendent, fifteen days prior to closing the loan or executing the contract, who may prohibit the proposed transaction by order. A real estate loan or real estate contract shall not be made to ~~any~~ a corporation in which any of ~~such~~ the parties are stockholders, except that with the prior approval of its board of directors a real estate loan or real estate contract may be made to a corporation in which ~~no such~~ a party owns no more than fifteen percent of the total outstanding stock and in which the stock owned by all ~~such~~ the parties does not exceed twenty-five percent of the total outstanding stock:. ~~Provided, that nothing herein shall~~ However, this section does not prohibit an association from making loans pursuant to sections 534.202 and 534.208 and loans on the security of a first lien on the home property or mobile home owned and occupied by a director, officer, or employee of an association, or by an attorney or member of a firm of attorneys regularly serving the association in the capacity of attorney at law ~~upon a two-thirds vote of the directors, the interested director not voting~~.

A loan made to an affiliated party is subject to the association's normal lending policies and procedures, and shall be approved by a two-thirds vote of the directors, the interested director not voting.

Approved April 27, 1990

*534.603 probably intended

CHAPTER 1209

PROHIBITED INTERESTS IN PUBLIC CONTRACTS – EXCEPTIONS

H.F. 2057

AN ACT relating to prohibited interests in public contracts.

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

Section 1. Section 68B.4, Code 1989, is amended to read as follows:

68B.4 WHEN SALES PROHIBITED.

~~No~~ An official or employee of any regulatory agency shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the agency of which the person is an official or employee, except when the official or employee has met all of the following conditions:

1. The consent of the regulatory agency for which the person is an official or employee is obtained and the person is not the official or employee with the authority to determine whether agency consent is to be given under this section.

2. The duties or functions performed by the official or employee for the regulatory agency are not related to the regulatory authority of the agency over the individual, association, or corporation, or the selling of goods or services by the official or employee to the individuals, associations, or corporations does not affect the official's or employee's duties or functions at the regulatory agency.

3. The selling of any goods or services by the official or employee to an individual, association, or corporation does not include advocacy on behalf of the individual, association, or corporation to the regulatory agency in which the person is an official or employee.

4. The selling of any goods or services by the official or employee to an individual, association, or corporation does not cause the official or employee to sell goods or services to the regulatory agency on behalf of the individual, association, or corporation.

Each regulatory agency shall adopt rules specifying the method by which agency consent under this section may be obtained.

Sec. 2. NEW SECTION. 279.7A INTEREST IN PUBLIC CONTRACTS PROHIBITED – EXCEPTION.

A board of directors of a school corporation shall not have an interest, direct or indirect, in a contract for the purchase of goods, including materials and profits, and the performance of services for the director's school corporation. A contract entered into in violation of this section is void. This section does not apply to contracts for the purchase of goods or services, which benefit a director, if the benefit to the director does not exceed one thousand five hundred dollars in a fiscal year, and contracts made by a school board, upon competitive bid in writing, publicly invited and opened.

Sec. 3. Section 331.342, subsection 3, Code 1989, is amended to read as follows:

3. Contracts made by a county ~~of less than ten thousand population,~~ upon competitive bid in writing, publicly invited and opened.

Sec. 4. Section 331.342, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Contracts not otherwise permitted by this section, for the purchase of goods or services by a county, which benefit a county officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of one thousand five hundred dollars in a fiscal year.

Sec. 5. Section 362.5, subsection 10, Code 1989, is amended to read as follows:

10. Contracts not otherwise permitted by this section, for the purchase of goods or services by a city ~~having a population of more than two thousand five hundred but less than ten thousand~~, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of one thousand five hundred dollars in a fiscal year.

Sec. 6. Section 362.5, subsection 11, Code 1989, is amended by striking the subsection.

Approved April 27, 1990

CHAPTER 1210

ENVIRONMENTAL INFRACTIONS

H.F. 2412

AN ACT providing for the enactment of municipal infractions relating to the environment and providing penalties.

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

Section 1. Section 364.22, subsection 1, Code Supplement 1989, is amended to read as follows:

1. A municipal infraction is a civil offense punishable by a civil penalty of not more than one hundred dollars for each violation or if the infraction is a repeat offense, a civil penalty not to exceed two hundred dollars for each repeat offense. However, notwithstanding section 364.3, a municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. § 403.8, by an industrial user may be punishable by a civil penalty of not more than one thousand dollars for each day a violation exists or continues.

A city may classify a municipal infraction, other than a violation arising from noncompliance with a pretreatment standard or requirement, as an environmental violation if the infraction is a violation of chapter 455B or a violation of a standard established by the city in consultation with the department of natural resources, or both. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain by a person, shall not be subject to an ordinance, the violation of which is classified as an environmental violation, unless the person is engaged in industrial production or manufacturing of grain products. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain by a person engaged in industrial production or manufacturing of grain products, shall not be subject to an ordinance, the violation of which is classified as an environmental violation, if the discharge occurs from September 15 to January 15. A municipal infraction which is classified an environmental violation is punishable by a civil penalty of not more than one thousand dollars for each occurrence. A person committing an environmental violation is not subject to a civil penalty, if all of the following conditions are satisfied:

a. The violation results solely from the person conducting an initial start-up, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown, of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

b. The person notifies the city of the violation within twenty-four hours from the time that the violation begins.

c. The violation does not continue in existence for more than eight hours.

A city shall not enforce this section against a person committing an environmental violation, until the city offers to participate in informal negotiations with the person. If the person accepts the offer, the city and the person shall participate in good faith negotiations to resolve issues alleged to be the basis for the violation.

Sec. 2. Section 364.22, subsection 5, paragraph a, Code Supplement 1989, is amended to read as follows:

a. The matter shall be tried before a magistrate, ~~or~~ a district associate judge, or a district judge in district court if the total amount of civil penalties does not exceed two thousand dollars in the same manner as a small claim. The matter shall only be tried before a judge in district court if the total amount of civil penalties assessed exceeds two thousand dollars.

Sec. 3. Section 364.22, subsection 9, paragraph e, unnumbered paragraph 3, Code Supplement 1989, is amended to read as follows:

~~The~~ A 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, and the matter is not before a judge in district court, 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.

Sec. 4. Section 364.22, subsection 10, Code Supplement 1989, is amended to read as follows:

10. The defendant or the city may file a motion for a new trial or may appeal the decision of ~~the~~ a magistrate, ~~or~~ district associate judge, or a district 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. 5. Section 364.22, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. An action brought pursuant to this section for a municipal infraction which is an environmental violation does not preclude, and is in addition to, any other enforcement action which may be brought pursuant to chapter 455B, 455D, or 455E.

Sec. 6.

If a conflict exists between a provision of this Act, as enacted, and 1990 Iowa Acts, Senate File 2393, as enacted, the provision contained in this Act shall prevail.

Approved April 27, 1990

CHAPTER 1211

TENANT RESPONSIBILITY FOR WATER SERVICES

H.F. 2557

AN ACT relating to the filing of liens against property for nonpayment of city utility or enterprise charges.

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

Section 1. Section 384.84, subsection 1, Code 1989, is amended to read as follows:

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment

of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance. All rates or charges for the services of sewer systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these, if not paid as provided by ordinance of the council, or resolution of the trustees, are a lien upon the premises served by any of these services upon certification to the county treasurer that the rates or charges are due. However, ~~the~~ for residential rental properties where the charges for water services are separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the landlord gives written notice to the utility or enterprise that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety days of water service is paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address that the tenant is to occupy, and date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the utility or enterprise shall return the deposit if the water service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent. When one or more of the utility or enterprise services become delinquent, the utility or enterprise shall give delinquency notice to the landlord who has filed a request containing the name and address of the person to be notified when the tenant is notified of the delinquency. A lien imposed pursuant to this subsection shall not be less than five dollars. The utility or enterprise shall give ten days' written notice by first class mail to the property owner of record who has filed a request containing the name and address of the person to be notified before placing a lien on the owner's property. The county treasurer may charge two dollars for each lien certified as an administrative expense, which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor and credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

Approved April 27, 1990

CHAPTER 1212

PROHIBITED CREDIT PRACTICES BASED ON FAMILIAL STATUS

H.F. 2476

AN ACT relating to unfair or discriminatory credit practices by including familial status as an improper basis for differential treatment in relation to a consumer credit transaction, an extension of credit by a state chartered financial institution, or the offer of credit life or health and accident insurance.

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

Section 1. Section 601A.10, Code 1989, is amended to read as follows:

601A.10 UNFAIR CREDIT PRACTICES.

It shall be an unfair or discriminatory practice for any:

1. Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race,

religion, marital status, sex, ~~or~~ physical disability, or familial status.

2. Person authorized or licensed to do business in this state pursuant to chapter 524, 533, 534, 536, or 536A to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, ~~or~~ physical disability, or familial status.

3. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability ~~or~~ sex, or familial status. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by title XX.

The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

Approved April 27, 1990

CHAPTER 1213

FUNERAL AND CEMETERY SERVICES AND MERCHANDISE

H.F. 2537

AN ACT relating to the sale of funeral services and merchandise.

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

Section 1. Section 523A.1, unnumbered paragraphs 3 and 4, Code 1989, are amended to read as follows:

If an agreement pursuant to this section is to be paid in installment payments, the seller shall deposit eighty percent of each payment in trust until the full amount to be trusted has been deposited. If the agreement is financed with or sold to a financial institution, then the agreement shall be considered paid in full and the deposit requirements of this section shall be satisfied within ~~thirty~~ fifteen days after the close of the month of receipt of the funds ~~in which payment is received~~ from the financial institution.

This section does not apply to payments for merchandise delivered to the purchaser. Delivery includes storage in a warehouse under the control of the seller or any other warehouse or storage facility approved by the commissioner when a receipt of ownership in the name of the purchaser is delivered to the purchaser, the merchandise is insured against loss, the merchandise is protected against damage, title has been transferred to the purchaser, the merchandise is appropriately identified and described in a manner that it can be distinguished from other similar items of merchandise, the method of storage allows for visual audits of the merchandise, and the annual reporting requirements of section 523A.2, subsection 1, are satisfied.

Sec. 2. Section 523A.2, subsection 1, paragraphs a, f, and g, Code Supplement 1989, are 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~~ fifteen days after the close of the month of 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~~ as provided in paragraph "g" for the designated beneficiary until released pursuant to section 523A.1.

f. The ~~state or federally insured bank, savings and loan association, or credit union~~ financial institution in which trust funds are held shall not be owned or under the control of the seller and shall not use any funds required to be held in trust pursuant to this chapter or chapter 566A to purchase an interest in any contract or agreement to which the seller is a party, or otherwise to invest, directly or indirectly, in the seller's business operations.

g. ~~The bank, savings and loan, credit union, or trust department thereof, in which trust funds are held shall serve as trustee to the extent that organization has been granted those powers under the laws of this state or the United States and~~ All funds required to be deposited for a purpose described in section 523A.1 shall be deposited in a manner consistent with one of the following:

(1) The payments will be deposited directly by the purchaser in an irrevocable interest-bearing burial account in the name of the purchaser.

(2) The payments will be deposited directly by the purchaser in a separate account in the name of the purchaser. The account may be made payable to the seller on the death of the purchaser or the designated beneficiary, provided that, until death, the purchaser retains the exclusive power to hold, manage, pledge, and invest the funds in the account and may revoke the trust and withdraw the funds, in whole or in part, at any time.

(3) The payments will be deposited by the purchaser or the seller in a separate burial trust account in the name of the purchaser, as trustee, in trust for the named beneficiary, to be held, invested, and administered as a trust account for the benefit and protection of the person for whose benefit the funds were paid. The depositor shall notify the financial institution of the existence and terms of the trust, including at a minimum the name of each party to the agreement, the name and address of the trustee, and the name and address of the beneficiary. The account may be made payable to the seller upon the death of the designated beneficiary.

(4) The payments will be deposited in the name of the trustee, as trustee, under the terms of a master trust agreement and the trustee may invest, reinvest, exchange, retain, sell, and otherwise manage the trust fund for the benefit and protection of the person for whose benefit the funds were paid. ~~The trustee may combine trust accounts established pursuant to this chapter~~

PARAGRAPH DIVIDED. In addition to the methods provided for above, the commissioner may by rule authorize other methods of deposit upon a finding that the other method provides equivalent safety of the principal and interest or income and the seller does not have the ability to utilize any of the proceeds prior to performance. Moneys deposited under the master trust agreement may be commingled for investment purposes as long as each deposit includes a detailed listing of the amount deposited in trust for each beneficiary and a separate accounting of each purchaser's principal, interest, and income is maintained. ~~The~~ Subject to the master trust agreement, the seller may appoint an independent investment advisor to act in an advisory capacity with the trustee relative to the investment of the trust funds. The trust shall pay the cost of the operation of the trust and any annual audit fees.

The financial institution, or the trust department of the financial institution in which trust funds are held, may serve as trustee to the extent the institution or department has been granted those powers under the laws of this state or the United States. The seller or any officer, director, agent, employee, or affiliate of the seller shall not serve as trustee.

Sec. 3. Section 523A.2, subsection 4, Code Supplement 1989, is amended to read as follows:

4. If a seller under an agreement referred to in section 523A.1 ceases to do business, whether voluntarily or involuntarily, and the obligation to provide the merchandise and services has not been assumed by another funeral home or cemetery holding an establishment permit issued under this chapter, all funds held in trust under section 523A.1, including accrued interest or earnings, shall be repaid to the purchaser under the agreement.

Sec. 4. Section 523A.9, subsection 5, Code 1989, is amended to read as follows:

5. Upon the filing of an application for a permit, ~~if~~ the commissioner shall issue the permit, unless the commissioner finds that ~~the~~ any of the following apply:

a. The applicant is insolvent.

b. The applicant has failed to comply with any terms or conditions of this chapter and such failure is deemed by the commissioner to substantially impede the applicant's ability to abide by the provisions of this chapter.

c. The applicant has ~~not~~ been convicted of a criminal offense involving dishonesty or false statement. ~~and can~~

d. The applicant cannot provide the funeral services or funeral merchandise the applicant purports to sell~~, the commissioner shall issue the permit~~.

Sec. 5. Section 523A.12, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. The permit holder has committed a fraudulent act, engaged in a fraudulent practice, or violated any provisions of this chapter or any rule adopted under this chapter or any other state or federal law applicable to the conduct of the permit holder's business.

Sec. 6. Section 523A.12, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The permit holder is found upon investigation to have engaged in a deceptive act or practice or has deliberately misrepresented or omitted a material fact relative to the sale of funeral services or funeral merchandise under this chapter.

Sec. 7. Section 523A.13, Code 1989, is amended to read as follows:

523A.13 PROSECUTION FOR VIOLATIONS OF LAW.

If the commissioner believes that grounds exist for the criminal prosecution of persons subject to this chapter for violations of this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession, in order that the attorney general or the county attorney may proceed with the matter as ~~the attorney general deems~~ deemed appropriate. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county attorney's county.

Sec. 8. Section 523A.15, Code 1989, is amended to read as follows:

523A.15 FRAUDULENT PRACTICES.

A person who commits any of the following acts commits a fraudulent practice and is punishable as provided in chapter 714:

1. Knowingly fails to comply with any requirement of this chapter.

~~1~~ 2. Knowingly makes, causes to be made, or subscribes to a false statement or representation in a report or other document required under this chapter, or renders such a report or document misleading through the deliberate omission of information properly belonging in the report or document.

~~2~~ 3. Conspires to defraud in connection with the sale of funeral services or funeral merchandise under this chapter.

4. Fails to deposit funds in compliance with section 523A.1 or withdraws any funds in a manner inconsistent with this chapter.

5. Knowingly sells or offers funeral merchandise or funeral services without an establishment permit.

~~3~~ 6. Deliberately misrepresents or omits a material fact relative to the sale of funeral services or funeral merchandise under this chapter.

Sec. 9. NEW SECTION. 523A.17 CEASE AND DESIST ORDERS.

If an audit or investigation provides reasonable evidence that a seller has violated any provisions of this chapter or any rule adopted under this chapter, the commissioner may issue an order directed at the seller to cease and desist from engaging in such act or practice.

Sec. 10. NEW SECTION. 523A.18 VIOLATIONS AND PENALTIES.

A violation of this chapter or rules adopted by the commissioner pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided

by section 714.16, including but not limited to, provisions relating to injunctive relief and penalties, apply to violations of this chapter.

Sec. 11. NEW SECTION. 523A.19 RECEIVERSHIPS.

1. The commissioner shall notify the attorney general if the commissioner finds that any seller engaged in the business subject to this chapter meets one or more of the following conditions:

a. Is insolvent.

b. Has utilized trust funds for personal or business purposes in a manner inconsistent with this chapter and the amount of funds currently held in trust is less than eighty percent of all payments made under the agreements referred to in section 523A.1.

c. Has refused to pay any just claim or demand based on an agreement referred to in section 523A.1.

d. The commissioner finds upon investigation that a seller is unable to pay any just claim or demand based on such agreements which have been legally determined to be just and outstanding.

2. The attorney general may apply to the district court in any county of the state for a receivership. Upon proof of any of the grounds for a receivership described in this section, the court may grant a receivership.

Sec. 12. NEW SECTION. 523A.20 INSURANCE DIVISION'S REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. Commencing July 1, 1990, and annually thereafter, the commissioner shall allocate from the fees paid pursuant to section 523A.2, one dollar for each agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523A.2 shall be deposited into the insurance revolving fund; provided, however, that if the balance of the regulatory fund on that July 1 exceeds two hundred thousand dollars, the allocation to the regulatory fund shall not be made and the total sum of the fees paid pursuant to section 523A.2 shall be deposited in the insurance revolving fund. The moneys in the regulatory fund shall be retained in the fund together with any interest or earnings that are earned on the balance. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay investigative expenses and the expenses of receiverships established pursuant to section 523A.19. An annual assessment shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.

Sec. 13. NEW SECTION. 523E.1 TRUST FUND ESTABLISHED.

1. If an agreement is made by a person to furnish, upon the future death of a person named or implied in the agreement, cemetery merchandise, a minimum of one hundred twenty-five percent of the wholesale cost of the cemetery merchandise, based upon the current advertised prices available from a manufacturer or wholesaler who has delivered the same or substantially the same type of merchandise to the seller during the last twelve months, shall be and remain trust funds until purchase of the merchandise or the occurrence of the death of the person for whose benefit the funds were paid, unless the funds are sooner released to the person making the payment by mutual consent of the parties. Payments otherwise subject to this section are not exempt merely because they are held in certificates of deposit.

2. The seller shall keep copies of all price advertisements upon which the seller relies to determine the wholesale cost. The copies of price advertisements so maintained shall be made available to the commissioner upon request. The seller shall review wholesale costs no less than annually and make additional deposits as necessary to assure that the amount held in trust is always equal to or in excess of one hundred twenty-five percent of the wholesale cost of the merchandise. The seller and the manufacturer or wholesaler upon whose price the seller relies to determine the wholesale cost shall not be commonly owned or affiliated.

3. Interest or income earned on amounts deposited in trust under this subsection shall remain in trust under the same terms and conditions as the payments made under the agreement and

purchasers shall have a right to a total refund of principal and interest or income in the event of nonperformance.

4. If an agreement subject to this subsection is to be paid in installment payments, the seller shall deposit fifty percent of each payment in trust until the full amount to be trusted has been deposited. If the agreement is financed with or sold to a financial institution, the agreement shall be considered paid in full and the deposit requirements of this section shall be satisfied within fifteen days after the close of the month of receipt of the funds from the financial institution.

This section does not apply to payments for merchandise delivered to the purchaser. Delivery includes storage in a warehouse under the control of the seller or any other warehouse or storage facility approved by the commissioner when a receipt of ownership in the name of the purchaser is delivered to the purchaser, the merchandise is insured against loss, the merchandise is protected against damage, title has been transferred to the purchaser, the merchandise is appropriately identified and described in a manner that it can be distinguished from other similar items of merchandise, the method of storage allows for visual audits of the merchandise, and the annual reporting requirements of section 523E.2, subsection 1, are satisfied.

Sec. 14. NEW SECTION. 523E.2 DEPOSIT OF FUNDS — RECORDS — EXAMINATIONS — REPORTS.

1. a. All funds held in trust under section 523E.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 fifteen days after the close of the month of receipt of the funds and shall be held as provided in paragraph "g" for the designated beneficiary until released pursuant to section 523E.1.

b. The seller under an agreement referred to in section 523E.1 shall maintain accurate records of all receipts, expenditures, interest or earnings, and disbursements relating to funds held in trust, and shall make these records available to the commissioner for examination at any reasonable time upon request.

c. The seller under an agreement referred to in section 523E.1 shall file with the commissioner not later than March 1 of each year a report including the following information:

(1) The name and address of the seller and the name and address of the establishment that will provide the cemetery merchandise.

(2) The name of the purchaser, beneficiary, and the amount of each agreement under section 523E.1 made in the preceding year and the date on which it was made.

(3) The total value of agreements subject to section 523E.1 entered into, the total amount paid pursuant to those agreements, and the total amount deposited in trust as required under section 523E.1, during the preceding year.

(4) The amount of any payments received pursuant to agreements reported in previous years in accordance with subparagraphs (2) and (3) and the amount of those payments deposited in trust for each purchaser.

(5) The change in status of any trust account, for each purchaser, any other amounts withdrawn from trust and the reason for each withdrawal. However, regular increments of interest or income need not be reported on a yearly basis.

(6) The name and address of the financial institution in which trust funds were deposited, and the name and address of each insurance company which funds agreements under section 523E.1.

(7) The name and address of each purchaser of cemetery merchandise delivered in lieu of trusting pursuant to section 523E.1, and a description of that merchandise for each purchaser.

(8) The complete inventory of cemetery merchandise and its location in the seller's possession that has been delivered in lieu of trusting pursuant to section 523E.1.

(9) Other information reasonably required by the commissioner for purposes of administration of this chapter.

The information required by subparagraphs (7) and (8) shall include a verified statement of a certified public accountant that the certified public accountant has conducted a physical inventory of the cemetery merchandise specified in subparagraph (8) and that each item of that merchandise is in the seller's possession at the specified location. The statement shall be on a form prescribed by the commissioner. The commissioner shall permit the filing of a unified annual report by a seller subject to both chapter 523A and this chapter.

The report shall be accompanied by a filing fee determined by the commissioner which shall be sufficient to defray the costs of administering this chapter.

d. A financial institution referred to in paragraph "a" shall file notice with the commissioner of all funds deposited under the trust agreement. The notice shall be on forms prescribed by the commissioner and shall be filed not later than March 1 of each year. Each notice shall contain the required information for all deposits made during the previous calendar year. Forms may be obtained from the commissioner.

e. Notwithstanding chapter 22, all records maintained by the commissioner under this subsection shall be confidential and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general.

f. The financial institution in which trust funds are held shall not be owned or under the control of the seller and shall not use any funds required to be held in trust pursuant to this chapter or chapter 566A to purchase an interest in any contract or agreement to which the seller is a party, or otherwise to invest, directly or indirectly, in the seller's business operations.

g. All funds required to be deposited for a purpose described in section 523E.1 shall be deposited in a manner consistent with one of the following:

(1) The payments shall be deposited directly by the purchaser in an irrevocable interest-bearing burial account in the name of the purchaser.

(2) The payments shall be deposited directly by the purchaser in a separate account in the name of the purchaser. The account may be made payable to the seller on the death of the purchaser or the designated beneficiary, provided that, until death, the purchaser retains the exclusive power to hold, manage, pledge, and invest the funds in the account and may revoke the trust and withdraw the funds, in whole or in part, at any time.

(3) The payments shall be deposited by the purchaser or the seller in a separate burial trust account in the name of the purchaser, as trustee, in trust for the named beneficiary, to be held, invested, and administered as a trust account for the benefit and protection of the person for whose benefit the funds were paid. The depositor shall notify the financial institution of the existence and terms of the trust, including at a minimum the name of each party to the agreement, the name and address of the trustee, and the name and address of the beneficiary. The account may be made payable to the seller upon death of the designated beneficiary.

(4) The payments shall be deposited in the name of the trustee, as trustee, under the terms of a master trust agreement and the trustee may invest, reinvest, exchange, retain, sell, and otherwise manage the trust fund for the benefit and protection of the person for whose benefit the funds were paid.

In addition to the methods provided for in this section, the commissioner may by rule authorize other methods of deposit upon a finding that that method provides equivalent safety of the principal and interest or income and the seller does not have the ability to utilize any of the proceeds prior to performance. Money deposited under the master trust agreement may be commingled for investment purposes as long as each deposit includes a detailed listing of the amount deposited in trust for each beneficiary and a separate accounting of each purchaser's principal, interest, and income is maintained. Subject to the master trust agreement, the seller may appoint an independent investment advisor to act in an advisory capacity with the trustee relative to the investment of the trust funds. The trust shall pay the cost of the operation of the trust and any annual audit fees.

The financial institution, or the trust department of the financial institution, in which trust funds are held may serve as trustee to the extent that the organization has been granted those

powers under the laws of this state or the United States. The seller or any officer, director, agent, employee, or affiliate of the seller shall not serve as trustee.

2. In addition to complying with subsection 1, each seller under an agreement referred to in section 523E.1 shall file annually with the commissioner an authorization for the commissioner or a designee to investigate, audit, and verify all funds, accounts, safe-deposit boxes, and other evidence of trust funds held by or in a financial institution.

3. The commissioner shall adopt rules under chapter 17A specifying the form, content, and cost of the forms for the notices and disclosures required by this section, and shall sell blank forms at that cost to any person on request.

4. If a seller under an agreement referred to in section 523E.1 ceases to do business, whether voluntarily or involuntarily, and the obligation to provide the merchandise and services has not been assumed by another funeral home or cemetery holding an establishment permit issued under this chapter, all funds held in trust under section 523E.1, including accrued interest or earnings, shall be repaid to the purchaser under the agreement.

5. The commissioner may require the performance of an audit of the seller's business by a certified public accountant if the commissioner receives reasonable evidence that the seller is not complying with this chapter. The audit shall be paid for by the seller, and a copy of the report of audit shall be delivered to the commissioner and to the seller.

6. This chapter does not prohibit the funding of an agreement otherwise subject to section 523E.1 by insurance proceeds derived from a policy issued by an insurance company authorized to conduct business in this state. The seller of an agreement subject to this chapter which is to be funded by insurance proceeds shall obtain all permits required to be obtained under this chapter and comply with the reporting requirements of this section.

Sec. 15. NEW SECTION. 523E.5 SCOPE OF CHAPTER — DEFINITIONS.

1. This chapter applies only to the sale of cemetery merchandise.

2. As used in this chapter:

a. "Cemetery merchandise" means grave markers, tombstones, ornamental merchandise, and monuments if the agreement does not require installation within twelve months of the purchase.

b. "Commissioner" means the commissioner of insurance or the deputy appointed under section 502.601.

Sec. 16. NEW SECTION. 523E.6 COMPLIANCE WITH OTHER LAWS.

The seller of cemetery merchandise shall comply with chapter 82 with respect to all contracts that are subject to regulation under this chapter. A failure to comply is subject to the remedies and penalties provided in that chapter.

Sec. 17. NEW SECTION. 523E.7 BOND IN LIEU OF TRUST FUND.

1. In lieu of the trust fund required by sections 523E.1 and 523E.2, a seller may file with the commissioner a surety bond that is issued by a surety company authorized to do business in this state and that is conditioned on the faithful performance by the seller of agreements subject to this chapter. The liability of the surety extends to each agreement that is subject to this chapter and that is executed during the time the bond is in force and until performance of the agreement or rescission of the agreement by mutual consent of the parties; and, to the extent expressly agreed to in writing by the surety company under subsection 3, paragraph "b", the liability of the surety extends to each agreement that is subject to this chapter and that was executed prior to the time the bond was in force and until performance of the agreement or rescission of the agreement by mutual consent of the parties. A buyer who is aggrieved by a breach of a condition of the bond covering the contract of that buyer may maintain an action against the bond, provided that if, at the time of the breach, the buyer is aware of the buyer's rights under the bond and how to file a claim against the bond, the surety shall not be liable as a result of any breach of condition unless notice of a claim is received by the surety within sixty days following the discovery of the acts, omissions, or conditions constituting the breach of condition, except as otherwise provided in subsection 2. A surety bond submitted

under this subsection shall not be canceled by a surety company except upon a written notice of cancellation given by the surety company to the commissioner by restricted certified mail, and the surety bond shall not be canceled prior to the expiration of sixty days after the receipt by the commissioner of the notice of cancellation.

2. If a seller becomes insolvent or otherwise ceases to engage in business prior to or within sixty days after the cancellation of a bond submitted under subsection 1, the seller shall be deemed to have breached the conditions of the surety bond with respect to all outstanding contracts subject to this chapter as of the day prior to cancellation of the bond. The commissioner shall mail written notice by restricted certified mail to the buyer under each outstanding contract of the seller that a claim against the bond must be filed with the surety company within sixty days after the date of mailing of the notice. The surety company shall cease to be liable with respect to all agreements except those for which claims are filed with the surety company within sixty days after the date the notices are mailed by the commissioner.

3. If a surety bond is canceled by a surety company under any conditions other than those specified in subsection 2, the seller shall comply with paragraphs "a" and "b":

a. The seller shall comply with the trust requirements of sections 523E.1 and 523E.2 with respect to all contracts subject to this chapter that are executed on or after the effective date of cancellation of the surety bond, or the seller may submit a substitute surety bond meeting the requirements of subsection 1, but the seller must comply with sections 523E.1 and 523E.2 with respect to any contracts executed on or after the effective date of cancellation of the earlier surety bond and prior to the date on which the later surety bond takes effect.

b. Within sixty days after the effective date of the cancellation of the surety bond, the seller shall submit to the commissioner an undertaking by another surety company that a substitute surety bond meeting the requirements of subsection 1 is in effect and that the liability of the substitute surety bond extends to all outstanding contracts of the seller that were executed but not performed or extinguished prior to the effective date of the substitute surety bond, or the seller shall submit to the commissioner a financial statement accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state certifying the total amount of outstanding liabilities of the seller on contracts subject to this chapter and proof of deposit by the seller in trust under sections 523E.1 and 523E.2 of either the amount specified in sections 523E.1, including interest as set by the commissioner based on the interest which would have been earned had the funds been maintained in trust, with respect to all of those outstanding contracts or, where applicable, that delivery of merchandise has been made in compliance with section 523E.1. The surety may require such security as is necessary to comply with this section. Upon compliance by the seller with this paragraph, the surety company canceling the surety bond shall cease to be liable with respect to any outstanding contracts of the seller except those with respect to which a breach of condition occurred prior to cancellation and timely claims were filed.

4. Section 523E.2, subsection 1, paragraphs "b", "c", and "e", subsection 5, and, to the extent it is applicable, subsection 6, apply to sellers whose agreements are covered by a surety bond maintained under this section, and section 523E.2 continues to apply to any agreements of those sellers that are not covered by a surety bond maintained under this section.

5. Upon receiving a notice of cancellation of a surety bond, the commissioner shall notify the seller of the requirements of this chapter resulting from cancellation of the bond. The notice may be in the form of a copy of this section and sections 523E.1 and 523E.2.

6. Upon receiving a notice of cancellation, unless the seller has complied with the requirements of this section, the attorney general shall seek an injunction to prohibit the seller from making further agreements subject to this chapter and shall commence an action to attach and levy execution upon property of the seller when the seller fails to perform an agreement subject to this chapter, to the extent necessary to secure compliance with this chapter, and the county attorney may bring criminal charges under section 523E.15.

7. The surety under this section shall not be owned or under the control of the seller.

Sec. 18. NEW SECTION. 523E.8 DISCLOSURES.

1. Every agreement for cemetery merchandise under this chapter shall be written in clear, understandable language and shall be printed or typed in easy-to-read type, size, and style, and shall:

a. Identify the seller, the salesperson's permit and establishment name and permit number, the expiration date of the salesperson's permit, the purchaser, and the person for whom the cemetery merchandise is purchased if other than the purchaser.

b. Specify the cemetery merchandise to be provided, and the cost of each merchandise item.

c. State clearly the conditions on which substitution will be allowed.

d. Set forth the total purchase price and the terms under which it is to be paid.

e. State clearly whether the agreement is a guaranteed price contract or a nonguaranteed price contract.

f. State clearly whether the agreement is a revocable or irrevocable contract, and who has the authority to revoke the contract.

g. State the amount or percentage of money to be placed in trust.

h. Explain the disposition of the interest and disclose what fees and expenses may be charged if incurred.

i. Specify the purchaser's right to cancel and damages for cancellation, if any.

j. State the name and address of the commissioner.

2. Every agreement shall be signed by the purchaser and the seller.

Sec. 19. NEW SECTION. 523E.9 ESTABLISHMENT PERMITS.

1. A person, as defined in section 4.1, subsection 13, shall not engage in the business of selling, promoting, or otherwise entering into agreements to furnish, upon the future death of a person named or implied in the agreement, cemetery merchandise without an establishment permit as provided for in this section. An establishment doing business shall obtain a permit for each location.

2. An applicant for a permit under this section shall submit to the commissioner an application on a form provided by the commissioner. The commissioner shall permit application for a permit under section 523A.9 on the same form as for this section provided the scope of sales by the establishment is clearly indicated to include funeral services, funeral merchandise, or cemetery merchandise, or a combination of any of these. The application shall include at a minimum the following information:

a. The name and location of the applicant's business.

b. The name and location of the provider who will provide the cemetery merchandise.

c. The name and address of each owner, officer, or other official of the applicant's business, or in the event that the applicant is a corporation, the names and addresses of the chief executive officer and the members of the board of directors.

d. The types of cemetery merchandise to be sold.

An application for a permit pursuant to this section shall be accompanied by a copy of each sales agreement the permit holder will use for sales of cemetery merchandise under section 523E.1.

A permit holder shall inform the commissioner of changes in the information within thirty days of the change.

3. The applicant for a permit shall submit a fee in the amount of fifty dollars; provided, however, that if an applicant also applies for or has a permit under section 523A.9, no additional fee shall be required under this subsection.

4. Permits granted under this section are not assignable.

5. Upon the filing of an application for a permit, the commissioner shall issue the permit unless the commissioner finds any of the following:

a. The applicant is insolvent.

b. The applicant has failed to comply with any terms or conditions of this chapter and that failure is deemed by the commissioner to substantially impede the applicant's ability to abide by this chapter.

c. The applicant has been convicted of a criminal offense involving dishonesty or false statement.

d. The applicant cannot provide the cemetery merchandise the applicant purports to sell.

6. If the commissioner does not grant the permit, the commissioner shall notify the applicant in writing of the denial and the reasons for the denial. The commissioner shall approve or deny every application for a license within ninety days after the filing thereof, but any failure of the commissioner to act within that time period shall not be deemed to be an approval of the application.

Sec. 20. NEW SECTION. 523E.10 SALES PERMITS.

1. An individual shall not sell, promote, or otherwise enter into an agreement to furnish, upon the future death of a person named or implied in the agreement, cemetery merchandise without a permit as provided for in this section. An individual permit holder must be an employee or agent of an establishment which holds a permit pursuant to section 523E.9 and which can deliver the cemetery merchandise being sold. The establishment is liable for the acts of its employees and agents, independent or otherwise, performed in the course of obtaining or attempting to obtain an agreement for the sale of cemetery merchandise under section 523E.1.

2. An applicant for a permit under this section shall submit to the commissioner an application on a form provided by the commissioner. The commissioner shall permit application for a permit under section 523A.10 on the same form as for this section provided the scope of sales by the individual is clearly indicated to include funeral services, funeral merchandise, or cemetery merchandise, or a combination of any of these. The application shall include at a minimum the following information:

a. The name and address of the applicant.

b. The name and address of the applicant's employer or the establishment on whose behalf the applicant will be making or attempting to make sales, and, if different, the name and address of the provider who will provide the cemetery merchandise.

A permit holder shall inform the commissioner of changes in the information within thirty days of the change.

3. The permit shall be deemed effective upon filing the application with the commissioner. The permit shall disclose on its face the permit holder's employer or the establishment on whose behalf the applicant will be making or attempting to make sales, the permit number, and the expiration date. A permit under this section shall expire one year from the date the application is filed.

4. The application fee shall be five dollars; provided, however, that if an applicant also applies for or has a permit under section 523A.10, no additional fee shall be required under this subsection.

5. Permits granted under this section are not assignable.

6. The commissioner may revoke a permit if the commissioner determines that the permit holder has been convicted of a criminal offense involving dishonesty or false statement or that the establishment cannot provide the cemetery merchandise the establishment purports to sell.

Sec. 21. NEW SECTION. 523E.11 INVESTIGATIONS.

The attorney general or the commissioner may, for the purpose of discovering violations of this chapter or any rules adopted under this chapter:

1. Investigate the business and examine the books, accounts, records, and files used by every permit holder under this chapter.

2. Administer oaths and affirmations, subpoena witnesses, receive evidence, and require the production of documents and records in connection with an investigation or proceeding being conducted pursuant to this chapter.

3. Apply to the district court for issuance of an order requiring a person's appearance before the commissioner or attorney general, or a designee of either or both, in cases where the person has refused to obey a subpoena issued by the commissioner or attorney general. The

person may also be required to produce documentary evidence germane to the subject of the investigation. Failure to obey a court order under this subsection constitutes contempt of court.

Sec. 22. NEW SECTION. 523E.12 SUSPENSION OR REVOCATION OF PERMITS.

1. The commissioner may, pursuant to chapter 17A, suspend or revoke any permit issued pursuant to this chapter if the commissioner finds any of the following:

a. The permit holder has violated any provisions of this chapter or any rule adopted under this chapter or any other state or federal law applicable to the conduct of the permit holder's business.

b. Any fact or condition exists which, if it had existed at the time of the original application for the permit, would have warranted the commissioner refusing originally to issue the permit.

c. The permit holder is found upon investigation to be insolvent, in which case the permit shall be revoked immediately.

d. The permit holder, for the purpose of avoiding a trusting requirement under section 523A.1 or 523E.1, attributes amounts paid pursuant to the agreement to funeral merchandise or cemetery merchandise that is delivered under section 523A.1 or to cemetery merchandise rather than to funeral services sold to the purchaser. The sale of funeral services at a lower price when the sale is made in conjunction with the sale of funeral merchandise or cemetery merchandise to be delivered pursuant to section 523A.1 than the services are regularly and customarily sold for when not sold in conjunction with funeral merchandise or cemetery merchandise is evidence that the permit holder is acting with the purpose of avoiding a trusting requirement under section 523A.1 or 523E.1.

e. The permit holder is found upon investigation to have engaged in a deceptive act or practice or has deliberately misrepresented or omitted a material fact relative to the sale of funeral services, funeral merchandise, or cemetery merchandise under this chapter.

2. The commissioner may, on good cause shown, suspend any permit for a period not exceeding thirty days, pending investigation.

Except as provided in the preceding paragraph, a permit shall not be revoked or suspended except after notice and hearing in accordance with chapter 17A.

3. Any permit holder may surrender a permit by delivering to the commissioner written notice that the permit holder surrenders the permit, but the surrender shall not affect the permit holder's civil or criminal liability for acts committed before the surrender.

4. Revocation, suspension, or surrender of a permit does not impair or affect the obligation of any preexisting lawful contract between the permit holder and any person.

Sec. 23. NEW SECTION. 523E.13 PROSECUTION FOR VIOLATIONS OF LAW.

If the commissioner believes that grounds exist for the criminal prosecution of persons subject to this chapter for violations of this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession, in order that the attorney general or the county attorney may proceed with the matter as deemed appropriate. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county attorney's county.

Sec. 24. NEW SECTION. 523E.14 INJUNCTIONS.

The attorney general may apply to the district court in any county of the state for an injunction to restrain a person subject to this chapter and any agents, employees, or associates of the person from engaging in conduct or practices deemed contrary to the public interest. In any proceeding for an injunction, the attorney general may apply to the court for the issuance of a subpoena to require the appearance of a defendant and the defendant's agents and any documents, books, and records germane to the hearing upon the petition for an injunction. Upon proof of any of the offenses described in the petition for injunction the court may grant the injunction.

Sec. 25. NEW SECTION. 523E.15 FRAUDULENT PRACTICES.

A person who commits any of the following acts commits a fraudulent practice and is punishable as provided in chapter 714:

1. Knowingly fails to comply with any requirement of this chapter.

2. Knowingly makes, causes to be made, or subscribes to a false statement or representation in a report or other document required under this chapter, or renders such a report or document misleading through the deliberate omission of information properly belonging in the report or document.

3. Conspires to defraud in connection with the sale of cemetery merchandise under this chapter.

4. Fails to deposit funds in compliance with section 523E.1, or withdraws funds in a manner inconsistent with this chapter.

5. Knowingly sells or offers cemetery merchandise without an establishment permit.

6. Deliberately misrepresents or omits a material fact relative to the sale of cemetery merchandise under this chapter.

Sec. 26. NEW SECTION. 523E.16 RULES.

The commissioner may adopt rules necessary to administer this chapter, in accordance with chapter 17A.

Sec. 27. NEW SECTION. 523E.17 CEASE AND DESIST ORDERS.

If an audit or investigation provides reasonable evidence that a seller has violated any provisions of this chapter or any rule adopted under this chapter, the commissioner may issue an order directed at the seller to cease and desist from engaging in such act or practice.

Sec. 28. NEW SECTION. 523E.18 VIOLATIONS AND PENALTIES.

A violation of this chapter or rules adopted by the commissioner pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided by section 714.16, including but not limited to, provisions relating to injunctive relief and penalties, apply to violations of this chapter.

Sec. 29. NEW SECTION. 523E.19 RECEIVERSHIPS.

1. The commissioner shall notify the attorney general if the commissioner finds that any seller engaged in the business subject to this chapter meets one or more of the following conditions:

a. Is insolvent.

b. Has utilized trust funds for personal or business purposes in a manner inconsistent with this chapter and the amount of funds currently held in trust is less than fifty percent of all payments made under the agreements referred to in section 523E.1.

c. Has refused to pay any just claim or demand based on an agreement referred to in section 523E.1.

d. The commissioner finds upon investigation that a seller is unable to pay any just claim or demand based on such agreements which have been legally determined to be just and outstanding.

2. The attorney general may apply to the district court in any county of the state for a receivership. Upon proof of any of the grounds for a receivership described in this section, the court may grant a receivership.

Sec. 30. NEW SECTION. 523E.20 INSURANCE DIVISION'S REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. Commencing July 1, 1990, and annually thereafter, the commissioner shall allocate from the fees paid pursuant to section 523E.2, one dollar for each agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523E.2 shall be deposited into the insurance revolving fund; provided, however, that if the balance of the regulatory fund on that July 1 exceeds two hundred thousand dollars, the

allocation to the regulatory fund shall not be made and the total sum of the fees paid pursuant to section 523E.2 shall be deposited in the insurance revolving fund. The moneys in the regulatory fund shall be retained in the fund together with any interest or earnings that are earned on the balance. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay investigative expenses and the expenses of receiverships established pursuant to section 523E.19. An annual assessment shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.

Sec. 31. NEW SECTION. 566A.12 RECORDS.

A cemetery subject to any trust requirement under this chapter shall file a copy of its report to the district court with the consumer protection division of the department of justice within seven days of filing the report with the district court, but in any event, not later than March 1 of each year. The cemetery shall maintain accurate records of all receipts, expenditures, interest or earnings, and disbursements relating to funds held in trust.

Sec. 32. NEW SECTION. 566A.13 VIOLATIONS AND PENALTIES.

A violation of this chapter or rules adopted by the attorney general pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided by section 714.16, including but not limited to, provisions relating to injunctive relief and penalties, apply to a violation of this chapter.

Sec. 33. CODIFICATION.

The Code editor shall entitle new chapter 523E, as enacted in this Act, as "Sales of Cemetery Merchandise". Sections 523E.3 and 523E.4 shall be reserved.

Approved April 27, 1990

CHAPTER 1214

MINIMUM PLUMBING FACILITIES

S.F. 2011

AN ACT providing for a minimum number of toilets for women and men in public buildings and private buildings intended for use by the general public.

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

Section 1. NEW SECTION. 104B.1 MINIMUM TOILET FACILITY STANDARD.

1. Places of assembly for public use including but not limited to theaters, auditoriums, and convention halls, constructed on or after January 1, 1991, shall conform to the standards for minimum plumbing facilities as provided in the uniform plumbing code.

2. Restaurants, pubs, and lounges constructed on or after January 1, 1991, shall conform to the standards for minimum plumbing facilities as provided in the uniform plumbing code.

3. All toilets installed pursuant to this section shall be water efficient toilets which use three gallons or less of water per flush.

4. The state building code commissioner, with the approval of the state building code advisory council established pursuant to section 103A.14, shall adopt rules to enforce this chapter. Any ruling of the building code commissioner made pursuant to this chapter is subject to administrative review and appeal as provided in chapter 17A.

Approved April 30, 1990

CHAPTER 1215

EMERGENCY CARE OF CHILDREN

S.F. 2425

AN ACT relating to the care of children when a legally responsible adult is unavailable to provide the care.

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

Section 1. Section 232.79, subsections 2 and 4, Code Supplement 1989, are amended to read as follows:

2. If a person authorized by this section removes or retains custody of a child, the person shall:

a. Bring the child immediately to a place designated by the rules of the court for this purpose, unless the person is a physician treating the child and the child is or will presently be admitted to a hospital.

b. Make every reasonable effort to inform the parent, guardian, or custodian of the whereabouts of the child.

c. ~~Promptly~~ In accordance with court-established procedures, immediately orally inform the court ~~in writing~~ of the emergency removal and the circumstances surrounding the removal.

d. Within twenty-four hours of orally informing the court of the emergency removal in accordance with paragraph "c", inform the court in writing of the emergency removal and the circumstances surrounding the removal.

4. a. When the court is informed that there has been an emergency removal or keeping of a child without a court order, the court shall direct the department of human services or the juvenile probation department to make every reasonable effort to communicate immediately with the child's parent or parents or other person legally responsible for the child's care. Upon locating the child's parent or parents or other person legally responsible for the child's care, the department of human services or the juvenile probation department shall, in accordance with court-established procedures, immediately orally inform the court. After orally informing the court, the department of human services or the juvenile probation department shall provide to the court written documentation of the oral information.

b. The court shall ~~also~~ authorize the department of human services or the juvenile probation department to cause a child thus removed or kept to be returned if it concludes there is not an imminent risk to the child's life and health in so doing. If the department of human services or the juvenile probation department receives information which could affect the court's decision regarding the child's return, the department of human services or the juvenile probation department, in accordance with court established procedures, shall immediately orally provide the information to the court. After orally providing the information to the court, the department of human services or the juvenile probation department shall provide to the court written documentation of the oral information. If the child is not returned, the department of human services or the juvenile probation department shall forthwith cause a petition to be filed within three days after the removal.

Sec. 2. NEW SECTION. 232.79A CHILDREN WITHOUT ADULT SUPERVISION.

If a peace officer determines that a child does not have adult supervision because the child's parent, guardian, or other person responsible for the care of the child has been arrested and detained or has been unexpectedly incapacitated, and that no adult who is legally responsible for the care of the child can be located within a reasonable period of time, the peace officer shall attempt to place the child with an adult relative of the child, an adult person who cares for the child, or another adult person who is known to the child. The person with whom the child is placed is authorized to give consent for emergency medical treatment of the child and shall not be held liable for any action arising from giving the consent. Upon the request of the peace officer, the department shall assist in making the placement. The placement shall not exceed a period of twenty-four hours and shall be terminated when a person who is legally responsible for the care of the child is located and takes custody of the child. If a person who

is legally responsible for the care of the child cannot be located within the twenty-four hour period or a placement in accordance with this section is unavailable, the provisions of section 232.79 shall apply. If the person with whom the child is placed charges a fee for the care of the child, the fee shall be paid from funds provided in the appropriation to the department for protective child care.

Approved April 30, 1990

CHAPTER 1216

SCHEDULED FINES

S.F. 2349

AN ACT relating to scheduled fines and court procedures for certain violations of snowmobile and all-terrain vehicle regulations, game and fish regulations, and parks.

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

Section 1. Section 805.8, subsection 4, paragraph a, Code Supplement 1989, is amended to read as follows:

a. For registration ~~and identification~~ violations under ~~sections~~ section 321G.3 ~~and 321G.5~~, the scheduled fine is ~~five~~ twenty dollars. When the scheduled fine is paid, the violator shall submit sufficient proof that a valid registration has been obtained.

Sec. 2. Section 805.8, subsection 4, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. For identification violations under section 321G.5, the scheduled fine is ten dollars.

Sec. 3. Section 805.8, subsection 5, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

5. Fish and game law violations.

a. For violations of section 110B.2, the scheduled fine is ten dollars.

b. For violations of sections 109.54, 109.69, 109.71, 109.72, 109B.6, 110.3, 110.6, 110.19, and 110.27, the scheduled fine is twenty dollars.

c. For violations of sections 109.6, 109.21, 109.22, 109.24, 109.26, 109.50, 109.56, 109.60 through 109.62, 109.82, 109.83, 109.84, 109.92, 109.123, 109B.7, 110.7, 110.8, 110.23, and 110.24, the scheduled fine is twenty-five dollars.

d. For violations of sections 109.7, 109.47, 109.52, 109.53, 109.55, 109.58, 109.63, 109.64, 109.76, 109.81, 109.90, 109.91, 109.97, 109.122, 109.126, 109B.8, and 110.37, the scheduled fine is fifty dollars.

e. For violations of sections 109.85, 109.93, 109.95, 109.120, 109A.5, 109B.3, and 109B.9, the scheduled fine is one hundred dollars.

f. For violations of section 109.38 relating to the taking, pursuing, killing, trapping or ensnaring, buying, selling, possessing, or transporting any game, protected nongame animals, furbearing animals, or fur or skin of the animals, mussels, frogs, or fish or part of them, the scheduled fines are as follows:

(1) For deer or turkey, the scheduled fine is one hundred dollars.

(2) For protected nongame, the scheduled fine is one hundred dollars.

(3) For mussels, frogs, spawn, or fish, the scheduled fine is twenty-five dollars.

(4) Other game, the scheduled fine is fifty dollars.

(5) For furbearing animals, the scheduled fine is seventy-five dollars.

g. For violations of section 109.38 relating to an attempt to take, pursue, kill, trap, buy, sell, possess, or transport any game, protected nongame animals, furbearing animals, or fur or skin of the animals, mussels, frogs, or fish or part of them, the scheduled fines are as follows:

(1) For game or furbearing animals, the scheduled fine is fifty dollars.

(2) For protected nongame, the scheduled fine is fifty dollars.

(3) For mussels, frogs, spawn, or fish, the scheduled fine is ten dollars.

h. For violations of section 109.48 relating to restrictions on game birds and animals, the scheduled fines are as follows:

(1) Out-of-season, the scheduled fine is one hundred dollars.

(2) Over limit, the scheduled fine is one hundred dollars.

(3) Attempt to take, the scheduled fine is fifty dollars.

(4) General waterfowl restrictions, the scheduled fine is fifty dollars.

(a) No federal stamp, the scheduled fine is fifty dollars.

(b) Unplugged shotgun, the scheduled fine is ten dollars.

(c) Possession of other than steel shot, the scheduled fine is twenty-five dollars.

(d) Early or late shooting, the scheduled fine is twenty-five dollars.

i. For violations of section 109.67 relating to general violations of fishing laws, the scheduled fine is twenty-five dollars.

(1) For over limit catch, the scheduled fine is thirty dollars.

(2) For under minimum length or weight, the scheduled fine is twenty dollars.

(3) For out-of-season fishing, the scheduled fine is fifty dollars.

j. For violations of section 109.73 relating to trotlines and throwlines:

(1) For trotline or throwline violations in legal waters, the scheduled fine is twenty-five dollars.

(2) For trotline or throwline violations in illegal waters, the scheduled fine is fifty dollars.

k. For violations of section 109.80 relating to minnows:

(1) For general minnow violations, the scheduled fine is twenty-five dollars.

(2) For commercial purposes, the scheduled fine is fifty dollars.

l. For violations of section 109.87 relating to the taking or possessing of furbearing animals out of season:

(1) For red fox, gray fox, or mink, the scheduled fine is one hundred dollars.

(2) For all other furbearers, the scheduled fine is fifty dollars.

m. For violations of section 109B.4 relating to gear tags:

(1) For commercial license violations, the scheduled fine is one hundred dollars.

(2) For no gear tags, the scheduled fine is twenty-five dollars.

n. For violations of section 109B.11 relating to turtles:

(1) For commercial turtle violations, the scheduled fine is one hundred dollars.

(2) For sport turtle violations, the scheduled fine is fifty dollars.

o. For violations of section 109B.12 relating to mussels:

(1) For commercial mussel violations, the scheduled fine is one hundred dollars.

(2) For sport mussel violations, the scheduled fine is fifty dollars.

p. For violations of section 110.1 relating to licenses and permits, the scheduled fines are as follows:

(1) For a license or permit costing ten dollars or less, the scheduled fine is twenty dollars.

(2) For a license or permit costing more than ten dollars but not more than twenty dollars, the scheduled fine is thirty dollars.

(3) For a license or permit costing more than twenty dollars but not more than forty dollars, the scheduled fine is fifty dollars.

(4) For a license or permit costing more than forty dollars but not more than fifty dollars, the scheduled fine is seventy dollars.

(5) For a license or permit costing more than fifty dollars, the scheduled fine is one hundred dollars.

q. For violations of section 110.26 relating to false claims for licenses:

(1) For making a false claim for a license by a resident, the scheduled fine is fifty dollars.

(2) For making a false claim for a license by a nonresident, the scheduled fine is one hundred dollars.

r. For violations of section 110.36 relating to the conveyance of guns:

(1) For conveying an assembled, unloaded gun, the scheduled fine is twenty-five dollars.

(2) For conveying a loaded gun, the scheduled fine is fifty dollars.

Sec. 4. Section 805.8, subsection 6, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. For violations of section 111.44, the scheduled fine is fifty dollars.

NEW PARAGRAPH. d. For violations of section 111.48, the scheduled fine is twenty-five dollars.

Sec. 5. Section 805.10, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. When the violation charged involves the taking of an animal for which there is a civil damage assessment in addition to a criminal penalty.

Sec. 6. Section 109.6, Code 1989, is amended to read as follows:

109.6 GAME MANAGEMENT AREA.

The commission may establish a game management area upon any public lands or waters, or with the consent of the owner ~~thereof~~ upon any private lands or waters, when necessary to maintain a biological balance as provided in section 109.39 or to provide for public hunting, fishing, or trapping in conformity with sound wildlife management; and when a game management area is established, the commission shall with the consent of ~~such~~ the owner, if any, have the right to post and prohibit, and to regulate or limit ~~such~~ the lands or waters against trespassing, hunting, fishing, or trapping, and any violation ~~thereof shall be~~ of the regulations is unlawful ~~and punishable as provided in section 109.32~~.

Sec. 7. Section 109.22, unnumbered paragraph 7, Code 1989, is amended by striking the unnumbered paragraph.

Sec. 8. Section 110.26, Code 1989, is amended to read as follows:

110.26 FALSE CLAIMS.

A nonresident shall not obtain a resident license by falsely claiming residency in the state. The presumptions and provisions of section 321.1A, relating to residency ~~shall~~ apply to licenses under this chapter. The use of a license by a person other than the person to whom the license is issued is unlawful and ~~shall nullify~~ nullifies the license. ~~A resident or nonresident who violates this section is guilty of a simple misdemeanor.~~

Approved April 30, 1990

CHAPTER 1217

SCHOOL REORGANIZATION INCENTIVES

H.F. 2357

AN ACT relating to the applicability of school district reorganization incentives and providing an effective date and a retroactive applicability date.

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

Section 1. Section 442.2, subsection 1, unnumbered paragraph 3, Code Supplement 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 action to bring about a reorganization or dissolution was ~~approved in an election pursuant to sections 275.18 and 275.20 or section 275.55~~ initiated by a vote of the board of directors or jointly by the affected boards of directors prior to ~~July 1, 1989~~ November 30, 1990, and the reorganization or dissolution takes effect on or after July 1, 1988.

Sec. 2. Section 442.2, subsection 2, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

The reduced property tax rates of those reorganized districts that met the requirements of this section prior to ~~July 1, 1989~~ November 30, 1990, shall continue to increase as provided in this section until they reach five dollars and forty cents.

Sec. 3. Section 442.9A, unnumbered paragraph 4, Code Supplement 1989, is amended to read as follows:

For purposes of this section, a reorganized school district is one in which action to bring about a reorganization was ~~approved in an election pursuant to sections 275.18 and 275.20~~ initiated by a vote of the board of directors or jointly by the affected boards of directors prior to ~~July 1, 1989~~ November 30, 1990, and will take effect on or after July 1, 1986.

Sec. 4. Section 442.39A, Code Supplement 1989, is amended to read as follows:

442.39A SUPPLEMENTARY WEIGHTING AND SCHOOL REORGANIZATION.

In determining weighted enrollment under section 442.4, 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~~ initiated an action prior to November 30, 1990, to bring about 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, 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. 5. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to May 5, 1989.

Approved April 30, 1990

CHAPTER 1218

CORPORAL PUNISHMENT RULES

H.F. 2416

AN ACT relating to corporal punishment.

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

Section 1. Section 280.21, Code Supplement 1989, is amended to read as follows:

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~~ shall not

be considered corporal punishment 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. The department of education shall adopt rules to implement this section.

Sec. 2.

By September 1, 1990, the department of education shall adopt rules to be included in 281 I.A.C. ch. 102, and rules in another chapter, entitled "Corporal Punishment Ban," in order to implement section 280.21, as amended in this Act.

Approved April 30, 1990

CHAPTER 1219

PERSONNEL RIGHTS UNDER SCHOOL SHARING AGREEMENTS

H.F. 2459

AN ACT relating to the employment of personnel under sharing agreements between school districts.

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

Section 1. Section 280.15, Code 1989, is amended to read as follows:

280.15 JOINT EMPLOYMENT AND SHARING.

1. Two or more public school districts may jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment and facilities. Classes made available to students in the manner provided in this section shall be considered as complying with the requirements of section 275.1 relating to the maintenance of kindergarten and twelve grades by a school district. If students attend classes in another school district under this section under an agreement that provides for whole grade sharing, the boards of directors of districts entering into these agreements shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12. Sharing agreements that provide for the sharing of personnel shall provide that any person who is not an employee at the time an agreement is signed shall not be employed in any professional position, under the terms of the agreement, for which a current employee of any of the districts involved in the agreement holds an appropriate license, unless the professional position is an administrator position or the professional position is first offered to the current employee.

2. When a special education personnel pooling agreement, which has been entered into between an area education agency and a public school district pursuant to section 273.5, is terminated, the public school district shall assume the contractual obligations for any teachers assigned to the district under the agreement. Teachers, for whom the contractual obligations are assumed by a district, shall retain all leaves, benefits, and seniority rights accumulated under the agreement which exists between the public school district and the district's collective bargaining unit, consistent with the teacher's education and experience.

Approved April 30, 1990

CHAPTER 1220

TANNING FACILITIES

H.F. 2486

AN ACT relating to the regulation of tanning facilities, providing penalties, and providing for the establishment of fees.

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

Section 1. NEW SECTION. 136D.1 SHORT TITLE.

This chapter may be cited as the "Tanning Facility Regulation Act."

Sec. 2. NEW SECTION. 136D.2 DEFINITIONS.

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

1. "Department" means the Iowa department of public health.

2. "Director" means the director of public health, or the director's designee.

3. "Phototherapy device" means a piece of equipment that emits ultraviolet radiation and that is used by a health care professional in the treatment of disease.

4. "Tanning device" means any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin, such as sunlamps, tanning booths, or tanning beds. The terms also include any accompanying equipment such as protective eyewear, timers, and handrails.

5. "Tanning facility" means a place that provides access to tanning devices for compensation.

Sec. 3. NEW SECTION. 136D.3 APPLICATION OF CHAPTER.

This chapter does not apply to a phototherapy device used by or under the supervision of a licensed physician trained in the use of phototherapy devices. A tanning device used by a tanning facility must comply with all applicable federal laws and regulations.

This chapter shall not supersede or duplicate the authority and programs of any other agency of the state or the United States. To avoid duplication and promote coordination of radiation protection activities, the department may enter into agreements pursuant to chapter 28E with other state or federal agencies, or with private organizations or individuals, to administer this chapter.

Sec. 4. NEW SECTION. 136D.4 WARNING SIGNS – WRITTEN WARNING STATEMENTS.

1. A tanning facility shall post the following warning signs that describe the hazards associated with the use of tanning devices:

a. A warning sign in a conspicuous location readily visible to persons entering the establishment. The signs shall comply with rules adopted by the department.

b. A warning sign for each tanning device, in a conspicuous location readily visible to a person preparing to use the device. The sign shall comply with rules adopted by the department.

2. A tanning facility shall provide each customer with a written warning statement that complies with rules adopted by the department.

Sec. 5. NEW SECTION. 136D.6 PERMITS.

1. A person shall not operate a tanning facility without a current and valid permit to operate the facility, issued by the department.

2. The permit shall be displayed in an open public area of the tanning facility.

3. Permits shall be renewed annually upon acceptance of an application provided by the department and upon receipt of a permit fee.

4. The department may revoke, cancel, or suspend a permit to operate a tanning facility based upon criteria adopted by rule of the department.

Sec. 6. NEW SECTION. 136D.7 DUTIES OF THE DEPARTMENT.

The department shall do all of the following:

1. Establish requirements for the operation of tanning facilities, including but not limited to, proper sanitation of tanning devices, provisions of proper equipment, the presence of knowledgeable operators during operating hours, and the use of accurate timers and temperature controls.

2. Adopt rules, in accordance with chapter 17A, as necessary for the implementation and enforcement of this chapter, including but not limited to rules relating to the operation and use of tanning devices, rules regarding the warning signs required to be posted by a tanning facility, and rules prescribing the criteria for revocation, cancellation, or suspension of a tanning facility permit.

3. Establish and collect fees to defray the costs of administering the program established in this chapter. Fees collected shall be deposited in the general fund of the state.

Sec. 7. NEW SECTION. 136D.8 INSPECTIONS – VIOLATIONS – PROHIBITED ACTS – INJUNCTIONS.

1. The director or an authorized agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this chapter is being violated.

2. A person who operates or uses a tanning device or tanning facility in violation of this chapter or of any rule adopted pursuant to this chapter is guilty of a simple misdemeanor.

3. A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk.

4. a. If the director finds that a person has violated, or is violating or threatening to violate this chapter and that the violation creates an immediate threat to the health and safety of the public, the director may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

b. If a person has violated, or is violating or threatening to violate this chapter, the director may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

c. On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter, the district court shall grant any injunctive relief warranted by the facts.

Approved April 30, 1990

CHAPTER 1221

PERSONNEL OF CHILD CARE FACILITIES

H.F. 2504

AN ACT relating to criminal and child abuse record checks concerning facilities providing care to children.

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

Section 1. NEW SECTION. 125.14A PERSONNEL OF A LICENSED PROGRAM ADMITTING JUVENILES.

1. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a program admitting juveniles subject to licensure under this chapter, or if a person will reside in a facility utilized by such a program, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department of human services and the program for an employee of the program shall perform an evaluation to determine whether

the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

2. If the department of human services determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a program licensed under this chapter, or resides in a licensed facility the department shall notify the program that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

3. In an evaluation, the department of human services and the program for an employee of the program shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

4. If the department of human services determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter to operate a program admitting juveniles and shall not be employed by a program or reside in a facility admitting juveniles licensed under this chapter.

Sec. 2. Section 135H.7, subsection 2, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensed psychiatric institution, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department of human services and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

b. If the department of human services determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a psychiatric institution licensed under this chapter, or resides in a licensed facility the department shall notify the program that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department of human services and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

3. If the department of human services determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter to operate a psychiatric institution and shall not be employed by a psychiatric institution or reside in a facility licensed under this chapter.

Sec. 3. Section 235A.15, subsection 2, paragraph c, Code Supplement 1989, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (6) To an administrator of a child foster care facility licensed under chapter 237 if the information concerns a person employed or being considered for employment by the facility.

NEW SUBPARAGRAPH. (7) To an administrator of a child day care facility registered or licensed under chapter 237A if the information concerns a person employed or being considered for employment by or living in the facility.

NEW SUBPARAGRAPH. (8) To the superintendent of the Iowa Braille and sight-saving school if the information concerns a person employed or being considered for employment or living in the school.

NEW SUBPARAGRAPH. (9) To the superintendent of the school for the deaf if the information concerns a person employed or being considered for employment or living in the school.

Sec. 4. Section 235A.15, subsection 2, paragraph e, Code Supplement 1989, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (7) To a legally constituted child protection agency in another state if the agency is conducting a records check of a person who is providing care to a child in the other state.

NEW SUBPARAGRAPH. (8) To the legally authorized protection and advocacy agency recognized in section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

Sec. 5. Section 235A.18, subsection 2, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be expunged one year after the receipt of the initial report of abuse and child abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged ~~six months after the receipt of the initial report of abuse~~ when it is determined to be unfounded, as a result of any of the following:

Sec. 6. Section 235A.18, subsection 3, Code Supplement 1989, is amended to read as follows:

3. However, if a correction of child abuse information is requested under section 235A.19 and the issue is not resolved at the end of the one-year ~~or six-month~~ period, the information shall be retained until the issue is resolved and if the child abuse information is not determined to be founded, the information shall be expunged at the appropriate time under subsection 2.

Sec. 7. Section 237.8, subsection 2, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensee under this chapter, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department and the licensee for an employee of the licensee shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

b. If the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee, or resides in a licensed facility the department shall notify the licensee that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree

of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter and shall not be employed by a licensee or reside in a licensed facility.

Sec. 8. Section 237A.5, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a person is being considered for licensure or registration under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a child day care facility subject to licensure or registration under this chapter, or if a person will reside in a facility, and if the person has been convicted of a crime under a law of any state or has a record of founded child abuse, the department and the licensee or registrant for an employee of the licensee or registrant shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, registration, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department.

b. If the department determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a licensee or registrant or registered under this chapter, or resides in a licensed or registered facility the department shall notify the licensee or registrant that an evaluation will be conducted to determine whether prohibition of the person's licensure, registration, employment, or residence is warranted.

c. In an evaluation, the department and the licensee or registrant for an employee of the licensee or registrant shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department has final authority in determining whether prohibition of the person's licensure, registration, employment, or residence is warranted.

d. If the department determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, registration, employment, or residence, the person shall not be licensed or registered under this chapter to operate a child day care facility and shall not be employed by a licensee or registrant or reside in a facility licensed or registered under this chapter.

Sec. 9. RULES.

The department of human services shall adopt rules pursuant to chapter 17A to implement the provisions of this Act.

Approved April 30, 1990

CHAPTER 1222

PROPRIETARY SCHOOLS REGULATION

H.F. 2536

AN ACT relating to the regulation of persons providing courses of instruction for profit, by revising requirements for corporate surety bonds, and repealing certain disclosure requirements.

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

Section 1. Section 714.18, unnumbered paragraph 1 and subsection 1, Code Supplement 1989, are amended to read as follows:

~~Every~~ Except as otherwise provided in subsection 4, every person, firm, association, or corporation maintaining or conducting in Iowa any such course of instruction, by classroom instruction or by correspondence, or soliciting in Iowa the sale of such course, shall file with the director of the department of education:

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. ~~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.~~

~~The~~; but the aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel 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 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. 2. Section 714.18, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A school licensed under the provisions of section 157.8 or 158.7 shall file with the director of the department of education:

a. 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 school. A school 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 paragraph shall be kept confidential.

If the school 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 paragraph by an amount equal to the amount of the federal bond.

The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel 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 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 paragraph.

b. The statement required in subsection 2.

c. The materials required in subsection 3.

Sec. 3. Section 714.23, Code 1989, is amended to read as follows:

714.23 REFUND POLICIES.

1. 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, shall make a pro rata refund of ~~eighty-five~~ no less than ninety percent of the tuition for a terminating student to the appropriate agency based upon the ratio of completed number of scheduled school days to ~~the total~~ sixty percent of the scheduled school days of the school term or course.

2. Notwithstanding the provisions of subsection 1, the following refund policy shall apply:

a. If a terminating student has completed sixty percent or more of a school term or course that is more than four months in length, the person offering the course of instruction is not required to refund tuition for the student. However, if, at any time, a student terminates a school term or course that is more than four months in length due to the student's physical incapacity or due to the transfer of the student's spouse's employment to another city, the terminating student shall receive a refund of tuition in an amount which equals the amount of tuition multiplied by the ratio of the remaining number of school days to the total school days of the school term or course.

b. A refund of ninety percent of the tuition for a terminating student to the appropriate agency based upon the ratio of completed number of school days to the total school days of the school term or course. This paragraph applies to those persons offering courses of instruction at the postsecondary level, for profit, whose cohort default rate for students under the Stafford loan program as defined by the United States department of education is more than one hundred ten percent of the national average cohort default rate for that program for that period or six percent, whichever is higher.

3. ~~However, if~~ If the financial obligations of a student are for three or fewer months duration, this section does not apply.

4. Refunds shall be paid to the appropriate agency within thirty days following the student's termination.

~~If the student terminates later than three weeks after the course of instruction has commenced, the person offering the course of instruction cannot admit a student to replace the student for which a refund was received for the remaining portion of the school term or course.~~

5. A student who terminates a course of instruction or term shall not be charged any fee or other monetary penalty for terminating a course of instruction or term other than a reduction in tuition refund as specified in this section.

6. A violation of this section is a simple misdemeanor.

Sec. 4. Section 714.25, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

A proprietary school ~~located within the state~~ shall, prior to the time a student is obligated for payment of any moneys, inform the student, the college aid commission, and in the case of a school licensed under section 157.8, the board of cosmetology examiners or in the case of a school licensed under section 158.7, the board of barber examiners, of all of the following:

Approved April 30, 1990

CHAPTER 1223

COMPENSATION, POWERS, AND DUTIES OF LIEUTENANT GOVERNOR AND GENERAL ASSEMBLY MEMBERS

S.F. 2426

AN ACT relating to persons who act as the president of the senate, providing for the term of office of the president of the senate, providing authorization for the compensation of the lieutenant governor in executive branch Code provisions, removing the lieutenant governor from membership on the legislative council, making the president of the senate, the speaker pro tempore, and two additional minority party members legislative council members, making changes in the manner of appointment of senate members of certain boards, commissions, agencies, councils, associations, and statutory committees, and providing an effective date.

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

Section 1. Section 2.7, Code 1989, is amended to read as follows:

2.7 OFFICERS — TENURE.

The president ~~pro tempore~~ of the senate and the speaker of the house of representatives shall hold their offices until the first day of the meeting of the next general assembly. All other officers elected by either house shall hold their offices for the same terms, unless sooner removed, except as may be otherwise provided by resolution or rules of the general assembly.

Sec. 2. Section 2.10, unnumbered paragraph 1, and subsections 5 and 6, Code Supplement 1989, are amended to read as follows:

Members of the general assembly ~~and the lieutenant governor~~ shall receive salaries and expenses as provided by this section.

5. The director of revenue and finance shall pay the travel and expenses of the members of the general assembly ~~and the lieutenant governor~~ commencing with the first pay period after the names of such persons are officially certified. The salaries of the members of the general assembly ~~and lieutenant governor~~ shall be paid pursuant to any of the following alternative methods:

a. During each month of the year at the same time state employees are paid.

b. During each pay period during the first six months of each calendar year.

c. During the first six months of each calendar year by allocating two-thirds of the annual salary to the pay periods during those six months and one-third of the annual salary to the pay periods during the second six months of a calendar year. Each member of the general assembly ~~and the lieutenant governor~~ shall file with the director of revenue and finance a statement as to the method the member selects for receiving payment of salary. The presiding officers of the two houses of the general assembly shall jointly certify to the director of revenue and finance the names of the members, officers, and employees of their respective houses and the salaries and mileage to which each is entitled. Travel and expense allowances shall be paid upon the submission of vouchers to the director of revenue and finance indicating a claim for the same.

6. In addition to the salaries and expenses authorized by this section, members of the general assembly shall be paid forty 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.

Sec. 3. Section 2.12, unnumbered paragraphs 1 through 3, Code 1989, are amended to read as follows:

There is appropriated out of any funds in the state treasury not otherwise appropriated a sum sufficient to pay for legislative printing and all current and miscellaneous expenses of the general assembly, authorized by either the senate or the house, and the director of revenue and finance shall issue warrants for such items of expense upon requisition of the president, majority leader, and secretary of the senate or the speaker and chief clerk of the house.

There is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as are necessary, for each house of the general assembly for the payment of any unpaid expense of the general assembly incurred during or in the interim between sessions of the general assembly, including but not limited to salaries and necessary travel and actual expenses of members, expenses of standing and interim committees or subcommittees, and per diem or expenses for members of the general assembly who serve on statutory boards, commissions, or councils for which per diem or expenses are authorized by law. The director of revenue and finance shall issue warrants for such items of expense upon requisition of the president, majority leader, and secretary of the senate for senate expense or the speaker and chief clerk of the house for house expense.

There is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as are necessary for the renovation, remodeling, or preparation of the legislative chambers, legislative offices, or other areas or facilities used or to be used by the legislative branch of government, and for the purchase of legislative equipment and supplies deemed necessary to properly carry out the functions of the general assembly. The director of revenue and finance shall issue warrants for such items of expense, whether incurred during or between sessions of the general assembly, upon requisition of the president, majority leader, and secretary of the senate for senate expense or the speaker and chief clerk of the house for house expense.

Sec. 4. Section 2.13, Code 1989, is amended to read as follows:

2.13 ISSUANCE OF WARRANTS.

The director of revenue and finance shall also issue to each officer and employee of the general assembly, during legislative sessions or interim periods, upon vouchers signed by the president, majority leader, and secretary of the senate or the speaker and chief clerk of the house, warrants for the amount due for services rendered. The warrants shall be paid out of any moneys in the treasury not otherwise appropriated.

Sec. 5. Section 2.35, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A communications review committee is established, consisting of three members of the senate appointed by the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, and three members of the house of representatives appointed by the speaker of the house. The committee shall select a chairperson and vice chairperson. Meetings may be called by the chairperson or a majority of the members.

Sec. 6. Section 2.41, Code 1989, is amended to read as follows:

2.41 LEGISLATIVE COUNCIL CREATED.

A continuing legislative council of ~~twenty~~ twenty-four members is created. The council is composed of the president and president pro tempore of the senate, the speaker and speaker pro tempore of the house of representatives, the majority and minority floor leaders of the senate, the chairperson of the senate committee on appropriations, the minority party ranking member of the senate committee on appropriations, ~~five~~ six members of the senate appointed by the majority leader of the senate, the majority and minority floor leaders of the house of representatives, the chairperson of the house committee on appropriations, the minority party ranking member of the house committee on appropriations, and ~~five~~ six members of the house of representatives appointed by the speaker of the house of representatives. ~~The lieutenant governor shall be an ex officio nonvoting member of the council.~~ Of the ~~five~~ six members appointed by the majority leader of the senate and speaker of the house, three from each house

shall be appointed from the majority party and ~~two~~ three from each house shall be appointed from the minority party. Members shall be appointed prior to the fourth Monday in January of the first regular session of each general assembly and shall serve for two-year terms ending upon the convening of the following general assembly or when their successors are appointed. Vacancies on the council, including vacancies which occur when a member of the council ceases to be a member of the general assembly, shall be filled by the majority leader of the senate and the speaker of the house respectively. Insofar as possible at least two members of the council from each house shall be reappointed. The council shall hold regular meetings at a time and place fixed by the council and shall meet at any other time and place as the council deems necessary.

Sec. 7. Section 2.91, subsection 1, Code 1989, is amended to read as follows:

1. An Iowa boundary commission is established, consisting of three members of the senate appointed by the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, and three members of the house of representatives appointed by the speaker of the house. The commission shall select a chairperson and shall meet at the call of the chairperson.

Sec. 8. Section 7.8, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The salary, payment of expenses, and any per diem of the lieutenant governor shall be as fixed by the general assembly.

Sec. 9. Section 15.103, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The Iowa economic development board is created, consisting of eleven voting members appointed by the governor and seven ex officio nonvoting members. The ex officio nonvoting members are four legislative members; one president, or the president's designee, of the University of Northern Iowa, the University of Iowa, or Iowa State University of science and technology designated by the state board of regents on a rotating basis; and one president, or the president's designee, of a private college or university appointed by the Iowa association of independent colleges and universities; and one superintendent, or the superintendent's designee, of a merged area school, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the ~~majority leader~~ president* of the senate, after consultation with the majority leader of the senate, and one appointed by the minority leader of the senate, after consultation with the president of the senate, from their respective parties; and two state representatives, one appointed by the speaker and one appointed by the minority leader of the house of representatives from their respective parties. Not more than six of the voting members shall be from the same political party. The secretary of agriculture shall be one of the voting members. The governor shall appoint the remaining ten voting members of the board for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate, and the governor's appointments shall include persons knowledgeable of the various elements of the department's responsibilities.

Sec. 10. Section 18A.1, subsection 1, Code 1989, is amended to read as follows:

1. Four members of the general assembly serving as ex officio nonvoting members, two to be appointed by the speaker of the house from the membership of the house, and two to be appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, from the membership of the senate.

Sec. 11. Section 18A.2, subsection 2, Code 1989, is amended to read as follows:

2. The legislative members of the commission shall be appointed to four-year terms of office, two of which shall expire every two years unless sooner terminated by a commission member ceasing to be a member of the general assembly. Vacancies shall be filled by appointment of the speaker of the house or the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, as the case may be, for the unexpired term of their predecessors.

*Word "president" should have been underscored

Sec. 12. Section 28.154, subsection 1, paragraph b, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

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 president of the senate after consultation with the majority leader and the minority leader of the senate, and the minority leader of the senate, after consultation with the president of the senate.

Sec. 13. Section 38.2, subsection 2, Code 1989, is amended to read as follows:

2. One member shall be selected by the ~~majority leader~~ president of the senate after consultation with the majority leader and the minority leader of the senate.

Sec. 14. Section 68B.10, unnumbered paragraph 3, Code 1989, is amended to read as follows:

~~Each~~ The president pro tempore of the senate is designated as chairperson of the senate committee. The house committee shall elect a chairperson ~~and~~. The chairperson of each committee shall have the following powers, duties and functions:

Sec. 15. Section 80B.6, unnumbered paragraph 2, Code 1989, is amended to read as follows:

One senator appointed by the ~~majority leader~~ president of the senate after consultation with the majority leader and the minority leader of the senate and one representative appointed by the speaker of the house are also ex officio, nonvoting members of the council.

Sec. 16. Section 93.11, subsection 3, Code 1989, is amended to read as follows:

3. An energy fund disbursement council is established. The council shall be composed of the governor or the governor's designee, the director of the department of management, who shall serve as the council's chairperson, the administrator of the division of community action agencies of the department of human rights, the administrator of the energy and geological resources division of the department of natural resources, and a designee of the director of the department of transportation, who is knowledgeable in the field of energy conservation. The council shall include as nonvoting members two members of the senate appointed by the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, and two members of the house of representatives appointed by the speaker of the house. The legislative members shall be appointed upon the convening and for the period of each general assembly. Not more than one member from each house shall be of the same political party. The council shall be staffed by the energy and geological resources division of the department of natural resources. The attorney general shall provide legal assistance to the council.

Sec. 17. Section 97B.8, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The board consists of nine members. Six of the members shall be appointed by the governor. One member shall be an executive of a domestic life insurance company, one an executive of a state or national bank operating within the state of Iowa, one an executive of a major industrial corporation located within the state of Iowa, and three shall be members of the system, one of whom shall be an active member who is an employee of a school district, area education agency, or merged area, one of whom shall be an active member who is not an employee of a school district, area education agency, or merged area, and one of whom is a retired member of the system. The ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, shall appoint one member from the membership of the senate and the speaker of the house of representatives shall appoint one member from the membership of the house. The two members appointed by the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, and the speaker of the house of representatives and the two active members of the system appointed by the governor are ex officio members of the board. The director of the department of personnel is an ex officio, nonvoting member of the board.

Sec. 18. Section 135.13, subsection 1, Code Supplement 1989, is amended to read as follows:

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 president of the senate, after consultation with the majority leader and the minority leader of the senate, and two state representatives appointed by the speaker of the house of representatives shall also be members of the advisory committee. Of the members appointed by the president of the senate, after consultation with the majority leader and the minority 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.

Sec. 19. Section 145.2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The commission consists of the director of the department of elder affairs, the commissioners of insurance and human services, the director of public health, one state senator and one state representative who shall not be of the same party, shall be nonvoting members, and shall be appointed each year by the ~~majority leader~~ president of the senate, after consultation with the majority leader and minority leader of the senate, and speaker of the house, respectively, and the chairperson of the board of directors of the corporation or the head of the association or other entity providing staff for the commission as provided by section 145.3 who shall be a nonvoting member. The commissioner and director members shall annually select the chairperson of the commission from among the four voting commission members. A majority of the seven members including at least two voting members constitutes a quorum.

Sec. 20. Section 183.1, article III, paragraph a, subparagraph 1, Code 1989, is amended to read as follows:

1. There is hereby created an agency of the member states to be known as the interstate agricultural grain marketing commission, hereinafter called the commission. The commission shall consist of three residents of each member state who shall have an agricultural background and who shall be appointed as follows: One member appointed by the governor, who shall serve at the pleasure of the governor; one senator appointed in the manner prescribed by the senate of the state, except that in Iowa the appointment shall be made by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and except that two senators may be appointed by the governor of the state of Nebraska from the unicameral legislature of the state of Nebraska; and one member of the house of representatives appointed in the manner prescribed by the house of representatives of the state. The member first appointed by the governor shall serve for a term of one year and the senator and representative first appointed shall each serve for a term of two years. Thereafter all members appointed shall serve for two-year terms. The attorneys general of member states or assistants designated by the attorneys general shall be nonvoting members of the commission.

Sec. 21. Section 249A.4, subsection 8, unnumbered paragraph 1, Code Supplement 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~~ president of the senate, after consultation with the majority leader and the minority 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.

Sec. 22. Section 249D.11, Code 1989, is amended to read as follows:

249D.11 COMMISSION ESTABLISHED.

The commission of elder affairs is established which shall consist of eleven members. Two members shall be appointed by the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, from the members of the senate to serve as ex officio nonvoting members with no more than one member being appointed from the same political party. Two members shall be appointed by the speaker of the house of representatives from the members of the house to serve as ex officio nonvoting members with no more than one member being appointed from the same political party. Seven members shall be appointed by the governor subject to confirmation by the senate. Not more than a simple majority of the governor's appointees shall belong to the same political party. At least four of the seven members appointed by the governor shall be fifty-five years of age or older when appointed.

Sec. 23. Section 256.32, subsection 2, paragraph g, Code 1989, is amended to read as follows:

g. A member of each house of the general assembly. This membership shall be bipartisan in composition and shall be selected by the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, and the speaker of the house.

Sec. 24. Section 261.1, subsection 4, Code Supplement 1989, is amended to read as follows:

4. A member of the senate to be appointed by the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, to serve as an ex officio nonvoting member for a term of four years beginning on July 1 of the year of appointment.

Sec. 25. Section 306.6, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A state functional classification review board is created, consisting of one state senator appointed by the ~~majority leader~~ president of the senate, after consultation with the majority leader and the minority leader of the senate, one state representative appointed by the speaker of the house of representatives, one supervisor appointed by the Iowa state association of county supervisors, one engineer appointed by the Iowa county engineers' association, two persons appointed by the league of Iowa municipalities, one of whom shall be a licensed professional engineer, and two persons appointed by the department, one of whom shall be a commissioner and the other a staff member. This board shall select a permanent chairperson from among its members by majority vote of the total membership. 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. The supervisor appointed by the Iowa state association of county supervisors, the engineer appointed by the Iowa county engineers' association, and the two persons appointed by the league of Iowa municipalities shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board from funds allocated under section 312.2, subsection 12. The 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. 26. Section 307D.4, subsection 5, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

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 president of the senate, after consultation with the majority leader of the senate, from the membership of the senate, and one to be appointed by the minority leader of the senate, after consultation with the president of the senate, from the membership of the senate.

Sec. 27. Section 467E.1, subsection 2, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The secretary of agriculture shall be the chairperson of the council. The presiding officers of the senate, after consultation with the majority leader and the minority leader of the senate, and house shall each appoint two nonvoting members, not more than one of any one political party, to serve on the advisory council for a term of two years. The council may invite the administrators of the United States geological survey and the federal environmental protection agency to each appoint a person to meet with the council in an advisory capacity. The council shall meet quarterly or upon the call of the chairperson. The council shall review possible uses of the fund and the effectiveness of current and past expenditures of the fund. The council shall make recommendations to the department of agriculture and land stewardship on the uses of the fund.

Sec. 28. Section 514E.2, subsection 2, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The board of directors of the association shall consist of four members selected by the members of the association, two of whom shall be representatives from corporations operating pursuant to chapter 514 on July 1, 1989, or any successors in interest, and two of whom shall be representatives of insurers providing coverage pursuant to chapter 509 or 514A; four public members selected by the 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 president of the senate, after consultation with the majority leader and the minority leader of 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.

Sec. 29. Section 601K.33, subsection 4, paragraph a, Code Supplement 1989, is amended to read as follows:

a. Two members of the senate, not more than one from any political party, appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate.

Sec. 30. Section 601K.52, subsection 1, Code 1989, is amended to read as follows:

1. Four members of the general assembly serving as ex officio nonvoting members, one to be appointed by the speaker of the house from the membership of the house, one to be appointed

by the minority leader of the house from the membership of the house, one to be appointed by the ~~majority leader~~ president of the senate, after consultation with the majority leader of the senate, from the membership of the senate, and one to be appointed by the minority leader of the senate, after consultation with the president of the senate, from the membership of the senate.

Sec. 31. 1989 Iowa Acts, chapter 195, section 3, subsection 3, unnumbered paragraph 1, is amended to read as follows:

3. The speaker of the house of representatives shall appoint two representatives, the minority leader of the house shall appoint one representative, the president of the senate, after consultation with the majority leader of the senate, shall appoint two senators, and the minority leader of the senate, after consultation with the president 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:

Sec. 32.

Appointments made by the majority leader or the minority leader to a term of office under a section amended by this Act remain in effect until the expiration of the term.

Sec. 33.

This Act takes effect January 14, 1991.

Approved April 30, 1990

CHAPTER 1224

SUPPORT OF DEPENDENTS AND MEDICAL SUPPORT

S.F. 2429

AN ACT relating to responsibilities for the receipt and disbursement of support payments, satisfaction of a support order by direct payment to the person who is to receive the payment, medical support for children receiving child support, modification of child support orders, child support enforcement, determination of paternity and establishment of past child support obligations, establishing an advisory committee, and providing an effective date for certain provisions.

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

Section 1. COLLECTION SERVICES — TRANSITIONAL PROVISIONS.

In order to implement this Act, the department of human services and the judicial department shall mutually agree on a schedule to complete the transfer of support payment collection and disbursement responsibilities from the collection services center to the clerks of the district court. The schedule shall provide for the completion of the transfer of the responsibilities for all affected orders by June 30, 1991. The following procedure shall be used for any order affected by the initial transfer of responsibilities:

1. The department of human services shall develop a cumulative listing which specifies for each county the effective date by which the transfers of the responsibilities to the clerks of the district court in each county are completed. The department shall cause the listing to be published in the Iowa administrative bulletin on the first date the bulletin is published subsequent to the date the transfer of responsibilities to all counties are completed.

2. The department of human services shall issue a notice directing the obligor to submit payments to the clerk of the district court in accordance with the provisions of section 252B.14. The notice shall be issued to the obligor and the obligee by regular mail, when an address is known, at least ten days prior to the effective date of the transfer of the receipt of payment responsibilities to the clerk of the district court. The notice shall serve as the equivalent of a court order in redirecting the payment. The notice shall contain all of the following information:

a. The names of the obligor, obligee, and affected children.

b. A list of all court orders affected by transfer of the responsibilities, including the docket numbers, the county or counties of filing, effective dates of the support obligation, and the support obligation amounts.

c. A list of credit amounts from the collection services center records that will be transmitted from the collection services center to the clerk of the district court.

d. The effective date of the transfer of the responsibilities.

3. The clerk of the district court shall issue a notice to the obligor within ten days of the date the responsibilities are transferred. The notice shall contain all of the following information:

a. Confirmation that the court-ordered support obligation is established within the clerk of the district court system for support payments.

b. The clerk of the district court payment record account number.

c. A list of the credit amounts entered into the clerk of the district court system for support payments.

Sec. 2. Section 252A.4, subsection 2, Code 1989, is amended to read as follows:

2. The court of the responding state ~~shall have the power to~~ may order the respondent to pay sums sufficient to provide necessary food, shelter, clothing, care, medical or hospital expenses, including medical support as defined in chapter 252E, expenses of confinement, expenses of education of a child, funeral expenses and such other reasonable and proper expenses of the petitioner as justice requires, having due regard to the circumstances of the respective parties.

Sec. 3. NEW SECTION. 252A.5A LIMITATIONS OF ACTIONS.

1. An action to establish paternity and support under this chapter may be brought within the time limitations set forth in section 614.8.

2. Notwithstanding subsection 1, an action to establish paternity and support under this chapter may be brought concerning a person who was under age eighteen on August 16, 1984, regardless of whether any prior action was dismissed because a statute of limitations of less than eighteen years was then in effect. Such an action may be brought within the time limitations set forth in section 614.8, or until July 2, 1992, whichever is later.

Sec. 4. Section 252B.5, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Assistance in obtaining medical support as defined in chapter 252E.

Sec. 5. Section 252B.5, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. At the request of either parent who is subject to the order of support or upon its own initiation, review the amount of the support award in accordance with the guidelines established pursuant to section 598.21, subsection 4, and the federal Family Support Act of 1988, and take action to initiate modification proceedings if the criteria established pursuant to this section are met. However, a review of a support award is not required in those cases for which an assignment ordered pursuant to chapter 234 or 239 is in effect if the child support recovery unit determines that such a review would not be in the best interest of the child and neither parent has requested such review.

The department shall adopt rules no later than October 13, 1990, setting forth the process for review of requests for modification of support obligations and the criteria and process for taking action to initiate modification proceedings.

Sec. 6. Section 252B.6, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. Appear on behalf of the state for the purpose of facilitating the modification of support awards consistent with guidelines established pursuant to section 598.21, subsection 4 and the federal Family Support Act of 1988. The unit shall not otherwise participate in the proceeding.

Sec. 7. Section 252B.6, subsection 4, paragraph b, Code 1989, is amended by striking the paragraph.

Sec. 8. Section 252B.7, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. An attorney employed by or under contract with the child support recovery unit represents and acts on behalf of the state when providing child support enforcement services.

Sec. 9. Section 252B.13, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

252B.13 COLLECTION SERVICES CENTER.

1. The department shall establish within the unit a collection services center for the receipt and disbursement of support payments as defined in section 598.1 required pursuant to an order for which the unit is providing or has provided enforcement services on or after July 1, 1988, under this chapter. For purposes of this section, support payments do not include attorney fees or court costs.

2. The center shall develop an automated system to provide support payment records from the center to the clerks of the district court and the clerks of the district court are authorized to receive this information.

3. On January 1 of each year the center shall submit a report to the fiscal committee of the legislative council relating to the time required between the time the payment is received and the time the funds are distributed to the recipient.

Sec. 10. Section 252B.14, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

252B.14 SUPPORT PAYMENTS — COLLECTION SERVICES CENTER — CLERK OF THE DISTRICT COURT.

All support payments required pursuant to orders entered under this chapter and chapter 234, 252A, 252C, 598, 675, or any other chapter shall be directed and processed as follows:

1. If the child support recovery unit is providing enforcement services for a support order, support payments made pursuant to the order shall be directed to and processed as follows:

a. Payments made through income withholding, wage assignment, unemployment insurance offset, or tax offset shall be directed to and disbursed by the collection services center.

b. Payments made through electronic transfer of funds, including but not limited to use of an automated teller machine, a telephone initiated bank account withdrawal, or an automatic bank account withdrawal shall be directed to and disbursed by the collection services center.

c. Payments made through any other method shall be directed to the clerk of the district court in the county in which the order for support is filed and shall be disbursed by the collection services center.

2. If the child support recovery unit is not providing enforcement services for a support order, support payments made pursuant to the order shall be directed to and disbursed by the clerk of the district court in the county in which the order for support is filed.

3. Payments to persons other than the clerk of the district court or the collection services center do not satisfy the support obligations created by a support order or judgment, except as provided for trusts and social security income in section 252D.1, 598.22, or 598.23, or for tax refunds or rebates in section 602.8102, subsection 47, and except as provided for certain orders entered on or after July 1, 1985, in which a sworn affidavit is submitted as proof of payment pursuant to section 598.22A.

Sec. 11. NEW SECTION. 252B.15 PROCESSING AND DISBURSEMENT OF SUPPORT PAYMENTS.

1. If the child support recovery unit is providing enforcement services for a support order, the collection services center is the official entity responsible for disbursing the support payments made pursuant to the order.

2. The collection services center shall notify the clerk of the district court of any order for which the child support recovery unit is providing enforcement services. The clerk of the district court shall forward any support payment made pursuant to the order, along with any support payment information, to the collection services center. The collection services center shall process and disburse the payment in accordance with federal requirements.

3. If the child support recovery unit is not providing enforcement services for a support order, the clerk of the district court in the county in which the order for support is filed is the official entity responsible for disbursing of support payments made pursuant to the order.

4. If the unit's child support enforcement services relating to a support order are terminated but the support obligation remains accrued or accruing, the support payment receipt and disbursement responsibilities relating to the order shall be transferred from the collection services center to the appropriate clerk of the district court. The department shall adopt rules pursuant to chapter 17A relating to the transfer of the responsibilities.

5. If it is possible to identify the support order to which a payment is to be applied, a payment received by the collection services center or the clerk of the district court shall be disbursed to the appropriate individual or office within two working days in accordance with section 598.22.

Sec. 12. Section 252B.16, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

252B.16 TRANSFER OF SUPPORT ORDER PROCESSING RESPONSIBILITIES — ONGOING PROCEDURES.

1. For a support order being processed by the clerk of the district court, upon notification that the unit is providing enforcement services related to the order, the clerk of the district court shall immediately transfer the responsibility for the disbursement of support payments received pursuant to the order to the collection services center.

2. The department shall adopt rules pursuant to chapter 17A to ensure that the affected parties are notified that the support payment disbursement responsibilities have been transferred to the collection services center from the clerk of the district court. The rules shall include a provision requiring that a notice shall be sent by regular mail to the last known addresses of the obligee and the obligor.

Sec. 13. NEW SECTION. 252B.18 ADVISORY COMMITTEE ESTABLISHED.

The department shall establish a child support enforcement program advisory committee which shall include representatives of custodial parent groups, noncustodial parent groups, the judicial department, the office of citizens' aide, the Iowa state bar association, and representatives of other constituencies having an interest in child support enforcement issues. The advisory committee shall assist the department in reviewing issues related to the implementation of the federal Family Support Act of 1988 and methods of improving service. With the assistance of the advisory committee, the department shall review existing policies, practices, and procedures of the child support recovery unit to identify areas in which administrative appeals procedures or other provisions for review of contested issues would help to assure fair and impartial treatment of persons affected by actions of the unit.

Sec. 14. Section 252C.1, subsection 2, Code 1989, is amended to read as follows:

2. "Court order" means a judgment or order of a court of this state or another state requiring the payment of a set or determinable amount of monetary support. For orders entered on or after July 1, 1990, unless the court specifically orders otherwise, medical support, as defined in section 252E.1, is not included in the amount of monetary support.

Sec. 15. Section 252C.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. "Medical support" means either the provision of coverage under a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to chapter 514E, to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, or the payment to the obligee of a monetary amount in lieu of providing coverage under a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid.

Sec. 16. Section 252C.3, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

In the absence of a court order, or if an administrative order exists which does not require provision of medical support as defined in chapter 252E or equivalent medical support, the administrator may issue a notice establishing and demanding either payment of medical support established as defined in chapter 252E or payment of an accrued or accruing support debt due and owed to the department or an individual under section 252C.2, or both. The notice shall be served upon the responsible person in accordance with the rules of civil procedure. The notice shall include all of the following:

Sec. 17. Section 252C.3, subsection 1, paragraph d, Code 1989, is amended to read as follows:

d. A demand for either immediate payment of the support debt or of a medical support debt established as defined in chapter 252E, or both.

Sec. 18. Section 252C.3, subsection 1, paragraph e, subparagraphs (3) and (4), Code 1989, are amended to read as follows:

(3) A statement that after the holding of the negotiation conference, the administrator may issue a new notice and finding of financial responsibility for child support or medical support, or both, to be sent to the responsible person by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney.

(4) A statement that if the administrator issues a new notice and finding of financial responsibility for child support or medical support, or both, then the responsible person shall have ten days from the date of issuance of the new notice or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.

Sec. 19. Section 252C.3, subsection 1, paragraphs f, g, and i, Code 1989, are amended to read as follows:

f. A statement that if the responsible person objects to all or any part of the notice or finding of financial responsibility for child support or medical support, or both, and ~~no~~ a negotiation conference is not requested, ~~then within twenty days of the date of service,~~ the responsible person shall, within twenty days of the date of service send to the office of the child support recovery unit which issued the notice a written response setting forth any objections and requesting a hearing.

g. A statement that if a timely written request for a hearing is received by the office of the child support recovery unit which issued the notice, the responsible person shall have the right to a hearing to be held in district court; and that if no timely written response is received, the administrator may enter an order in accordance with the notice and finding of financial responsibility for child support or medical support, or both.

i. A statement that the responsible person shall notify the administrator of any change of address, ~~or~~ employment, or medical coverage as required by chapter 252E.

Sec. 20. Section 252C.3, subsection 4, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The medical support required pursuant to chapter 598 and rules adopted pursuant to chapter 252E.

Sec. 21. Section 252C.3, subsection 5, Code 1989, is amended to read as follows:

5. The responsible person shall be sent a copy of the order by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney. The order is final, and action by the administrator to enforce and collect upon the order, including arrearages and medical support, or both, may be taken from the date of issuance of the order.

Sec. 22. Section 252C.4, subsections 2 and 4, Code Supplement 1989, are amended to read as follows:

2. If the matter has not been heard previously by the district court, or an existing administrative order does not provide for medical support pursuant to chapter 252E, the certification shall include true copies of the notice and finding of financial responsibility or notice of the support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

4. The court shall establish the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4, or medical support pursuant to chapter 252E, or both.

Sec. 23. Section 252C.9, Code 1989, is amended to read as follows:

252C.9 ~~COURT ORDER PREVAILS~~ PREVAILING ORDERS.

If an order of the administrator issued pursuant to this chapter conflicts with an order of a court, the court order prevails regarding support issues addressed by the court order.

Sec. 24. Section 252D.1, subsection 1, Code 1989, is amended to read as follows:

1. As used in this chapter, unless the context otherwise requires, "support" or "support payments" means any amount which the court may require a person to pay for the benefit of a child under a temporary order or a final judgment or decree, and may include child support, maintenance, medical support as defined in chapter 252E, and, if contained in a child support order, spousal support, and any other term used to describe these obligations. These obligations may include support for a child who is between the ages of eighteen and twenty-two years and who is regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs, or is, in good faith, a full-time student in a college, university, or area school, or has been accepted for admission to a college, university, or area school and the next regular term has not yet begun; and may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.

Sec. 25. NEW SECTION. 252E.1 DEFINITIONS.

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

1. "Child" means a person for whom child support may be ordered pursuant to chapter 234, 239, 252A, 252C, 598, or 675 or any other chapter of the Code.

2. "Department" means the department of human services, which includes but is not limited to the child support recovery unit, or any comparable support enforcement agency of another state.

3. "Dependent" means a child, or an obligee for whom a court may order coverage by a health benefit plan pursuant to section 252E.3.

4. "Enroll" means to be eligible for and covered by a health benefit plan.

5. "Health benefit plan" means any policy or contract of insurance, indemnity, subscription or membership issued by an insurer, health service corporation, health maintenance organization, or any similar corporation, organization, or a self-insured employee benefit plan, for the purpose of covering medical expenses. These expenses may include, but are not limited to hospital, surgical, major medical insurance, dental, optical, prescription drugs, office visits, or any combination of these or any other comparable health care expenses.

6. "Insurer" means any entity which provides a health benefit plan.

7. "Medical support" means either the provision of a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to chapter 514E, to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, or the payment to the obligee of a monetary amount in lieu of a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid. Medical support is not alimony.

8. "Obligee" means a parent or another natural person legally entitled to receive a support payment on behalf of a child.

9. "Obligor" means a parent or another natural person legally responsible for the support of a dependent.

Sec. 26. NEW SECTION. 252E.2 ORDER FOR MEDICAL SUPPORT.

The entry of an order, pursuant to chapter 234, 252A, 252C, 598, or 675, requiring the provision of coverage under a health benefit plan is authorization for enrollment of the dependent if the dependent is otherwise eligible to be enrolled. The dependent's eligibility and enrollment for coverage under such a plan shall be governed by all applicable terms and conditions, including, but not limited to, eligibility and insurability standards. The dependent, if eligible, shall be provided the same coverage as the obligor.

Sec. 27. NEW SECTION. 252E.3 HEALTH BENEFIT COVERAGE OF OBLIGEE.

For cases for which services are being provided pursuant to chapter 252B, the order may require an obligor providing a health benefit plan for a child to also provide a health benefit plan for the benefit of an obligee if the obligee is eligible for enrollment under the plan in which the child or the obligor is enrolled, and if the plan is available at no additional cost.

Sec. 28. NEW SECTION. 252E.4 COPY OF ORDER TO EMPLOYER.

The obligor shall take all steps necessary to enroll and maintain coverage under a health benefit plan for a dependent at present and all future places of employment, and shall send a copy of the order requiring the coverage to the obligor's employer.

1. Within fifteen days of entry of the order, the obligor shall provide written proof to the obligee and the department that the required coverage has been obtained or that application for coverage has been made.

2. If the obligor fails to provide written proof as required in subsection 1, a copy of the order for medical support shall be forwarded to the obligor's employer by the obligee or the department.

3. The chapter shall be constructive notice to the obligor of enforcement and further notice prior to enforcement is not required.

4. The order requiring coverage is binding on all future employers or insurers if the dependent is eligible to be enrolled in the health benefit plan under the applicable plan terms and conditions.

Sec. 29. NEW SECTION. 252E.5 EFFECT OF ORDER ON EMPLOYER.

When the order has been forwarded to the obligor's employer pursuant to section 252E.4, the order is binding on the employer and the employer's insurer to the extent that the dependent is eligible to be enrolled in the plan under the applicable terms and conditions of the health benefit plan. The employer shall forward a copy of the order to the insurer and request enrollment of the dependent in the health benefit plan. Within sixty days of receipt of the order or within sixty days of receipt of application of the obligor pursuant to the order, whichever is earlier, the insurer shall determine whether the dependent is eligible for enrollment under the plan and shall notify the employer of the dependent's eligibility status. If eligible, the employer shall withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer, the dependent shall be enrolled in the health benefit plan in which the obligor is enrolled.

Within thirty days of receipt of an order that requires an obligor to enroll a dependent in a health benefit plan, the obligor's employer shall provide the following information regarding the enrollment status of the dependent to the obligor, the obligee, and the department:

1. That the dependent has been enrolled in a health benefit plan.

2. That the dependent will be enrolled in the next enrollment period.

3. That the dependent is not eligible for enrollment and the reasons that the dependent is not eligible to be enrolled.

4. That the order has been forwarded to the insurer and a determination of eligibility for enrollment has not been made.

5. If either subsection 1 or 2 describes the enrollment status of the dependent, all of the following information:

a. The name of the insurer providing the health benefit plan.

b. The dependent's effective date of coverage.

c. The health benefit plan or account number.

d. The type of health benefit plan under which the dependent has been enrolled, including whether dental, optical, office visits, and prescription drugs are covered services. Additionally, the response shall include a brief description of the applicable deductibles, coinsurance, waiting periods for preexisting medical conditions, and other significant terms or conditions which materially affect the coverage.

If an order requiring that the obligor provide coverage under a health benefit plan for the dependent has been forwarded to the obligor's employer pursuant to section 252E.4, and the obligor's employment is terminated, the employer shall provide notice to the obligee and the department within ten days of termination of the obligor's employment. If an order requiring that the obligor provide coverage under a health benefit plan for the dependent has been forwarded to the obligor's employer pursuant to section 252E.4, and the employer's health benefit plan is terminated either in its entirety or with respect to the obligor's insurance classification, or the employer has changed its insurer, the employer shall provide notice to the obligee and the department ten days prior to the termination of coverage or change in insurer.

This chapter does not preclude the exchange of required information between the department and employers or insurers through electronic data transfer.

Sec. 30. NEW SECTION. 252E.6 DURATION OF HEALTH BENEFIT PLAN COVERAGE.

1. A child is eligible for medical support for the duration of the obligor's child support obligation. However, the child's eligibility for coverage under a health benefit plan shall be governed by all applicable plan provisions including, but not limited to, eligibility and insurability standards.

2. For cases for which services are being provided pursuant to chapter 252B, termination of an obligee's medical support ordered pursuant to section 252E.3 shall be governed by the insurer's health benefit plan provisions for termination and by applicable federal law.

Sec. 31. NEW SECTION. 252E.7 INSURER AUTHORIZATION.

1. The entry of an order requiring a health benefit plan is authorization for enrollment of the dependent if the dependent is otherwise eligible to be enrolled. If an order has been forwarded to the insurer pursuant to section 252E.5 and is not accompanied by an appropriate application for enrollment of the dependent signed by the obligor, the insurer shall attempt to obtain a signed application from the obligor. If the insurer is unsuccessful in obtaining a signed application from the obligor within thirty days after the insurer's initial request to the obligor, the insurer shall accept the signature of the obligee or an employee of the department as valid authorization for enrollment of the dependent under the health benefit plan.

2. For purposes of processing claims for payment, the insurer shall attempt to obtain the obligor's written authorization to accept the signature of the obligee or an employee of the department on all claim forms submitted to the insurer for medical services provided to the dependent. Upon receipt of such written authorization from the obligor on at least an annual

basis, the insurer shall accept the signature of the obligee or an employee of the department as valid authorization for purposes of processing any medical expense claims on behalf of the dependent for payment or reimbursement of medical services rendered to the dependent.

If the insurer is unsuccessful in obtaining such written authorization from the obligor within thirty days after the insurer's initial request to the obligor, the insurer shall accept the signature of the obligee or an employee of the department as valid authorization for purposes of processing any medical expense claims on behalf of the dependent for payment or reimbursement of medical services rendered to the dependent.

3. The insurer shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed for actions taken in implementing this section including, but not limited to, the insurer's release of any information, or the payment of any claims for services by the insurer, or the insurer's acceptance of applications for enrollment of the dependent and medical expense claims for the dependent which are signed by the obligee or an employee of the department pursuant to this section.

4. This section does not preclude an insurer from issuing payment directly to the provider if such payment procedure is consistent with the health benefit plan under which the dependent is enrolled, except as provided pursuant to chapter 249A.

5. Payments remitted to the obligor by the insurer for services received by the dependent shall be recoverable by the obligee or the department from the obligor if not properly paid by the obligor to the provider or the obligee.

Sec. 32. NEW SECTION. 252E.8 RELEASES OF INFORMATION.

1. If an order for coverage under a health benefit plan has been forwarded pursuant to section 252E.5, the obligor's employer or insurer shall release to the obligee or the department upon receiving a written request, the information necessary to complete an application or to file a claim for medical expenses of the dependent, provided the obligor's employer or insurer is given sufficient opportunity to obtain written authorization for the release of such information from the obligor pursuant to this section.

2. The employer or insurer shall make available to the obligee or the department any necessary claim forms or enrollment membership cards if required to obtain services.

3. The obligor's employer and insurer shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed for any information released by such employer or insurer pursuant to this chapter.

4. The department may release to the obligor's employer or insurer or to the obligee information necessary to obtain, enforce, and collect medical support.

Sec. 33. NEW SECTION. 252E.9 RESPONSIBILITIES OF THE OBLIGOR.

1. For cases for which services are being provided pursuant to chapter 252B, an obligor who fails to maintain medical support for the benefit of the dependent as ordered shall be liable to the obligee or the department for any medical expenses incurred from the date of the court order. Proof of failure to maintain medical support constitutes a showing of increased need and provides a basis for the establishment of a monetary amount for medical support.

2. For cases for which services are being provided pursuant to chapter 252B, the obligor shall notify the obligee and the department within ten days of a change in the terms or conditions of coverage under a health benefit plan. Such changes may include, but are not limited to, a change in deductibles, coinsurance, preadmission notification requirements, coverage for dental, optical, office visits, prescription drugs, inpatient and outpatient hospitalization, and any other changes which materially affect the coverage. Costs incurred by the obligee or the department as a result of the obligor's failure to provide notification as required are recoverable from the obligor.

Sec. 34. NEW SECTION. 252E.10 RESPONSIBILITY OF THE DEPARTMENT.

For cases for which services are being provided pursuant to chapter 252B, the department shall take steps required by federal regulations to implement and enforce an order for medical support.

Sec. 35. NEW SECTION. 252E.11 ASSIGNMENT.

If medical assistance coverage is provided by the department to a dependent, rights to medical support payments are assigned to the department pursuant to federal regulations.

Sec. 36. NEW SECTION. 252E.12 ENFORCEMENT.

For the purposes of enforcement pursuant to chapter 252B, medical support may be reduced to a dollar amount and may be collected through the same remedies available for the collection and enforcement of child support.

Sec. 37. NEW SECTION. 252E.13 MODIFICATION OF SUPPORT ORDER.

1. When high potential for obtaining medical support exists, the obligee or the department may petition for a modification of the obligor's support order to include medical support or a monetary amount for medical support pursuant to this chapter.

2. In addition, if an administrative order entered pursuant to chapter 252C does not provide medical support as defined in this chapter or equivalent medical support, the department may obtain a medical support order pursuant to chapter 252C. A medical support order obtained pursuant to chapter 252C may be an additional or separate support judgment and shall be known as an administrative order for medical support.

Sec. 38. NEW SECTION. 252E.14 CHILD SUPPORT.

Unless the order specifies otherwise, medical support is not included in the monetary amount of child support ordered to be paid for orders entered on or after July 1, 1990.

Sec. 39. NEW SECTION. 252E.15 RULEMAKING AUTHORITY — COMPLIANCE.

The department shall adopt rules pursuant to chapter 17A to implement this chapter for cases for which services are being provided pursuant to chapter 252B. The department shall cooperate with any agency of the state or federal government as may be necessary to qualify for federal funds in conformity with provisions of this chapter and Title IV-D of the federal Social Security Act.

Sec. 40. NEW SECTION. 252E.16 SCOPE AND EFFECT.

1. The provisions of this chapter take effect July 1, 1990, for all support orders entered pursuant to chapter 234, 252A, 252C, 598, or 675.

2. If an obligor was ordered to provide a health benefit plan or insurance coverage under an order entered prior to July 1, 1990, but did not comply with the order, insurers are not liable for medical expenses incurred prior to July 1, 1990. However, such an order may be implemented pursuant to the provisions of this chapter following its enactment. This chapter shall not be implemented retroactively; however, previous orders for medical support not otherwise complied with may be reduced to a dollar amount and collected from the obligor.

Sec. 41. Section 598.1, subsection 2, Code 1989, is amended to read as follows:

2. "Support" or "support payments" means an amount which the court may require either of the parties to pay under a temporary order or a final judgment or decree, and may include alimony, child support, maintenance, and any other term used to describe these obligations. For orders entered on or after July 1, 1990, unless the court specifically orders otherwise, medical support is not included in the monetary amount of child support. The obligations may include support for a child who is between the ages of eighteen and twenty-two years who is regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational-technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or area school; or has been accepted for admission to a college, university, or area school and the next regular term has not yet begun; or a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.

Sec. 42. Section 598.21, subsection 4, paragraph a, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Until such time as the supreme court incorporates the provision of medical support in the guidelines as required by paragraph "c", the court shall order as child medical support a health benefit plan as defined in chapter 252E if available to either parent at a reasonable cost. A health benefit plan is considered reasonable in cost if it is employment-related or other group health insurance, regardless of the service delivery mechanism. The premium cost of the health benefit plan may be considered by the court as a reason for varying from the child support guidelines. If a health benefit plan is not available at a reasonable cost, the court may order any other provisions for medical support as defined in chapter 252E.

Sec. 43. Section 598.21, subsection 4, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The guidelines prescribed by the supreme court shall incorporate provisions for medical support as defined in chapter 252E to be effective on or before January 1, 1991.

Sec. 44. Section 598.21, subsection 8, Code Supplement 1989, is amended to read as follows:

8. The court may subsequently modify orders made under this section when there is a substantial change in circumstances. In determining whether there is a substantial change in circumstances, the court shall consider the following:

a. Changes in the employment, earning capacity, income or resources of a party.

b. Receipt by a party of an inheritance, pension or other gift.

c. Changes in the medical expenses of a party.

d. Changes in the number or needs of dependents of a party.

e. Changes in the physical, mental, or emotional health of a party.

f. Changes in the residence of a party.

g. Remarriage of a party.

h. Possible support of a party by another person.

i. Changes in the physical, emotional or educational needs of a child whose support is governed by the order.

j. Contempt by a party of existing orders of court.

k. Changes in technology related to determination of paternity, subject to the following conditions and limitations:

(1) (a) For orders entered before July 1, 1990, a petition to modify must be filed by July 1, 1991, provided that the child is under the age of nineteen years at the time the petition to modify is filed.

(b) For orders entered on or after July 1, 1990, a petition to modify must be filed within five years of the date of entry of the dissolution decree or the order establishing paternity, provided that the child is under the age of nineteen years at the time the petition to modify is filed.

(2) Any modification of child support brought under this lettered paragraph can be made retroactive only to the date on which the notice of the pending petition for modification is served on the opposing party.

(3) The cost of testing related to the determination of paternity shall be paid by the person requesting the modification.

l. Other factors the court determines to be relevant in an individual case.

PARAGRAPH DIVIDED. A modification of a support order entered under chapter 252A, chapter 675, or this chapter between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of human services pursuant to section 239.3, the department shall be considered a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598A. If the petition for a modification of an order pertaining

to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

Judgments for child support or child support awards entered pursuant to this chapter, chapter 234, 252A, 252C, 675, or any other chapter of the Code which are subject to a modification proceeding may be retroactively modified only from the date the notice of the pending petition for modification is served on the opposing party.

Sec. 45. Section 598.21, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. Notwithstanding subsection 8, a substantial change of circumstances exists when the court order for child support deviates from the child support guidelines established pursuant to section 598.21, subsection 4 for a reason other than that stated in the original order, unless the provisions of the guidelines themselves have changed since the entry or subsequent modification of the original order. Upon application for a modification of an order for child support where services are being received pursuant to chapter 252B, the court shall act in accordance with section 598.21, subsection 4.

Sec. 46. Section 598.22, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~This~~ Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 675, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, or 675, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the assignment of income shall require the payment of such sums to the alternate payee in accordance with the federal Act.

Sec. 47. Section 598.22, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purpose of enforcement, medical support is additional support which, upon being reduced to a dollar amount, may be collected through the same remedies available for the collection and enforcement of child support.

Sec. 48. NEW SECTION. 598.22A SATISFACTION OF SUPPORT PAYMENTS.

Notwithstanding sections 252B.14 and 598.22, support payments ordered pursuant to any support chapter for orders entered on or after July 1, 1985, which are not made pursuant to the provisions of section 252B.14 or 598.22, shall be credited only as provided in this section.

1. For payment made pursuant to an order entered on or after July 1, 1985, the clerk of the district court or collection services center shall record a satisfaction as a credit on the official support payment record if its validity is confirmed by the court upon submission of an affidavit by the person entitled to receive the payment, after notice is given to all parties.

2. For purposes of this section, the state is a party to which notice shall be given when public funds have been expended pursuant to chapter 234, 239, or 249A, or similar statutes in another state. If proper notice is not given to the state when required, any order of satisfaction is void.

3. The court shall not enter an order for satisfaction of payments not made through the clerk of the district court or collection services center if those payments have been assigned as a result of public funds expended pursuant to chapter 234, 239, or 249A, or similar statutes in other states.

Sec. 49. Section 675.25, Code Supplement 1989, is amended to read as follows:

675.25 FORM OF JUDGMENT — CONTENTS OF SUPPORT ORDER — COSTS.

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 the past 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, and other medical support as defined in section 252E.1. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

Sec. 50. NEW SECTION. 675.33 LIMITATIONS OF ACTIONS.

1. An action to establish paternity and support under this chapter may be brought within the time limitations set forth in section 614.8.

2. Notwithstanding subsection 1, an action to establish paternity and support under this chapter may be brought concerning a person who was under age eighteen on August 16, 1984, regardless of whether any prior action was dismissed because a statute of limitations of less than eighteen years was then in effect. Such an action may be brought within the time limitations set forth in section 614.8, or until July 2, 1992, whichever is later.

Sec. 51. 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 provisions of sections 5, 13, and 25 through 40 of this Act, and the rules may be made effective on or after July 1, 1990.

Sec. 52.

Section 48 of this Act applies retroactively to payments under support orders entered on or after July 1, 1985.

Approved April 30, 1990

CHAPTER 1225

FLASHING WHITE LIGHTS ON MOTOR VEHICLES

H.F. 2562

AN ACT relating to the use of white flashing lights on privately owned motor vehicles of certain emergency medical care providers and making penalties applicable.

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

Section 1. Section 321.423, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. "Member" means a person who is a member in good standing of a fire department or a person who is an advanced or basic emergency medical care provider employed by an ambulance, rescue, or first responder service.

Sec. 2. Section 321.423, subsection 1, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. "Advanced emergency medical care provider" means as defined in section 147A.1.

NEW PARAGRAPH. d. "Basic emergency medical care provider" means as defined in section 147.1.

Sec. 3. Section 321.423, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. "Hazard lights" are lights which flash yellow or amber to the front of the vehicle and red to the rear of the vehicle simultaneously.

Sec. 4. Section 321.423, subsection 2, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. f. A flashing white light, used in conjunction with hazard lights, is permitted on a vehicle pursuant to subsection 7.

NEW PARAGRAPH. g. A white flashing strobe light mounted on a school bus as permitted under section 321.373, subsection 7.

Sec. 5. Section 321.423, subsection 4, Code 1989, is amended to read as follows:

4. EXPIRATION OF AUTHORITY. The authorization shall expire at midnight on the thirty-first day of December five years from the year in which it was issued, or when the vehicle is no longer owned by the member, or when the member has ceased to be an active member of the fire department or of an ambulance, rescue, or first responder service or when the member has used the blue or white light beyond the scope of its authorized use.

Sec. 6. Section 321.423, subsection 5, Code 1989, is amended to read as follows:

5. WHEN USED. The certificate of authorization shall be carried at all times with the certificate of registration of the authorized vehicle and the operator of the vehicle shall not illuminate the blue or white light except in any of the following circumstances:

a. When the member is en route to the scene of a fire or is responding to an emergency in the line of duty requiring the services of the member;.

b. When the authorized vehicle is transporting a person requiring emergency care; ~~or~~.

c. When the authorized vehicle is at the scene of an emergency.

d. The use of ~~a~~ the blue or white light in or on a private motor vehicle shall be for identification purposes only.

Sec. 7. Section 321.423, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. FLASHING WHITE LIGHT. Except as provided in section 321.373, subsection 7, and subsection 2, paragraph "c" of this section, a flashing white light shall only be used on a vehicle when used in conjunction with hazard lights and a flashing white light shall not be used on a vehicle except in any of the following circumstances:

a. On a vehicle owned or exclusively operated by an ambulance, rescue, or first responder service.

b. On a vehicle authorized by the director of public health when all of the following apply:

(1) The vehicle is owned by a member of an ambulance, rescue, or first responder service.

(2) The request for authorization is made by the member on forms provided by the Iowa department of public health.

(3) Necessity for authorization is demonstrated in the request.

(4) The head of an ambulance, rescue, or first responder service certifies that the member is in good standing and recommends that the authorization be granted.

c. On an authorized emergency vehicle.

The Iowa department of public health shall adopt rules to establish issuance standards, including allowing local emergency medical service providers to issue certificates of authorization, and shall adopt rules to establish certificate of authorization revocation procedures.

Sec. 8. Section 321.428, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The director may approve or disapprove lighting devices and issue and enforce rules establishing standards and specifications for the approval of the lighting devices, their installation, adjustment, and aiming, and adjustment when in use on motor vehicles, except for lights

permitted pursuant to section 321.423, subsection 7. The rules shall correlate with and, so far as practicable, conform to the then current standards and specifications of the society of automotive engineers applicable to such equipment. The director of public health shall have the same authority as granted to the director under this section to regulate lighting devices allowed under section 321.423, subsection 7.

Approved May 1, 1990

CHAPTER 1226

CARRIER LIABILITY LIMITS

H.F. 2393

AN ACT relating to minimum liability limits for motor carriers and related procedures.

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

Section 1. Section 325.26, subsection 1, paragraph d, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

d. To cover the assured's legal liability as a regular route motor carrier of passengers or as a charter carrier operating a motor vehicle with a seating capacity of sixteen or more persons, for bodily injury or death resulting from any one accident or other cause, three hundred thousand dollars for any recovery by one person, and two million dollars for recovery by more than one person subject to the limit for recovery by one person, and for damage to or destruction of property other than that of or in charge of the assured, as a result of any one accident or other cause, ten thousand dollars.

Sec. 2. Section 325.26, subsection 2, paragraphs a and b, Code 1989, are amended to read as follows:

a. To cover the assured's legal liability as a motor carrier for bodily injury or death resulting therefrom, as a result of any one accident or other cause, one hundred thousand dollars for any recovery by one person and subject to the limit for one person three hundred thousand dollars for more than one person. However, ~~the minimum limits of liability for~~ motor carriers of hazardous materials are subject to federal minimum limits of liability ~~are those specified~~ adopted under United States Code, title 49, and prescribed in 49 C.F.R. sec. 387.3 and sec. 387.9 ~~as published in the federal register on June 11, 1981~~.

b. To cover the assured's legal liability as a motor carrier for damage to or destruction of any property other than that of or in charge of the assured, as a result of any one accident or other cause, ten thousand dollars. However, ~~the minimum limits of liability for~~ motor carriers of hazardous materials are subject to federal minimum limits of liability ~~are those specified~~ adopted under United States Code, title 49, and prescribed in 49 C.F.R. sec. 387.3 and sec. 387.9 ~~as published in the federal register on June 11, 1981~~.

Sec. 3. Section 327.15, subsections 1 and 2, Code 1989, are amended to read as follows:

1. To cover the assured's legal liability as a truck operator or contract carrier for bodily injury or death resulting therefrom as a result of any one accident or other cause, one hundred thousand dollars for any recovery by one person, and subject to the limit for one person three hundred thousand dollars for more than one person. However, ~~the minimum limits of liability for~~ truck operators and contract carriers of hazardous materials are subject to federal minimum limits of liability ~~are those specified~~ adopted under United States Code, title 49, and prescribed in 49 C.F.R. sec. 387.3 and sec. 387.9 ~~as published in the federal register on June 11, 1981~~.

2. To cover the assured's legal liability as a truck operator or contract carrier for damage to or destruction of any property other than that of or in charge of the assured, as a result of any one accident or other cause, ten thousand dollars. However, ~~the minimum limits of liability for~~ truck operators and contract carriers of hazardous materials are subject to federal minimum limits of liability ~~are those specified~~ adopted under United States Code, title 49, and prescribed in 49 C.F.R. sec. 387.3 and sec. 387.9 ~~as published in the federal register on June 11, 1981~~.

Sec. 4. Section 327A.5, subsections 1 and 2, Code 1989, are amended to read as follows:

1. To cover the assured's legal liability as a liquid transport carrier for bodily injury or death resulting therefrom as a result of any one accident or other cause, one hundred thousand dollars for any recovery by one person, and subject to the limit for one person, three hundred thousand dollars, for more than one person. However, ~~the minimum limits of liability for~~ liquid transport carriers of hazardous materials are subject to federal minimum limits of liability ~~are those specified~~ adopted under United States Code, title 49, and prescribed in 49 C.F.R. sec. 387.3 and sec. 387.9 ~~as published in the federal register on June 11, 1981~~.

2. To cover the assured's legal liability as a liquid transport carrier for damages to or destruction of any property other than that of or in charge of the assured, as a result of any one accident or other cause one hundred thousand dollars. However, ~~the minimum limits of liability for~~ liquid transport carriers of hazardous materials are subject to federal minimum limits of liability ~~are those specified~~ adopted under United States Code, title 49, and prescribed in 49 C.F.R. sec. 387.3 and sec. 387.9 ~~as published in the federal register on June 11, 1981~~.

Sec. 5. Section 327B.6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Registration under section 327B.1 shall not be granted until the carrier has filed with the state department of transportation evidence of insurance or surety bond issued by an insurance carrier or bonding company authorized to do business in this state and in the form prescribed ~~by the rules adopted under 49 U.S.C. 302(b) (2) (1965)~~ in 49 C.F.R. sec. 387.15 for motor carriers of property and in 49 C.F.R. sec. 387.39 for motor carriers of passengers. The minimum limits of liability for each interstate motor carrier for hire subject to federal minimum limits of liability are those ~~specified~~ adopted under United States Code, title 49, and prescribed in 49 C.F.R. sec. 387.3 and sec. 387.9 ~~as published in the federal register on June 11, 1981~~ for motor carriers of property and in 49 C.F.R. sec. ~~1043.5 as published in the federal register on June 11, 1981~~ 387.27 and sec. 387.33 for motor carriers of passengers.

Approved May 1, 1990

CHAPTER 1227

EMPLOYER DISCLOSURE OF UNEMPLOYMENT COMPENSATION EXPERIENCE RECORD

H.F. 2287

AN ACT relating to a subsequent employer's unemployment benefit contribution rate upon the purchase or transference of a business.

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

Section 1. Section 96.7, subsection 2, paragraph b, Code Supplement 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The predecessor employer, prior to entering into a contract with a successor employer relating to the sale or transfer of the enterprise or

business, or a clearly segregable and identifiable part of the enterprise or business, shall disclose to the successor employer the predecessor employer's record of charges of benefits payments and any layoffs or incidences since the last record that would affect the experience record. A predecessor employer who fails to disclose or willfully discloses incorrect information to a successor employer regarding the predecessor employer's record of charges of benefits payments is liable to the successor employer for any actual damages and attorney fees incurred by the successor employer as a result of the predecessor employer's failure to disclose or disclosure of incorrect information. The division shall include notice of the requirement of disclosure in the division's quarterly notification given to each employer pursuant to section 96.7, subsection 2, paragraph "a", subparagraph (6).

Approved May 1, 1990

CHAPTER 1228

FEDERAL AGENCIES REGULATING BANKS

H.F. 2213

AN ACT relating to the regulation of banks to conform to changes in federal law contained in the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

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

Section 1. Section 524.103, subsection 5, Code Supplement 1989, is amended to read as follows:

5. "Bank" means a corporation engaged in the business of banking, authorized by law to receive deposits and whose deposits are insured by the bank insurance fund of the federal deposit insurance corporation.

Sec. 2. Section 524.217, subsection 4, Code Supplement 1989, is amended to read as follows:

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~~ the office of thrift supervision, 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.

Approved May 1, 1990

CHAPTER 1229

PUBLIC IMPROVEMENT CONTRACT PROCEDURES

H.F. 737

AN ACT relating to retentions from payments to contractors on contracts for the construction of public improvements.

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

Section 1. Section 573.12, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Payments made under contracts for the construction of public improvements, unless provided otherwise by law, shall be made on the basis of monthly estimates of labor performed and material delivered, as determined by the project architect or engineer. The public corporation shall retain from each monthly payment not more than five percent of that amount which is determined to be due according to the estimate of the architect or engineer. However, institutions governed pursuant to chapter 262 may, on contracts where a bond is required under section 573.2, make payments under this section without retention until ninety-five percent of the contract amount has been paid and the remaining five percent of the contract amount shall be paid as provided under section 573.14.

Sec. 2. Section 573.12, subsection 3, Code 1989, is amended to read as follows:

3. INTEREST PAYMENTS.

a. If the contractor receives an interest payment under section 573.14, the contractor shall pay the subcontractor a share of the interest payment proportional to the payment for that subcontractor's work.

b. If a public corporation other than a school corporation, county, or city retains funds, the interest earned on those funds shall be payable at the time of final payment on the contract in accordance with the schedule and exemptions specified by the public corporation in its administrative rules. The rate of interest shall be determined by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under section 453.6 as of the day interest begins to accrue.

Sec. 3. Section 573.13, Code 1989, is amended to read as follows:

573.13 INVIOLABILITY AND DISPOSITION OF FUND.

~~No~~ A public corporation shall not be permitted to plead noncompliance with section 573.12, and the retained percentage of the contract price, which in no case shall be ~~less~~ more than five percent, ~~shall constitute~~ constitutes a fund for the payment of claims for materials furnished and labor performed on ~~said~~ the improvement, and shall be held and disposed of by the public corporation as ~~hereinafter~~ provided in this chapter.

Sec. 4. Section 573.14, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The public corporation shall order payment of any amount due the contractor to be made in accordance with the terms of the contract. Failure to make payment within seventy days after the work under the contract has been completed and if the work has been accepted and all required materials, certifications, and other documentations required to be submitted by the contractor and specified by the contract have been furnished the awarding public corporation by the contractor, shall cause interest to accrue on the amount unpaid to the benefit of the unpaid party. Interest shall accrue during the period commencing the thirty-first day following the completion of work and satisfaction of the other requirements of this subsection and ending on the date of payment. The rate of interest shall be determined by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under section 453.6, as of the day interest begins to accrue, for a deposit of public funds for a comparable period of time. Nothing contained in this paragraph shall abridge any of the rights set forth in section 573.16. ~~Interest~~ Except as provided in section 573.12, interest shall not accrue on funds retained by the public corporation to satisfy the provisions of this section regarding claims on file. The provisions of this chapter shall not apply if the public corporation has entered into a contract with the federal government or accepted a federal grant which is governed by federal law or rules that are contrary to the provisions of this chapter.

Approved May 1, 1990

CHAPTER 1230

MOTOR VEHICLE LICENSING AND REGULATION

S.F. 2329

AN ACT relating to motor vehicles including provisions relating to implied consent to test persons operating commercial motor vehicles, to motor vehicle registration fees by allowing semiannual installment payments of registration fees for certain commercial vehicles, and to the use and issuance of motor vehicle licenses including provisions authorizing the issuance of commercial driver's licenses, setting fees for issuance of motor vehicle licenses, providing penalties, and making penalties applicable and providing for the Act's applicability.

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

Section 1. Section 172B.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. "Motor vehicle license" means any license or permit issued to a person to operate a motor vehicle on the highways.

Sec. 2. Section 172B.3, subsection 2, paragraphs b, i, and j, Code Supplement 1989, are amended to read as follows:

b. The name, ~~driver's~~ motor vehicle license number, and address of the owner of the livestock.

i. The motor vehicle ~~operator's~~ license number of the person transporting livestock.

j. The vehicle ~~license~~ registration plate number and the state of issuance.

Sec. 3. Section 172B.5, subsection 1, Code 1989, is amended to read as follows:

1. INVESTIGATION. A law enforcement officer may stop and detain a person, whether on or off a highway, who is transporting livestock for the purpose of obtaining compliance with section 172B.2, and the officer may request the presentation or execution of a transportation certificate. The officer may examine the livestock for identification, the vehicle for the purpose of obtaining the vehicle registration plate number, and the registration of the vehicle and the ~~operator's~~ motor vehicle license of the driver or person detained. However, nothing in this chapter shall be construed to authorize any law enforcement officer to open or require the opening of the cargo compartment of any vehicle manufactured for use in carrying refrigerated cargo when both the cargo is actually under refrigeration at the time the vehicle is detained by the law enforcement officer, and the person operating the vehicle has in possession when stopped a valid transportation certificate or approved shipping document which was executed by the shipper and which identifies the cargo as processed livestock and otherwise complies with section 172B.3, subsection 2.

Sec. 4. Section 285.11, subsection 10, Code 1989, is amended by striking the subsection.

Sec. 5. Section 312.2, subsection 17, Code Supplement 1989, is amended to read as follows:

17. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the motorcycle rider education fund established in section 321.189, subsection ~~3~~ 9, an amount equal to one dollar per year of license validity for each issued or renewed motor vehicle license which is valid for the operation of a motorcycle. Moneys credited to the motorcycle rider education fund under this subsection shall be taken from moneys credited to the road use tax fund under section 423.24.

Sec. 6. Section 321.1, subsection 24, Code Supplement 1989, is amended to read as follows:

24. a. "Gross weight" ~~shall mean~~ means the empty weight of a vehicle plus the maximum load to be carried ~~thereon~~ by the vehicle. The maximum load to be carried by a passenger-carrying vehicle shall be determined by multiplying one hundred fifty pounds by the number of passenger seats carried by such vehicle.

b. "Unladen weight" means the weight of a vehicle or vehicle combination without load.

c. "Gross vehicle weight rating" means the weight specified by the manufacturer as the loaded weight of a single vehicle.

Sec. 7. Section 321.1, subsection 25, Code Supplement 1989, is amended to read as follows:

25. a. "Combined gross weight" ~~shall mean~~ means the gross weight of a ~~motor vehicle plus the gross weight of a trailer or semitrailer to be drawn thereby~~ combination of vehicles.

b. "Gross combination weight rating" means the combined weights specified by the manufacturer as the loaded weight of each vehicle in a combination of vehicles. In the absence of a weight specified by the manufacturer for a towed vehicle, the gross vehicle weight rating of the towed vehicle shall be its gross weight.

Sec. 8. Section 321.1, subsection 32, Code Supplement 1989, is amended to read as follows:

32. "Commercial vehicle" means a vehicle or combination of vehicles designed principally to transport passengers or property of any kind if any ~~or all~~ of the following apply:

a. The vehicle or any combination of vehicles has a gross weight or combined gross weight of ten thousand one or more pounds.

b. The vehicle or any combination of vehicles has a gross vehicle weight rating or gross combination weight rating of ten thousand one or more pounds.

c. The vehicle is designed to transport sixteen or more ~~than fifteen passengers~~ persons, including the driver.

d. The vehicle is used in the transportation of hazardous material ~~in~~ of a type or quantity requiring vehicle placarding.

Sec. 9. Section 321.1, subsection 42, Code Supplement 1989, is amended to read as follows:

42. "Operator" or "driver" means every person, ~~other than a chauffeur,~~ who is in actual physical control of a motor vehicle upon a highway.

Sec. 10. Section 321.1, subsection 43, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

"Chauffeur" means a person who operates a motor vehicle, including a school bus, in the transportation of persons for wages, compensation or hire, or a person who operates a truck tractor, road tractor or ~~any~~ a motor truck which ~~is required to be registered at~~ has a gross vehicle weight ~~classification~~ rating exceeding ~~five tons, or any such motor vehicle exempt from registration which would be within the gross weight classification if not so exempt~~ sixteen thousand pounds. A person is not a chauffeur when the operation of the motor vehicle, other than a truck tractor, by the owner or operator is occasional and merely incidental to the owner's or operator's principal business.

Sec. 11. Section 321.1, subsection 44, Code Supplement 1989, is amended by striking the subsection.

Sec. 12. Section 321.1, subsection 77, Code Supplement 1989, is amended to read as follows:

77. "Motor vehicle license" means any license or permit issued to a person to operate a motor vehicle on the highways of this state, including but not limited to ~~operator, chauffeur, and motorized bicycle licenses and instruction and~~ a driver's, commercial driver's, temporary restricted, or temporary license and an instruction, chauffeur's instruction, commercial driver's instruction, temporary restricted, or temporary ~~permits~~ permit.

Sec. 13. Section 321.1, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 90. "Conviction" means a final conviction or an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court.

NEW SUBSECTION. 91. "Endorsement" means an authorization to a person's motor vehicle license required to permit the person to operate certain types of motor vehicles or to transport certain types or quantities of hazardous materials.

Sec. 14. Section 321.1, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 92. For purposes of administering and enforcing the commercial driver's license provisions:

a. "Commercial driver" means the operator of a commercial motor vehicle.

b. "Commercial driver's license" means a motor vehicle license valid for the operation of a commercial motor vehicle.

c. "Commercial driver's license information system" means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

d. "Commercial motor vehicle" means a motor vehicle or combination of vehicles used to transport passengers or property if any of the following apply:

(1) The combination of vehicles has a gross combination weight rating of twenty-six thousand one or more pounds provided the towed vehicle has a gross vehicle weight rating of ten thousand one or more pounds.

(2) The motor vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds.

(3) The motor vehicle is designed to transport sixteen or more persons, including the operator, or is of a size and design to transport sixteen or more persons, including the operator, but is redesigned or modified to transport less than sixteen handicapped persons.

(4) The motor vehicle is used in the transportation of hazardous material of a type or quantity requiring vehicle placarding.

e. "Foreign jurisdiction" means a jurisdiction outside the fifty United States, the District of Columbia, and Canada.

f. "Nonresident commercial driver's license" means a commercial driver's license issued to a person who is not a resident of the United States or Canada.

g. "Tank vehicle" means a commercial motor vehicle that is designed to transport liquid or gaseous materials within a tank having a rated capacity of one thousand one or more gallons that is either permanently or temporarily attached to the vehicle or chassis.

Sec. 15. Section 321.1A, unnumbered paragraph 2, Code 1989, is amended to read as follows:

"Resident" does not include a person who is attending a college or university in this state, if the person has a domicile in another state and has a valid ~~operator's~~ motor vehicle license ~~and vehicle registration~~ issued by the state of domicile. "Resident" also does not include members of the armed forces that are stationed in Iowa, providing that their vehicles are properly registered in their state of residency.

Sec. 16. Section 321.12, Code 1989, is amended to read as follows:

321.12 OBSOLETE RECORDS DESTROYED.

The director may destroy any records of the department which have been maintained on file for three years which the director ~~may deem~~ deems obsolete and of no further service in carrying out the powers and duties of the department. However, operating records relating to a person who has been issued a commercial driver's license shall be maintained on file in accordance with rules adopted by the department.

Sec. 17. Section 321.96, Code 1989, is amended to read as follows:

321.96 PROHIBITED PLATES — CERTIFICATES — ~~BADGES~~.

~~No~~ A person shall not display or cause or permit to be displayed, or have in the person's possession, ~~any~~ a vehicle identification number or component part number except as provided in this chapter, or ~~any~~ a canceled, revoked, altered, or fictitious registration number plates, registration receipt, or certificate of title, ~~chauffeur's license certificate, or chauffeur's badge,~~ as the same are respectively provided for in this chapter.

Sec. 18. Section 321.134, subsection 2, Code Supplement 1989, is amended to read as follows:

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 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, as defined under section 326.2, 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 except as provided in section 326.6.

Sec. 19. Section 321.145, Code 1989, is amended to read as follows:

321.145 DISPOSITION OF MONEYS AND FEES.

~~The money, except~~ Except for fines, ~~and~~ forfeitures, ~~operator's and chauffeur's license fees~~ court costs, and ~~except~~ the collection fees retained by the county treasurer pursuant to section 321.152, moneys and motor vehicle license fees collected ~~pursuant to the provisions of~~ under this chapter shall be credited by the treasurer of state to the road use tax fund.

Sec. 20. Section 321.174, Code 1989, is amended to read as follows:

321.174 OPERATORS ~~AND CHAUFFEURS~~ LICENSED — OPERATION OF COMMERCIAL MOTOR VEHICLES.

1. A person, except those ~~hereinafter~~ expressly exempted, shall not ~~drive~~ operate any motor vehicle upon a highway in this state unless ~~such~~ the person has a ~~valid~~ motor vehicle license issued by the department valid for the vehicle's operation. ~~No person shall operate a motor vehicle as a chauffeur unless the person holds a valid chauffeur's license.~~

2. A person operating a commercial motor vehicle shall not have more than one motor vehicle license. A nonresident may operate a commercial motor vehicle in Iowa if the nonresident has been issued a license by another state, a nonresident commercial driver's license, or a motor vehicle license issued by a foreign jurisdiction which the federal highway administration has determined to be issued in conformity with the federal commercial driver testing and licensing standards, if the license, commercial driver's license, or motor vehicle license is valid for the vehicle operated. A person who operates a commercial motor vehicle upon the highways of this state without having been issued a motor vehicle license valid for the vehicle operated commits a simple misdemeanor.

3. ~~Every~~ A licensee shall have the licensee's ~~operator's or chauffeur's, or motorized bicycle license or instruction permit~~ motor vehicle license in immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a judicial magistrate, ~~or~~ district associate judge, ~~a~~ district judge, peace officer, or ~~a field deputy or~~ examiner of the department. However, ~~no~~ a person charged with violating this ~~section~~ subsection shall not be convicted if the person produces in court, within a reasonable time, ~~an operator's or chauffeur's or motorized bicycle license or instruction permit~~ a motor vehicle license issued to that person and valid for the vehicle operated at the time of the person's arrest or at the time the person was charged with a violation of this section.

Sec. 21. Section 321.176, Code 1989, is amended to read as follows:

321.176 PERSONS EXEMPT FROM MOTOR VEHICLE LICENSING REQUIREMENTS.

The following persons are exempt from ~~license hereunder~~ motor vehicle licensing requirements:

1. Any person while operating a military motor vehicle in the service of the armed forces of the United States.

2. Any person while operating a farm tractor or implement of husbandry to or from the home farm buildings to any adjacent or nearby farm land for the exclusive purpose of conducting farm operations.

3. A nonresident operating a motor vehicle within the legal scope of the nonresident's home state or country license except a nonresident may operate a commercial motor vehicle only in compliance with section 321.174.

Sec. 22. NEW SECTION. 321.176A PERSONS EXEMPT FROM COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

The following operators are exempt from the commercial driver's license requirements:

1. A farmer or a person working for a farmer while operating a special truck within one hundred fifty air miles of the farmer's farm to transport agricultural products, farm machinery, or farm supplies to or from the farm.

2. A firefighter while operating a fire vehicle for a volunteer or paid fire organization under conditions necessary to preserve life or property or to execute related governmental functions.

3. Military personnel while on active duty and operating equipment owned or operated by the United States department of defense.

4. A person while operating a motor home solely for personal or family use.

5. A person operating a motor vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds towing a travel trailer or fifth-wheel travel trailer solely for personal or family use.

6. A person exempted by rules adopted by the department pursuant to section 321.176B.

Sec. 23. NEW SECTION. 321.176B PERSONS EXEMPT BY RULE FROM COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

If after July 1, 1990, federal law or federal regulations are changed to allow exemptions from commercial driver's license requirements for suppliers of agricultural inputs or their employees while delivering these products to their customers, the department shall immediately, pursuant to chapter 17A, adopt rules which allow these exemptions from the commercial driver's license requirements.

Sec. 24. Section 321.177, Code 1989, is amended to read as follows:

321.177 PERSONS NOT TO BE LICENSED.

The department shall not issue ~~any~~ a motor vehicle license ~~hereunder~~:

1. To any person~~, as an operator,~~ who is under the age of eighteen years, without the person's first having successfully completed an approved driver education course, in which case, the minimum age is sixteen years. However, the department may issue a ~~school~~ driver's license to certain minors as provided in section 321.194, ~~or a temporary~~ an instruction permit as provided in section 321.180, ~~to any person who is at least fourteen years of age. The department may issue~~ subsection 1, or a driver's license restricted ~~for use only for~~ to motorized bicycles as provided in section 321.189, subsection 2 8.

2. To any person~~, as a chauffeur, who is under the age of eighteen years~~ holding any other motor vehicle license.

3. To any person~~, as an operator or chauffeur~~ whose motor vehicle license or driving privilege ~~has been~~ is suspended ~~during such suspension~~ or ~~to any person whose license, or driving privilege, has been~~ revoked~~, until the expiration of one year after such revocation~~.

4. To any person~~, as an operator or chauffeur,~~ who is a chronic alcoholic, or is addicted to the use of an illegal narcotic ~~drugs~~ drug.

5. To any person~~, as an operator or chauffeur,~~ who has previously been adjudged to be incompetent by reason of mental illness and who has not at the time of application been restored to competency by the methods provided by law.

6. To any person~~, as an operator or chauffeur,~~ who ~~is~~ fails to pass an examination required by this chapter ~~to take an examination, unless such person shall have successfully passed such examination~~.

7. To any person when the director has good cause to believe ~~that such~~ the person by reason of physical or mental disability would not be able to operate a motor vehicle ~~with safety upon the highways~~ safely.

8. To any person to operate a commercial motor vehicle unless the person is eighteen years of age or older and the person qualifies under federal and state law to be issued a commercial driver's license in this state.

9. To any person, as a chauffeur, who is under the age of eighteen.

Sec. 25. Section 321.178, subsection 1, unnumbered paragraph 4, Code Supplement 1989, is amended to read as follows:

Any person who successfully completes an approved driver education course at a private or commercial driver education school licensed by the department, shall likewise be eligible for ~~an operator's~~ a driver's license at the age of sixteen years, providing the instructor in charge of the student's training has satisfied the educational requirements for a teaching certificate at the secondary level and holds a valid certificate to teach driver education in the public schools of Iowa.

Sec. 26. Section 321.180, Code Supplement 1989, is amended to read as follows:

321.180 INSTRUCTION PERMITS.

1. a. A person who is at least fourteen years of age and who, except for the person's lack of ~~instructions~~ instruction in operating a motor vehicle, would be qualified to obtain ~~an operator's~~ a driver'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~~ an instruction permit by the department. Subject to the limitations in this subsection, ~~a temporary~~ an instruction permit entitles the permittee, while having the permit in the permittee's immediate possession, to ~~drive~~ operate a motor vehicle, other than a commercial motor vehicle or as a chauffeur or a motor vehicle with a gross vehicle weight rating of sixteen thousand one or more pounds, upon the highways for a period ~~of~~ not to exceed two years ~~from the date of issuance~~ from the licensee's birthday anniversary in the year of issuance. If the applicant for an instruction permit holds a driver's license issued in this state valid for the operation of a motorized bicycle or a motorcycle, the instruction permit shall be valid for such operation without the need of an accompanying person.

A permittee shall not be penalized for failing to have the instruction permit in immediate possession if the permittee produces in court, within a reasonable time, an instruction permit issued to the permittee and valid at the time of the permittee's arrest or at the time the permittee was charged with failure to have the permit in the permittee's immediate possession.

b. ~~The~~ Except as otherwise provided, a permittee who is sixteen years of age or older must be accompanied by a ~~licensed operator or chauffeur~~ person issued a motor vehicle license valid for the vehicle operated 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 practitioner preparation program with a safety education program approved by the state board of education,~~ and who is actually occupying a seat beside the driver. ~~The temporary instruction permit issued to~~ Except as otherwise provided, a ~~person~~ permittee who is less than sixteen years of age ~~entitles the permittee to drive a motor vehicle upon the highways only when~~ must be accompanied by a ~~licensed operator or chauffeur~~ person issued a motor vehicle license valid for the vehicle operated who is the parent or guardian of the permittee, member of the permittee's immediate family if the family member is at least twenty-one years of age, an approved driver education instructor, a prospective driver education instructor who is enrolled in ~~and has been specifically designated by~~ a practitioner preparation program with a safety education program approved by the 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.

~~If~~ However, if the permittee is ~~driving~~ operating a motorcycle, the ~~qualified operator~~ accompanying person must be within audible and visual communications distance from the permittee and be accompanying the permittee on or in a different motor vehicle. Only one ~~permit holder~~ permittee shall be under the immediate supervision of an accompanying qualified ~~operator~~ person, unless the qualified ~~operator~~ person is an approved motorcycle or driver education instructor or a prospective motorcycle or driver education instructor who is enrolled in a practitioner preparation program with a safety education program approved by the state board of education, and the permittee is enrolled in an approved motorcycle or driver education course, in which case no more than three students shall be under the immediate supervision of each instructor while on the highway.

2. A person who holds a class A, B, C, or D driver's license, upon meeting each of the following requirements, shall be eligible to apply for a ~~chauffeur's~~ commercial driver's instruction permit valid for the operation of a commercial motor vehicle ~~requiring a chauffeur's license~~ when the permittee is accompanied by a person, ~~possessing a valid chauffeur's license,~~ properly licensed to ~~drive the~~ operate a commercial motor vehicle and actually occupying a seat beside the permittee. An applicant must be at least eighteen years of age, ~~otherwise~~ and qualified to obtain a valid ~~chauffeur's~~ commercial driver's license ~~and must meet~~ including the requirements of section ~~321.186~~ 321.188 other than ~~a~~ the knowledge examination and driving ~~demonstration~~ skills tests. The ~~chauffeur's~~ commercial driver's instruction permit shall be valid for a period not to exceed ~~two years and shall be returned to the department upon receipt of a valid chauffeur's license~~ six months. ~~Issuance of a chauffeur's instruction permit shall not require the surrender of a valid operator's license.~~ A commercial driver's instruction permit may be renewed only once in any two-year period. If the applicant for a commercial driver's instruction permit holds a driver's license issued in this state valid for the operation of a commercial or noncommercial vehicle, the commercial driver's instruction permit shall be valid for such operation without the need of an accompanying person.

~~A permittee shall not be penalized for failing to have the permit in immediate possession if the permittee produces in court, within a reasonable time, an instruction permit issued to the permittee and valid at the time of the permittee's arrest.~~

3. A person, upon meeting each of the following requirements, shall be eligible to apply for a chauffeur's instruction permit valid for the operation of a motor vehicle, other than a commercial motor vehicle, as a chauffeur when the permittee is accompanied by a person, possessing a valid class D driver's license or commercial driver's license valid for the operation of the motor vehicle and the accompanying person is actually occupying a seat beside the permittee. An applicant must be at least eighteen years of age, otherwise qualified to obtain a class D driver's license, and must meet the requirements of section 321.186 other than a driving demonstration. The chauffeur's instruction permit shall be valid for a period not to exceed two years from the licensee's birthday anniversary in the year of issuance and shall be returned to the department upon issuance of a class D driver's license or commercial driver's license. If the applicant for a chauffeur's instruction permit holds a driver's license issued under this chapter, the chauffeur's instruction permit shall be valid in the same manner as the driver's license would be for the operation of motor vehicles without the need of an accompanying person.

4. The instruction permit, chauffeur's instruction permit, and commercial driver's instruction permit are subject to suspension or revocation for the same reasons and in the same manner as suspension or revocation of a driver's license.

Sec. 27. NEW SECTION. 321.180A SPECIAL INSTRUCTION PERMIT.

1. Notwithstanding other provisions of this chapter, a physically disabled person, who is not suffering from a convulsive disorder and who can provide a favorable medical report, whose license renewal has been denied under section 321.177, subsection 6 or 7, or whose motor vehicle license has been suspended under section 321.210, subsection 1, paragraph "c", upon meeting the requirements of section 321.186, other than a driving demonstration or the person's limitations which caused the denial under section 321.177, subsection 6 or 7, or suspension under section 321.210, subsection 1, paragraph "c", and upon paying the fee required in section 321.191, shall be issued a special instruction permit by the department. Upon issuance of the permit the denial or suspension shall be stayed and the stay shall remain in effect as long as the permit is valid.

2. a. A special instruction permit entitles the permittee, while having the permit in the permittee's immediate possession, to operate a noncommercial motor vehicle upon the highways for a period of six months from the date of issuance. However, the permittee must be accompanied by a person who is at least twenty-one years of age, who has been issued a motor vehicle license valid for the vehicle being operated, and who is actually occupying a seat beside the permittee.

b. A permittee shall not be penalized for failing to have the permit in immediate possession if the permittee produces in court, within a reasonable time, the special instruction permit issued to the permittee which was valid at the time of the permittee's arrest.

3. The permittee may apply for a motor vehicle license if thirty days have elapsed since issuance of the special instruction permit. The department shall issue a motor vehicle license if the permittee is qualified, passes all required tests, including a driving test, and pays the required fees. If the person has not obtained a motor vehicle license before expiration of the person's special instruction permit, the person's former denial or suspension under sections 321.177, subsection 6 or 7, or section 321.210, subsection 1, paragraph "c", upon service of notice by the department, shall be reinstated. A permit shall be reissued for one additional six-month period if a permittee continues to meet the qualifications of subsection 1 and has incurred no motor vehicle violations.

Sec. 28. Section 321.181, Code 1989, is amended to read as follows:

321.181 TEMPORARY PERMIT.

The department may, ~~in its discretion,~~ issue a temporary ~~driver's~~ permit to an applicant for ~~an operator's or chauffeur's~~ a motor vehicle license permitting the applicant to operate a motor vehicle other than a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to ~~such~~ the applicant's ~~right~~ privilege to receive ~~an operator's~~ the motor vehicle license. ~~Such~~ The permit must be in the applicant's immediate possession while operating a motor vehicle~~, and it~~. The temporary permit shall be invalid and returned to the department when the applicant's license ~~has been~~ is issued or ~~for good cause has been refused~~ when the license is denied.

~~The temporary driver's permit shall bear a colored photograph of the permittee and shall contain such other information as the department may by rule require. The department shall not retain a positive or negative photograph of the permittee.~~

Sec. 29. Section 321.182, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321.182 APPLICATION.

Every applicant for a motor vehicle license shall do all of the following:

1. Make application on a form provided by the department which shall include the applicant's full name, signature, current mailing address, current residential address, date of birth, social security number, and physical description including sex, height, and eye color. The application may contain other information the department may require by rule.

2. Surrender all other motor vehicle licenses.

3. Certify that the applicant has no other motor vehicle license.

4. Certify that the applicant is not currently subject to suspension, revocation, or cancellation of any motor vehicle license and has committed no offense and has not acted in a manner which either alone or with previous actions or offenses could result in suspension, revocation, or cancellation of any motor vehicle license.

Sec. 30. Section 321.184, subsection 1, Code 1989, is amended to read as follows:

1. CONSENT REQUIRED. The application of an unmarried person under the age of eighteen years for ~~an instruction permit, operator's license, motorized bicycle license, restricted license, or school license issued under section 321.194~~ a motor vehicle license shall contain the verified consent and confirmation of the applicant's birthday by either parent of the applicant, the guardian of the applicant, or a person having custody of the applicant under chapter 600A. Officers and employees of the department may administer the oaths without charge.

Sec. 31. Section 321.186, Code 1989, is amended to read as follows:

321.186 EXAMINATION OF NEW OR INCOMPETENT OPERATORS.

The department may examine every new applicant for ~~an operator's, motorized bicycle or chauffeur's~~ a motor vehicle license or any person holding a valid ~~operator's, motorized bicycle or chauffeur's~~ motor vehicle license when the department has reason to believe that ~~such~~ the

person may be physically or mentally incompetent to operate a motor vehicle, or whose driving record appears to the department to justify ~~such an~~ the examination. ~~Such~~ The examinations shall be held in every county within periods not to exceed fifteen days. ~~It~~ except that the driving skills test for a commercial driver's license shall be given only at locations where required driving skills may be adequately tested, including pretrip and off-road examinations. The department shall make every effort to accommodate a functionally illiterate applicant when the applicant is taking a knowledge test. The department shall make every effort to have an examiner conduct the commercial driver's license driving skills tests at other locations in this state where skills may be adequately tested when requested by a person representing ten or more drivers requiring driving skills testing.

The department shall make every effort to accommodate a commercial driver's license applicant's need to arrange an appointment for a driving skills test at an established test site other than where the applicant passed the required knowledge test. The department shall report to the governor and the general assembly on any problems, extraordinary costs and recommendations regarding the appointment scheduling process.

PARAGRAPH DIVIDED. The examination shall include a ~~test~~ screening of the applicant's eyesight, a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic, a test of the applicant's knowledge of the traffic laws of this state, ~~and shall include~~ an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle and ~~such further~~ other physical and mental examinations as the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways. However, an applicant for a new motor vehicle license other than a commercial driver's license need not pass a vision test administered by the department if the applicant files with the department a vision report in accordance with section 321.186A which shows that the applicant's visual acuity level meets or exceeds those required by the department.

Sec. 32. NEW SECTION. 321.186A VISION REPORT IN LIEU OF VISION TEST.

1. An applicant for a new or renewed motor vehicle license other than a commercial driver's license need not take a vision test administered by the department if the applicant files with the department a vision report signed by a licensed vision specialist in accordance with this section.

2. An applicant for such a new or renewed motor vehicle license who fails a vision test administered by the department may subsequently be issued the motor vehicle license without need of passing a department administered vision test, if the applicant files with the department a vision report from a licensed vision specialist in accordance with this section.

3. The vision report shall state the visual acuity level of the applicant as measured by the vision specialist and shall be in the form and include other information as required by rule of the department. A vision report is valid only if the visual acuity level of the applicant has been measured by the licensed vision specialist within thirty days before the application for the new or renewed motor vehicle license.

4. As used in this section, a "licensed vision specialist" means a physician licensed under chapter 148, 150, or 150A, or an optometrist licensed under chapter 154.

Sec. 33. Section 321.187, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321.187 EXAMINERS.

The department shall examine applicants for motor vehicle licenses. Examiners of the department shall wear an identifying badge and uniform provided by the department.

1. The department may by rule designate area vocational schools and community colleges to administer the driving skills test required for a commercial driver's license provided that all of the following occur:

a. The driving skills test is the same as that which would otherwise be administered by the state.

b. The examiner contractually agrees to comply with the requirements of 49 C.F.R. § 383.75 adopted as of a specific date by rule by the department.

2. The department may also designate by rule other parties to administer the driving skills test required for a commercial driver's license provided that both subsection 1, paragraphs "a" and "b" apply. This subsection is repealed April 1, 1992.

Sec. 34. NEW SECTION. 321.188 COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

1. Before the department issues, renews, or upgrades a commercial driver's license and in addition to the requirements of section 321.182, the license applicant shall do all of the following:

a. Certify whether the applicant is subject to and meets applicable driver qualifications of 49 C.F.R. part 391 adopted as of a specific date by rule by the department.

b. Certify the applicant is not subject to any commercial driver's license disqualification and has committed no offense and has not acted in a manner which either alone or with previous actions or offenses could result in commercial driver's license disqualification.

c. Successfully pass knowledge tests and driving skills tests which the department shall require by rule. The rules adopted shall substantially comply with the federal minimum testing and licensing requirements in 49 C.F.R. part 383, subparts E, G, and H adopted as of a specific date by rule by the department.

d. Certify the vehicle to be operated in the driving skills tests represents the largest class of vehicle the applicant will operate on the highway.

e. Certify that the applicant is a resident of Iowa or a resident of a foreign jurisdiction.

2. An applicant for a commercial driver's license may substitute for a driving skills test the applicant's operating record and previous passage of a driving skills test or the applicant's operating record and previous driving experience if all of the following conditions exist:

a. The applicant is currently licensed to operate a commercial motor vehicle.

b. The applicant certifies that during the two years immediately preceding application all of the following apply:

(1) The applicant has not held motor vehicle licenses valid for the operation of commercial motor vehicles from more than one state simultaneously.

(2) The applicant has not had any convictions which are federal commercial driver's license disqualifying offenses under 49 C.F.R. § 383.51 adopted as of a specific date by rule by the department while operating any type of vehicle.

(3) The applicant has not committed a traffic violation, other than a parking violation, arising in connection with a traffic accident.

(4) No record of an accident exists for which the applicant was convicted of a moving traffic violation.

(5) The applicant has not had any motor vehicle license suspended, revoked, or canceled.

c. The applicant provides evidence of and certifies that the applicant is employed in a job requiring operation of a commercial motor vehicle and the applicant has done one of the following:

(1) Has previously passed a driving skills test given by this state or its designee in a motor vehicle representative of the class of motor vehicle the applicant will operate.

(2) Has operated during the two-year period immediately preceding the application a motor vehicle representative of the class of motor vehicle the applicant will operate.

3. An applicant for a hazardous material endorsement must pass a knowledge test as required under 49 C.F.R. § 383.121 adopted as of a specific date by rule by the department to obtain or retain the endorsement. However, an applicant for license upgrade may retain the endorsement if the applicant successfully passed the endorsement test within the preceding twenty-four months.

4. The department shall check the applicant's driving record as maintained by the applicant's current licensing state, the national commercial driver's license information system, and the national driver register to determine whether the applicant qualifies to be issued a

commercial driver's license. The department shall notify the national commercial driver's license information system of the issuance, renewal, or upgrade of a commercial driver's license.

5. A resident of this state holding a commercial driver's license issued by a former state of residence in conformity with the federal commercial driver testing and licensing standards shall not be required to take a knowledge or driving skills test prior to issuance of a commercial driver's license in this state, except a basic Iowa rules of the road knowledge test and, when applicable, motorcycle operator knowledge and driving skills tests. The commercial driver's license issued by this state shall be valid for operation of the same class of vehicles with the same endorsements and restrictions as in the former state of licensure. However, a person with a hazardous materials endorsement must comply with subsection 3.

Sec. 35. Section 321.189, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321.189 DRIVER'S LICENSE — CONTENT — MOTORCYCLE RIDER EDUCATION FUND.

1. CLASSIFICATION AND ISSUANCE. Upon payment of the required fee, the department shall issue to every qualified applicant a driver's license. Driver's licenses shall be classified as follows:

a. Class A — Valid for the operation of vehicles with a gross combination weight rating of twenty-six thousand one or more pounds if one of the towed vehicles has a gross vehicle weight rating of ten thousand one or more pounds and valid for the operation of vehicles with lower gross combination weight ratings and other vehicles except motorcycles.

b. Class B — Valid for the operation of a vehicle with a gross vehicle weight rating of twenty-six thousand one or more pounds or a combination of vehicles with a gross combination weight rating of twenty-six thousand one or more pounds provided the towing vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds and each towed vehicle has a gross vehicle weight rating of less than ten thousand one pounds and valid for the operation of vehicles with lower gross vehicle weight ratings or gross combination weight ratings except motorcycles.

c. Class C — Valid for the operation of a vehicle, other than a motorcycle, or a combination of vehicles with a gross combination weight rating of twenty-six thousand one or more pounds provided the towing vehicle has a gross vehicle weight rating of less than twenty-six thousand one pounds and each towed vehicle has a gross vehicle weight rating of less than ten thousand one pounds, or a combination of vehicles with a gross vehicle weight rating or gross combination weight rating of less than twenty-six thousand one pounds and also valid for the operation of any vehicle, other than a motorcycle, for which the operator is exempt from commercial driver's license requirements under section 321.176A.

d. Class D — Valid for the operation of a motor vehicle as a chauffeur.

e. Class M — Valid for the operation of a motorcycle.

A driver's license may be issued for more than one class. Class A and B driver's licenses shall only be issued as commercial driver's licenses. Class C and M driver's licenses may be issued as commercial driver's licenses. A driver's license is not valid for the operation of a vehicle requiring an endorsement unless the driver's license is endorsed for the vehicle. A class D driver's license is also valid as a noncommercial class C driver's license. The holder of a commercial driver's license is not required to obtain a class D driver's license to operate a motor vehicle as a chauffeur. When necessary, the department shall by rule create additional classes or modify existing classes of driver's licenses, however, the rule shall be temporary and if within sixty days after the next regular session of the general assembly convenes the general assembly has not made corresponding changes in this chapter, the temporary classification or modification shall be nullified.

2. CONTENT OF LICENSE.

a. Appearing on the driver's license shall be a distinguishing number assigned to the licensee; the licensee's full name, date of birth, sex, and residence address; a colored photograph;

a physical description of the licensee; the name of the state; the dates of issuance and expiration; and the usual signature of the licensee. The license shall identify the class of vehicle the licensee may operate and the applicable endorsements and restrictions which the department shall require by rule.

b. A commercial driver's license shall include the licensee's address as required under federal regulations, the licensee's social security number, and the word "commercial" shall appear prominently on the face of the license. If the applicant is a nonresident, the license must conspicuously display the word "nonresident".

c. The department shall advise an applicant that the applicant for a motor vehicle license other than a commercial driver's license may request a number other than a social security number as the motor vehicle license number.

d. The license may contain other information as required under the department's rules.

3. REPLACEMENT. If prior to the renewal date, a person desires to obtain a motor vehicle license in the form authorized by this section, a license may be issued as a voluntary replacement upon payment of the required fee as set by the department by rule. A person shall return a motor vehicle license and be issued a new license when the first license contains inaccurate information upon payment of the required fee as set by the department by rule.

4. SYMBOLS. Upon the request of a licensee, the department shall indicate on the license the presence of a medical condition or that the licensee is a donor under the uniform anatomical gift law. The license may contain such other information as the department may require by rule.

5. TAMPERPROOFING. The department shall issue a motor vehicle license by a method or process which prevents as nearly as possible the alteration, reproduction, or superimposition of a photograph on the license without ready detection.

6. LICENSES ISSUED TO MINORS. A motor vehicle license issued to a person under twenty-one years of age shall be identical in form to any other motor vehicle license except that the word "minor" shall appear prominently on the face of the license. Upon attaining the age of twenty-one, and upon payment of a one dollar fee, the person shall be entitled to a new motor vehicle license or nonoperator's identification card for the unexpired months of the motor vehicle license or card.

7. CLASS "M" LICENSE EDUCATION REQUIREMENTS. A person under the age of eighteen applying for a driver's license valid for the operation of a motorcycle shall be required to successfully complete a motorcycle education course either approved and established by the department of education or from a private or commercial driver education school licensed by the department. A public school district shall charge a student a fee which shall not exceed the actual cost of instruction minus moneys received by the school district under subsection 9.

8. MOTORIZED BICYCLE.

a. The department may issue a driver's license valid only for operation of a motorized bicycle to a person fourteen years of age or older who has passed a vision test or who files a vision report as provided in section 321.186A which shows that the applicant's visual acuity level meets or exceeds those required by the department and who passes a written examination on the rules of the road. A person under the age of sixteen applying for a driver's license valid only for operation of a motorized bicycle shall also be required to successfully complete a motorized bicycle education course approved and established by the department of education or successfully complete an approved motorized bicycle education course at a private or commercial driver education school licensed by the department. A public school district shall charge a student a fee which shall not exceed the actual cost of instruction. A driver's license valid only for operation of a motorized bicycle entitles the licensee to operate a motorized bicycle upon the highway while having the license in the licensee's immediate possession. The license is valid for a period not to exceed two years from the licensee's birthday anniversary in the year of issuance, subject to termination or cancellation as provided in this section.

b. A driver's license valid only for operation of a motorized bicycle shall be canceled upon a conviction for a moving traffic violation and reapplication may be made thirty days after

the date of cancellation. The cancellation of the license upon conviction for a moving traffic violation shall not result in requiring the applicant to maintain proof of financial responsibility under section 321A.17, unless the conviction would otherwise result in a suspension or revocation of a person's driver's license.

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

d. The holder of any class of driver's license may operate a motorized bicycle.

9. MOTORCYCLE RIDER EDUCATION FUND. The motorcycle rider education fund is established in the office of the treasurer of state. The moneys credited to the fund are appropriated to the department of education to be used to establish new motorcycle rider education courses and reimburse sponsors of motorcycle rider education courses for the costs of providing motorcycle rider education courses approved and established by the department of education. The department of education shall adopt rules under chapter 17A providing for the distribution of moneys to sponsors of motorcycle rider education courses based upon the costs of providing the education courses.

Sec. 36. Section 321.190, subsection 1, Code Supplement 1989, is amended to read as follows:

1. APPLICATION FOR AND CONTENTS OF CARD.

a. The department shall, upon application and payment of the required fee, issue to an applicant a nonoperator's identification card~~, which~~. To be valid the card shall bear a distinguishing number assigned to the card holder, the full name, date of birth, sex, residence address, a ~~brief~~ physical description and a colored photograph of the card holder, the usual signature of the card holder, and such other information as the department may require by rule ~~require~~. The card~~, including the colored photograph,~~ shall be issued to the applicant at the time of application ~~and no positive or negative photograph shall be retained. The department shall, by rule, establish procedures for the application for, and issuance of, a nonoperator's identification card. An identification card shall not be valid unless it bears the usual signature of the card holder~~ pursuant to procedures established by rule.

b. The department shall not issue a card to a person holding a motor vehicle license. The card shall be identical in form to a driver's license issued under section 321.189 except the word "nonoperator" shall appear prominently on the face of the card. A nonoperator's identification card issued to a person under twenty-one years of age shall include the word "minor" prominently on the face of the card.

c. The department shall use a process or processes for issuance of a nonoperator's identification card, that prevents, as nearly as possible, the opportunity for alteration or reproduction of, and the superimposition of a photograph on the nonoperator's identification card without ready detection.

d. 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. No issuance fee shall be charged for a person whose motor vehicle license or driving privilege has been suspended under section 321.210, subsection 1, paragraph "c".

The nonoperator's identification card fees shall be transmitted by the department to the treasurer of state who shall credit ~~such~~ the fees to the ~~general fund of the state~~ road use tax fund.

Sec. 37. Section 321.190, subsection 3, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. The department shall cancel a person's nonoperator's identification card upon determining the person was not entitled to be issued the card, did not provide correct information, committed fraud in applying for the card, or unlawfully used a nonoperator's identification card.

Sec. 38. Section 321.191, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321.191 FEES FOR MOTOR VEHICLE LICENSES.

1. INSTRUCTION PERMITS. The fee for an instruction permit, other than a special instruction permit, chauffeur's instruction permit, or commercial driver's instruction permit, is six dollars. The fee for a special instruction permit is ten dollars. The fee for a chauffeur's instruction permit or commercial driver's instruction permit is twelve dollars.

2. NONCOMMERCIAL MOTOR VEHICLE LICENSES. The fee for a noncommercial motor vehicle license, other than a class D driver's license or any type of instruction permit, valid for two years is eight dollars.

3. LICENSES FOR CHAUFFEURS. The fee for a noncommercial class D driver's license valid for two years is sixteen dollars.

4. COMMERCIAL MOTOR VEHICLE LICENSES. An additional fee of eight dollars is required to issue a motor vehicle license, other than an instruction permit, valid for two years for the operation of a commercial motor vehicle.

5. LICENSES VALID FOR MOTORCYCLES. An additional fee of one dollar per year of license validity is required to issue a license valid to operate a motorcycle.

6. SPECIAL MINOR' LICENSES. Notwithstanding subsection 2, the fee for a driver's license issued to a minor under section 321.194 or a restricted license issued to a minor under section 321.178, subsection 2, is eight dollars.

7. FOUR-YEAR LICENSES. The fee for a motor vehicle license valid for four years is twice the fee for a two-year license.

8. ENDORSEMENTS AND REMOVAL OF AIR BRAKE RESTRICTIONS. The fee for a double/triple trailer endorsement, tank vehicle endorsement, and hazardous materials endorsement is five dollars for each endorsement. The fee for a passenger endorsement is ten dollars. The fee for removal of an air brake restriction on a commercial driver's license is ten dollars. Fees imposed under this subsection for endorsements or removal of restrictions are valid for the length of the time period of the license regardless of whether the license is issued for two or four years. Upon renewal of a commercial driver's license there is no fee for retaining endorsements or the removal of the air brake restriction for those endorsements or restrictions which do not require the taking of either a knowledge or a driving skills test for renewal.

9. MOTOR VEHICLE LICENSE REINSTATEMENTS. The fee for reinstatement of a motor vehicle license shall be twenty dollars for a license which is, after notice and opportunity for hearing, canceled, suspended, or revoked. However, reinstatement of the privilege suspended under section 321.210, subsection 1, paragraph "c", shall be without fee. The fee for reinstatement of the privilege to operate a commercial motor vehicle after a period of disqualification shall be twenty dollars.

10. UPGRADING A LICENSE CLASS PRIVILEGE – FEE ADJUSTMENT. If an applicant wishes to upgrade a license class privilege, the fee charged shall be prorated on full-year fee increments of the new license in accordance with rules adopted by the department. The expiration date of the new license shall be the expiration date of the currently held driver's license. The fee for a commercial driver's license endorsement, the removal of an air brake restriction, or a commercial driver's license instruction permit shall not be prorated.

As used in this subsection "to upgrade a license class privilege" means to add any privilege to a valid motor vehicle license. The addition of a privilege includes converting from a noncommercial to a commercial license, converting from a noncommercial class C to a class D license, converting an instruction permit to a class license, adding any privilege to a section 321.189, subsection 8, license, adding an instruction permit privilege, adding a section 321.189, subsection 8, license to an instruction permit, and adding any privilege relating to a motor vehicle license issued to a minor under section 321.194 or section 321.178, subsection 2.

Sec. 39. Section 321.193, Code 1989, is amended to read as follows:

321.193 ~~RESTRICTED~~ RESTRICTIONS ON LICENSES.

~~When~~ As provided ~~in rules adopted pursuant to chapter 17A~~ by rule, the department ~~upon issuing an operator's or chauffeur's license or motorized bicycle license shall have authority~~

~~whenever good cause appears to~~ may impose restrictions suitable to the motor vehicle licensee's driving ability with respect to the type of motor vehicle or special mechanical control devices required on a motor vehicle which the licensee may operate or ~~such~~ other restrictions applicable to the licensee~~, including licenses issued under section 321.194~~, as the department may determine to be appropriate ~~to assure the safe operation of a motor vehicle by the licensee. The department shall not require a person issued a valid operator's or chauffeur's license to comply with any other licensing requirements in order to operate a motorized bicycle.~~

The department may ~~either issue a special restricted license or may~~ set forth ~~such~~ restrictions upon the ~~usual~~ motor vehicle license ~~form~~.

The department may suspend or revoke the motor vehicle license upon receiving satisfactory evidence of any violation of the license's restrictions ~~of such license suspend or revoke the same but the licensee shall be entitled to a hearing as upon a suspension or revocation under this chapter~~.

~~It is a misdemeanor, punishable as provided in section 321.482, for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to that person.~~

Sec. 40. Section 321.194, Code Supplement 1989, is amended to read as follows:

321.194 SPECIAL MINORS' ~~SCHOOL~~ LICENSES.

1. DRIVER'S LICENSE ISSUED FOR TRAVEL TO AND FROM SCHOOL. Upon certification of a special need by the school board or the superintendent of the applicant's school, the department may issue a ~~school~~ class C or M driver's license to a person between the ages of fourteen and eighteen years who ~~has~~ successfully ~~completed~~ completes 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.

a. The ~~school~~ driver's license entitles the holder, while having the license in immediate possession, to operate a motor vehicle ~~during~~ other than a commercial motor vehicle or as a chauffeur:

(1) During the hours of 6 a.m. to 10 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.~~

(2) At any time when the licensee is accompanied in accordance with section 321.180, subsection 1, paragraph "b".

b. 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~~ driver's 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~~ the driver's 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~~ The driver's license shall not be issued for purposes of attending a public school in a school district other than ~~the~~ either of the following:

(1) The district of residence, ~~or a~~ of the parent or guardian of the student.

(2) 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.

2. SUSPENSION AND REVOCATION. A driver's license issued under this section is subject to suspension or revocation ~~in like manner as~~ for the same reasons and in the same manner as suspension or revocation of any other driver's license ~~or permit issued under a law of this state~~. The department may also suspend a driver's license issued under this section 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 driver's 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. 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 person licensed under this section receives two or more convictions which require revocation of the person's license ~~or permit~~ under this section, the department shall not grant an application for a new motor vehicle license ~~or permit~~ until the expiration of one year or until the licensee's sixteenth birthday, whichever is the longer period.

Sec. 41. Section 321.196, Code Supplement 1989, is amended to read as follows:

321.196 EXPIRATION OF ~~OPERATOR'S~~ LICENSE — RENEWAL — VISION TEST MANDATORY.

Except as otherwise provided, ~~an operator's~~ a motor vehicle license, other than an instruction permit, chauffeur's instruction permit, or commercial driver's instruction permit issued under section 321.180, 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 seventeen years, eleven months and seventy years on the date of issuance of the license, ~~otherwise~~. If the licensee is under the age of seventeen years eleven months or age seventy or over the license is effective for a period of two years from the licensee's birthday anniversary occurring in the year of issuance. ~~The~~ Except as required in section 321.188, a motor vehicle license is renewable without written examination or penalty within a period of ~~thirty~~ sixty days after its expiration date. A person shall not be considered to be driving with an invalid license during a period of ~~thirty~~ sixty days following the license expiration date. However, for a license renewed within the ~~thirty-day~~ sixty-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 motor vehicle license other than a commercial driver's license upon application without an examination provided that the applicant either satisfactorily passes a vision test as prescribed by the department or files a vision report in accordance with section 321.186A which shows that the applicant's visual acuity level meets or exceeds those required by the department.

Any resident of Iowa holding a valid ~~operator's or chauffeur's~~ motor vehicle license who is temporarily absent from the state, or incapacitated, may, at the time for renewal for such license, ~~obtain from the sheriff of the county of the licensee's residence a form to~~ apply to the department for a temporary extension of the license. The department upon receipt of ~~such~~ the application ~~form properly filled out~~ shall, upon a showing of good cause, issue a temporary extension of ~~such~~ the motor vehicle license for a period not to exceed six months. ~~The department shall prescribe and furnish such forms to each county sheriff.~~

~~Prior to the renewal of a license pursuant to this section, the department shall issue to each applicant information on the law relating to the operation of a motor vehicle while intoxicated and statistical information relating to the number of injuries and fatalities occurring as a result of the operation of motor vehicles while intoxicated.~~

Sec. 42. Section 321.197, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321.197 EXPIRATION OF CHAUFFEUR'S LICENSES — REPLACEMENT BY COMMERCIAL DRIVER'S LICENSE.

Notwithstanding other provisions of this chapter, a valid chauffeur's license issued by the department shall be valid to operate a motor vehicle according to the terms and limitations of the license until the earlier of the expiration date on the license or April 1, 1992. A person who has been issued a valid chauffeur's license by the department which expires on or after July 1, 1990, and before July 1, 1991, may renew the license and be issued a special class D driver's license which shall be valid according to the terms and limitations of the chauffeur's license previously issued to the person. However, after April 1, 1992, a chauffeur's license or a special class D driver's license issued under this section shall not be valid for operating a commercial motor vehicle. Between July 1, 1990, and April 1, 1992, the holder of a valid chauffeur's license may apply for a new driver's license and, if qualified, be issued a commercial driver's license valid only until the expiration date appearing on the surrendered chauffeur's license, upon surrender of the chauffeur's license and upon payment of a one dollar replacement fee together with the fees for any commercial driver's license endorsements obtained. Additionally, if application is made within one year preceding the chauffeur's license expiration date and upon payment of required fees, a qualified applicant may be issued a commercial driver's license valid for a two-year or four-year period beginning on the expiration date on the surrendered chauffeur's license. For purposes of section 321.221, a valid chauffeur's license shall be deemed to be a class D driver's license.

This section is repealed effective July 1, 1994.

Sec. 43. Section 321.198, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The effective date of a valid ~~operator's~~ motor vehicle license ~~and of a valid chauffeur's license~~ to the extent that it permits the operation of a motor vehicle ~~as an operator~~ other than a commercial motor vehicle and other than as a chauffeur, issued under the laws of this state, held by any person at the time of entering the military service of the United States or of the state of Iowa notwithstanding the expiration of ~~such~~ the license according to its terms, is hereby extended without fee until six months following the initial separation from active duty of ~~such~~ the person from the military service, provided ~~such~~ the person is not suffering from ~~such~~ physical disabilities ~~as to impair~~ which impair the person's competency as an operator and provided further that ~~such~~ the licensee shall upon demand of any peace officer furnish satisfactory evidence of the person's military service. However, ~~no~~ a person entitled to the benefits of this section, charged with operating a motor vehicle without an operator's license, shall not be convicted if the person produces in court, within a reasonable time, a valid ~~operator's or chauffeur's~~ motor vehicle license ~~theretofore~~ previously issued to that person along with evidence of the person's military service as above mentioned.

Sec. 44. Section 321.198, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person whose period of validity of the person's motor vehicle license is extended under this section may file an application in accordance with rules adopted by the department to have the person's record of issuance of a motor vehicle license retained in the department's record system during the period for which the motor vehicle license remains valid. If a person has had the record of issuance of their motor vehicle license removed from the department's records, the person shall have their record of motor vehicle license issuance reentered by the department upon request if the request is accompanied by a letter from the applicable person's commanding officer verifying the military service.

Sec. 45. Section 321.199, Code 1989, is amended to read as follows:

321.199 MOTOR VEHICLE LICENSE RECORDS.

The department shall file every application for a license received by it and shall maintain suitable indexes containing, in alphabetical order, all of the following:

1. All applications denied and ~~on each thereof note~~ the reasons for ~~such~~ the denial.

2. All applications granted.

3. The name of every licensee who has been disqualified from operating a commercial motor vehicle or whose license has been suspended, ~~or~~ revoked, or canceled by the department and after each ~~such~~ name a note on the reasons for ~~such~~ the action.

Sec. 46. Section 321.201, Code 1989, is amended to read as follows:

321.201 ~~AUTHORITY TO CANCEL~~ CANCELLATION AND RETURN OF LICENSE — PROHIBITION FROM ISSUANCE OF COMMERCIAL DRIVER'S LICENSE FOR FALSE INFORMATION.

1. The department ~~is hereby authorized to~~ may cancel ~~any operator's or chauffeur's~~ a motor vehicle license upon ~~determining that~~ determination of any of the following:

a. That the licensee was not entitled to the issuance ~~thereof hereunder or that said~~ of the license.

b. That the licensee failed to give ~~the~~ required or correct information ~~in the licensee's application~~ or committed ~~any~~ fraud in making ~~such~~ the application.

~~The provisions applicable in this section and sections 321.202 to 321.215 relating to cancellation, suspension or revocation of an operator's or chauffeur's license are also applicable to motorized bicycle licenses and licensees holding motorized bicycle licenses.~~

Upon cancellation, the licensee shall immediately return the license to the department.

2. Upon cancellation of a commercial driver's license for providing false information or committing fraud in the application, the applicant shall not operate a commercial motor vehicle in this state and shall not be issued a license valid to operate a commercial motor vehicle for a period of sixty days.

Sec. 47. Section 321.203, Code 1989, is amended to read as follows:

321.203 SUSPENDING PRIVILEGES OF NONRESIDENTS.

A nonresident's privilege ~~of driving~~ to operate a motor vehicle on a highway in this state is subject to suspension ~~and~~ or revocation for the same reasons and in the same manner as suspension or revocation of ~~an operator's or chauffeur's~~ a resident's driver's license and is also subject to suspension as provided in section 321.513.

Sec. 48. Section 321.204, Code 1989, is amended to read as follows:

321.204 CERTIFICATION OF CONVICTION — NOTIFICATION OF COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION.

1. The department is ~~further~~ authorized, upon receiving a record of the conviction in this state of a nonresident ~~driver~~ operator of a motor vehicle ~~of~~ for any offense under the motor vehicle laws of this state, to forward a certified ~~copy of such~~ written or electronic record of the conviction to the motor vehicle administrator in the licensing state ~~wherein the person so convicted is a resident~~.

2. The department shall notify the commercial driver's license information system and the commercial motor vehicle administrator in the licensing state, if applicable, of the disqualification of a commercial driver within ten days of any of the following:

a. The disqualification of the commercial driver under section 321.208 if the disqualification is for sixty days or more.

b. The suspension or revocation of a commercial driver's license if the suspension or revocation is for sixty days or more.

c. The cancellation of a commercial driver's license.

Sec. 49. Section 321.205, Code 1989, is amended to read as follows:

321.205 CONVICTION OR ADMINISTRATIVE DECISION IN ANOTHER STATE.

The department is authorized to suspend or revoke the motor vehicle license of ~~any~~ a resident of this state upon receiving notice of the conviction of ~~such person~~ the resident in another state ~~of~~ for an offense ~~therein~~ which, if committed in this state, would be grounds for the suspension or revocation of the license ~~of an operator or chauffeur~~ or upon receiving notice of a final administrative decision in another state that the resident has acted in a manner which would be grounds for suspension or revocation of the license in this state.

Sec. 50. Section 321.206, Code 1989, is amended to read as follows:

321.206 SURRENDER OF LICENSE — DUTY OF COURT.

~~Whenever any~~ If a person is convicted in court of ~~any~~ an offense for which this chapter ~~makes~~ requires mandatory ~~the~~ revocation of the ~~operator's or chauffeur's~~ person's motor vehicle license ~~of such person by the department~~ or, if the person's license is a commercial driver's license and the conviction disqualifies the person from operating a commercial motor vehicle, the court ~~in which such conviction is had~~ shall require the person to surrender ~~to it of all operator's and chauffeur's licenses then~~ the motor vehicle license held by the person ~~so convicted~~ and the court shall ~~thereupon~~ forward the ~~same~~ license together with a record of ~~such~~ the conviction to the department as provided in section 321.491.

Sec. 51. Section 321.208, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321.208 COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION — REPLACEMENT DRIVER'S LICENSE — TEMPORARY LICENSE.

1. A person is disqualified from operating a commercial motor vehicle for one year upon a conviction or final administrative decision that the person while operating a commercial motor vehicle has committed any of the following acts or offenses in any state or foreign jurisdiction:

a. Operating a commercial motor vehicle while under the influence of an alcoholic beverage or other drug or controlled substance or a combination of such substances.

b. Operating a commercial motor vehicle with a blood alcohol concentration, as defined in section 321J.1, of 0.04 or more.

c. Refusal to submit to chemical testing required under chapter 321J.

d. Failure to stop and render aid at the scene of an accident involving the person's vehicle.

e. A felony or aggravated misdemeanor involving the use of a commercial motor vehicle other than an offense involving manufacturing, distributing, or dispensing a controlled substance.

However, a person is disqualified for three years if the act or offense occurred while the person was operating a commercial motor vehicle transporting hazardous material of a type or quantity requiring vehicle placarding.

2. A person is disqualified for life if convicted or found to have committed two or more of the above acts or offenses arising out of two or more separate incidents. However, a disqualification for life is subject to a reduction to a ten-year disqualification as provided in 49 C.F.R. § 383.51 adopted as of a specific date by rule by the department.

3. A person is disqualified from operating a commercial motor vehicle for the person's life upon a conviction that the person used a commercial motor vehicle in the commission of a felony or aggravated misdemeanor involving the manufacturing, distributing, or dispensing of a controlled substance as defined in section 204.101.

4. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle:

a. Speeding fifteen miles per hour or more over the legal speed limit.

b. Reckless driving.

c. Any violation of the traffic laws, except a parking violation or a vehicle weight violation, which arises in connection with a fatal traffic accident.

d. Operating a commercial motor vehicle when not issued a motor vehicle license valid for the vehicle operated.

e. Operating a commercial motor vehicle upon a highway when disqualified.

f. Operating a commercial motor vehicle upon a highway without immediate possession of a motor vehicle license valid for the vehicle operated.

g. Following another motor vehicle too closely.

h. Improper lane changes in violation of section 321.306.

The period of disqualification under this subsection shall be sixty days for two offenses within any three-year period and one hundred twenty days for three offenses within any three-year period.

5. A person is disqualified from operating a commercial motor vehicle when the person's driving privilege is suspended or revoked.

6. Upon receiving a record of a person's disqualifying conviction, administrative decision, suspension, or revocation, the department shall, by rule, without preliminary hearing and upon twenty days' advance notice, disqualify the person from operating a commercial motor vehicle upon a highway.

7. A person is disqualified from operating a commercial motor vehicle if the person either refuses to submit to chemical testing required under chapter 321J or submits to chemical testing and the results show a blood alcohol concentration as defined in section 321J.1 of 0.04 or more. The department, upon receipt of the peace officer's certification, subject to penalty for perjury, that the peace officer had reasonable grounds to believe the person to have been operating a commercial motor vehicle with a blood alcohol concentration of 0.04 or more and that the person refused to submit to the chemical testing or submitted to chemical testing and the results show a blood alcohol concentration as defined in section 321J.1 of 0.04 or more, shall, without preliminary hearing and upon twenty days' advance notice, disqualify the person from operating a commercial motor vehicle upon a highway.

8. Upon notice, the disqualified person shall surrender the person's commercial driver's license to the department and the department may issue a driver's license valid only to operate a noncommercial motor vehicle upon payment of a one dollar fee. The department shall notify the commercial driver's license information system of the disqualification if required to do so under section 321.204.

9. Notwithstanding the Iowa administrative procedure Act, the filing of a petition for judicial review shall stay the disqualification pending the determination by the district court.

10. The department may reinstate a qualified person's privilege to operate a commercial motor vehicle after a period of disqualification and after payment of required fees.

11. As used in this section, the terms "acts", "actions", and "offenses" mean acts, actions, or offenses which occur on or after July 1, 1990.

Sec. 52. NEW SECTION. 321.208A TWENTY-FOUR HOUR OUT-OF-SERVICE ORDER.

A person required to hold a commercial driver's license to operate a commercial motor vehicle shall not operate a commercial motor vehicle on the highways of this state in violation of an out-of-service order issued by a peace officer for a violation of the out-of-service rules adopted by the department. An employer shall not allow an employee to drive a commercial motor vehicle in violation of such out-of-service order. The department shall adopt out-of-service rules which shall be consistent with 49 C.F.R. § 392.5 adopted as of a specific date by the department.

Sec. 53. Section 321.209, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department shall ~~forthwith~~ upon twenty days' notice and without preliminary hearing revoke the license or operating privilege of ~~any~~ an operator ~~or chauffeur, or driving privilege,~~ upon receiving a record of ~~such~~ the operator's ~~or chauffeur's~~ conviction ~~of~~ for any of the following offenses, when such conviction has become final:

Sec. 54. Section 321.210, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following:

321.210 SUSPENSION.

1. The department is authorized to establish rules providing for the suspension of the license of an operator upon twenty days' notice and without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

a. Is an habitually reckless or negligent driver of a motor vehicle.

b. Is an habitual violator of the traffic laws.

c. Is physically or mentally incapable of safely operating a motor vehicle.

d. Has permitted an unlawful or fraudulent use of the license.

e. Has committed an offense or acted in a manner in another state or foreign jurisdiction which in this state would be grounds for suspension or revocation.

f. Has committed a serious violation of the motor vehicle laws of this state.

g. Is subject to a license suspension under section 321.513.

Prior to a suspension taking effect under paragraph "a", "b", "c", "d", "e", or "f", the licensee shall have received twenty days' advance notice of the effective date of the suspension. Notwithstanding the terms of the Iowa administrative procedure Act, the filing of a petition for judicial review shall operate to stay the suspension pending the determination by the district court.

2. In determining suspension the department shall not consider the following:

a. Violation of motor vehicle equipment standards if repairs are made within seventy-two hours of the violation and satisfactory evidence of repair is immediately sent to the department.

b. Violations of requirements to install and use safety belts, safety harnesses, and child restraint devices under sections 321.445 and 321.446.

c. Parking violations, meaning violation of a local authority parking ordinance or violation of sections 321L.4, 321.366, subsection 6, and 321.354 through 321.361 except section 321.354, subsection 1.

d. The first two speeding violations within any twelve-month period of ten miles per hour or less over the legal speed limit in speed zones having a legal speed limit between thirty-four miles per hour and fifty-six miles per hour.

Sec. 55. Section 321.211, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

There is appropriated each year from the road use tax fund to the department of transportation one hundred twenty-five thousand dollars, or as much thereof as is necessary, to be used to pay the cost of notice and personal delivery of service, as necessary to meet the notice requirement of this section. The department shall 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 the manner provided in section ~~321.192~~ 321.145, as reimbursement for the costs of notice under this section.

Sec. 56. Section 321.212, subsection 2, Code 1989, is amended to read as follows:

2. The department upon suspending or revoking a motor vehicle license shall require that ~~such~~ the license be surrendered to and be retained by the department ~~except that at~~. At the end of the period of suspension ~~such~~ the license ~~so~~ surrendered shall be ~~returned~~ reissued to the licensee upon payment of the reinstatement fee under section 321.191. At the end of a period of revocation the licensee must apply for a new motor vehicle license.

Sec. 57. Section 321.213, Code Supplement 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~~ 8, paragraph "b", and sections 321.193, 321.194, 321.200, 321.209, 321.210, 321.215, 321A.17, 321J.2, 321J.3, and 321J.4.

Sec. 58. Section 321.215, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

321.215 TEMPORARY RESTRICTED LICENSE — TEMPORARY RESTRICTED PERMIT.

1. The department, on application, may issue a temporary restricted license to a person whose motor vehicle license is suspended or revoked under this chapter, allowing the person to drive to and from the person's home and specified places at specified times which can be verified by the department and which are required by any of the following:

a. The person's full-time or part-time employment.

b. The person's continuing health care or the continuing health care of another who is dependent upon the person.

c. The person's continuing education while enrolled in an educational institution on a part-time or full-time basis and while pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion.

d. The person's substance abuse treatment.

e. The person's court-ordered community service responsibilities.

However, a temporary restricted license shall not be issued to a person whose license is revoked under section 321.209, subsections 1 through 5 or subsection 7. A temporary restricted license may be issued to a person whose license is revoked under section 321.209, subsection 6, only if the person has no previous drag racing convictions. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

2. Upon conviction and the suspension or revocation of a person's motor vehicle license under section 321.209, subsection 5 or 6, 321.210, 321.210A, 321.513, or 321.555, subsection 2, and upon the denial by the director of an application for a temporary restricted license, a person may apply to the district court having jurisdiction for the residence of the person for a temporary restricted permit to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The application may be granted only if all of the following criteria are satisfied:

a. The temporary restricted permit is requested only for a case of extreme hardship where alternative means of transportation do not exist.

b. The permit applicant has not made an application for a temporary restricted permit in any district court in the state which was denied.

c. The temporary restricted permit is restricted to the limited purpose or purposes specified in subsection 1 at times specified in the permit.

d. Proof of financial responsibility is established as defined in chapter 321A; however, such proof is not required if the motor vehicle license was suspended under section 321.210A or 321.513.

The district court shall forward a record of each application for such temporary restricted permit to the department, together with the results of the disposition of the request by the court. A temporary restricted permit is valid only if the department is in receipt of records required by this section.

3. The temporary restricted license or permit shall be canceled upon conviction of a moving traffic violation or upon a violation of a term of the license or permit. A "moving traffic violation" does not include a parking violation as defined in section 321.210.

4. The temporary restricted license or permit is not valid to operate a commercial motor vehicle if a commercial driver's license is required for the person's operation of the commercial motor vehicle and the person is disqualified to operate a commercial motor vehicle under section 321.208, subsections 1, 2, 3, or 4.

Sec. 59. Section 321.216, Code Supplement 1989, is amended to read as follows:

321.216 UNLAWFUL USE OF LICENSE — PENALTY.

It is a simple misdemeanor for any person:

1. To display or cause or permit to be displayed or have in the person's possession ~~any~~ a canceled, revoked, suspended, fictitious, or fraudulently altered ~~temporary driver's permit,~~

~~temporary instruction permit, motorized bicycle license, operator's license, or chauffeur's~~ motor vehicle license.

2. To lend that person's ~~temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license, or chauffeur's~~ motor vehicle license to ~~any other~~ another person or knowingly permit the use ~~thereof~~ of the license by another.

3. To display or represent as one's own ~~any temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license, or chauffeur's~~ a motor vehicle license not issued to that person.

4. To fail or refuse to surrender to the department upon its lawful demand ~~any temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license, or chauffeur's~~ a motor vehicle license which has been suspended, revoked, or canceled.

5. To use a false or fictitious name in ~~any~~ an application for a ~~temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license, or chauffeur's~~ motor vehicle license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in ~~any such~~ the application.

6. To permit ~~any~~ an unlawful use of a ~~temporary driver's permit, temporary instruction permit, motorized bicycle license, operator's license, or chauffeur's~~ motor vehicle license issued to that person.

7. To obtain, possess or have in one's control or on one's premises blank motor vehicle license forms.

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. 60. Section 321.218, Code Supplement 1989, is amended to read as follows:

321.218 ~~DRIVING~~ OPERATING WITHOUT VALID MOTOR VEHICLE LICENSE OR WHEN DISQUALIFIED — PENALTIES.

1. A person whose ~~operator's or chauffeur's~~ motor vehicle license or ~~driving~~ operating privilege has been denied, canceled, suspended, or revoked as provided in this chapter, and who ~~drives~~ operates 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~~ operating privilege has been revoked under section 321.209, and who ~~drives~~ operates 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~~ operating a motor vehicle while the license of the person ~~was~~ is suspended or revoked, shall, except for licenses suspended under section 321.210, subsection 1, paragraph "c", 321.210A, or 321.513, extend the period of suspension or revocation for an additional like period, and the department shall not issue a new motor vehicle license to the person during the additional period.

5. A person who operates a commercial motor vehicle upon the highways of this state when disqualified from operating the commercial motor vehicle under section 321.208 commits a simple misdemeanor if a commercial driver's license is required for the person to operate the commercial motor vehicle.

~~5~~ 6. ~~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, is, upon conviction, guilty of a simple misdemeanor~~ The department, upon receiving the record of a conviction of a person under this section upon a charge of operating a commercial motor vehicle while the person is disqualified shall extend the period of disqualification for an additional like period.

Sec. 61. Section 321.220, Code 1989, is amended to read as follows:

321.220 PERMITTING UNAUTHORIZED PERSON TO DRIVE.

~~No~~ A person shall not knowingly authorize or ~~knowingly~~ permit a motor vehicle owned by ~~that~~ the person or under the person's control to be driven upon ~~any~~ a highway by ~~any~~ a person who is not ~~authorized hereunder or in violation of any of the provisions of this chapter~~ issued a motor vehicle license valid for the vehicle's operation.

Sec. 62. Section 321.221, Code 1989, is amended to read as follows:

321.221 EMPLOYING UNLICENSED CHAUFFEUR.

~~No~~ A person shall not employ as a chauffeur of a motor vehicle ~~any~~ a person not then ~~licensed~~ holding a class D driver's license or a commercial driver's license as provided in this chapter.

Sec. 63. Section 321.223, Code 1989, is amended to read as follows:

321.223 MOTOR VEHICLE LICENSE ~~INSPECTED~~ INSPECTION FOR MOTOR VEHICLE RENTAL.

~~No~~ A person shall not rent a motor vehicle to another ~~until the~~ person ~~has inspected~~ without inspecting the ~~operator's or chauffeur's~~ motor vehicle license of the person to whom the vehicle is to be rented and ~~compared~~ doing all of the following:

1. A comparison and ~~verified~~ verification of the signature ~~thereon~~ on the motor vehicle license with the signature of such person written in the inspecting person's presence.

2. A comparison and verification of the person to whom the motor vehicle is to be rented with the photograph and other identification information on the person's motor vehicle license.

3. A determination that the motor vehicle license of the person to whom the vehicle is to be rented is valid for operating the vehicle to be rented.

Sec. 64. Section 321.233, unnumbered paragraph 2, Code 1989, is amended by striking the unnumbered paragraph.

Sec. 65. Section 321.234A, Code 1989, is amended to read as follows:

321.234A ALL-TERRAIN VEHICLES — BICYCLE SAFETY FLAG REQUIRED.

All-terrain vehicles shall be operated on a highway only between sunrise and sunset and only when the operation on the highway is incidental to the vehicle's use for agricultural purposes. A person operating an all-terrain vehicle on a highway shall have a valid ~~operator's~~ motor vehicle license and the vehicle shall be operated at speeds of less than thirty miles per hour. When operated on a highway, an all-terrain vehicle shall have a bicycle safety flag which extends not less than five feet above the ground attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches, be day-glow in color, and shall be in lieu of the reflective equipment required by section 321.383.

Sec. 66. Section 321.247, Code 1989, is amended to read as follows:

321.247 GOLF CART OPERATION ON CITY STREETS.

Incorporated areas may, upon approval of their governing body, allow the operation of golf carts on city streets by persons possessing a valid ~~operator's~~ motor vehicle license. However, a golf cart shall not be operated upon a city street which is a primary road extension through the city but shall be allowed to cross a city street which is a primary road extension through the city. The golf carts shall be equipped with a slow moving vehicle sign and a bicycle safety flag and operate on the streets only from sunrise to sunset. Golf carts operated on city streets shall be equipped with adequate brakes and shall meet any other safety requirements imposed by the governing body. Golf carts are not subject to the registration provisions of this chapter.

Sec. 67. Section 321.261, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

3. ~~Any~~ A person failing to stop or to comply with the requirements in subsection 1 ~~of this section~~, in the event of an accident resulting in the death of ~~any~~ a person, is guilty upon conviction of an aggravated misdemeanor.

4. The director shall revoke the ~~operator's or chauffeur's~~ motor vehicle license of ~~the~~ a person ~~so~~ convicted of a violation of this section.

Sec. 68. Section 321.263, Code 1989, is amended to read as follows:

321.263 INFORMATION AND AID — LEAVING SCENE OF ACCIDENT.

1. The driver of ~~any~~ a vehicle involved in an accident resulting in injury to or death of ~~any~~ a person or damage to ~~any~~ a vehicle which is driven or attended by ~~any~~ a person shall give the driver's name, address, and the registration number of the vehicle the driver is driving and shall upon request and if available exhibit the driver's ~~operator's or chauffeur's~~ motor vehicle license to the person struck, ~~or~~ the driver or occupant of, or the person attending ~~any~~ the vehicle ~~collided with~~ involved in the accident and shall render to ~~any~~ a person injured in ~~such~~ the accident reasonable assistance, including the ~~carrying, or the making of arrangements for the carrying~~, transporting or arranging for the transporting of ~~such~~ the person ~~to a physician, surgeon, or hospital~~ for medical ~~or surgical~~ treatment if it is apparent that ~~such~~ medical treatment is necessary or if ~~such carrying~~ transportation for medical treatment is requested by the injured person.

2. If the accident causes the death of ~~any~~ a person, ~~the~~ all surviving ~~driver~~ drivers shall ~~not leave~~ remain at the scene of the accident except to seek necessary aid ~~for the surviving driver~~ or to report the accident to law enforcement authorities. Before leaving the scene of the fatal accident, ~~the~~ each surviving driver shall leave the surviving driver's motor vehicle license, automobile registration receipt, or other identification data at the scene of the accident. After leaving the scene of the accident, ~~the~~ a surviving driver shall promptly report the accident ~~by telephone~~ to law enforcement authorities, and shall immediately return to the scene of the accident, or ~~shall~~ inform the law enforcement authorities where the surviving driver can be located.

Sec. 69. Section 321.265, Code 1989, is amended to read as follows:

321.265 STRIKING FIXTURES UPON A HIGHWAY.

The driver of ~~any~~ a vehicle involved in an accident resulting in damage to property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner, a peace officer, or person in charge of ~~such~~ the damaged property of ~~such fact~~ the damage and shall inform the person of the driver's name and address and ~~of~~ the registration number of the vehicle causing the damage and shall, upon request and if available, exhibit the driver's ~~operator's or chauffeur's~~ motor vehicle license and shall ~~make~~ report ~~of such~~ the accident when and as required in section 321.266.

Sec. 70. Section 321.375, Code Supplement 1989, is amended to read as follows:

321.375 SCHOOL BUS DRIVERS — QUALIFICATIONS — GROUNDS FOR SUSPENSION.

1. ~~The drivers~~ A driver of a school ~~buses~~ bus must meet all of the following requirements:

a. ~~(1) be~~ Be at least eighteen years of age.~~, unless such person has successfully completed an approved driver education course, in which case, the minimum age shall be sixteen years, (2) be~~

b. Be physically and mentally competent.~~, (3) not~~

c. Not possess personal or moral habits which would be detrimental to the best interests of the safety and welfare of the children transported.~~, (4) have~~

d. Have an annual physical examination and meet all established requirements for physical fitness.

2. Any of the following shall constitute grounds for a school bus driver's immediate suspension from duties, pending a termination hearing by the board of directors of a public school district or the authorities in charge in a nonpublic school:

a. Use of nonprescription controlled substances or alcoholic beverages during working hours.~~, operating~~

b. Operating a school bus while under the influence of nonprescription controlled substances or alcoholic beverages.~~, fraud~~

c. Fraud in the procurement or renewal of a school bus driver's permit.~~, the~~

d. 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 if the offense includes 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. 71. Section 321.376, Code Supplement 1989, is amended to read as follows:

321.376 LICENSE – PERMIT – INSTRUCTION REQUIREMENT.

The driver of ~~every~~ a school bus shall ~~have a regular or special chauffeur's~~ hold a school bus driver's permit issued by the department of education and a driver's license issued by the department, ~~and in addition thereto, must hold a school bus driver's permit issued by the department of education~~ valid for the operation of the school bus. A person holding a temporary restricted license issued under chapter 321J shall be prohibited from operating a school bus.

~~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 department of education approved course of instruction for school bus drivers before or within the first six months of employment and at least every twenty-four months thereafter. If an employee fails to provide an employer with a certificate of completion of ~~an approved~~ the required 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 of education and the employee's school bus driver's permit shall be revoked. The department of education 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~~ another school bus driver's permit until certification of the completion of an approved school bus driver's course is received by the department of education.

Sec. 72. Section 321.485, subsection 1, paragraph b, subparagraph (1), Code 1989, is amended to read as follows:

(1) Prepare a written citation to appear in court containing the name and address of such person, the ~~operator or chauffeur~~ motor vehicle license number, if any, the registration number, if any, of the person's vehicle, the offense charged, and the time ~~when~~ and place ~~where such~~ the person shall appear in court; or

Sec. 73. Section 321.491, Code 1989, is amended to read as follows:

321.491 CONVICTIONS AND RECOMMENDATIONS FOR SUSPENSION TO BE REPORTED.

Every district ~~court~~ judge, district associate judge, and judicial magistrate shall keep a full record of every case in which a person is charged with any violation of this chapter or of any other law regulating the operation of vehicles on highways.

Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any provision of this chapter or other law regulating the operation of vehicles on highways every ~~said~~ magistrate of the court or clerk of the court of record in which ~~such~~ the conviction ~~was had~~ occurred or bail was forfeited shall prepare and immediately forward to the department an abstract of the record of ~~said court covering~~ the case ~~in which said person was so convicted or forfeited bail, which~~. The abstract must be certified by the person ~~so required to prepare the same~~ preparing it to be true and correct.

~~Said~~ The abstract must be made upon a form furnished by the department and shall include the name and address of the party charged, the registration number of the vehicle involved,

the nature of the offense, the date of hearing, the plea, the judgment, or whether the bail was forfeited, ~~and~~ the amount of the fine or forfeiture ~~as the case may be~~, and any court recommendation, if any, that the person's motor vehicle license be suspended. The department shall consider and act upon the recommendation.

Every clerk of a court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

The failure, refusal, or neglect of ~~any such~~ an officer to comply with ~~any of~~ the requirements of this section shall constitute misconduct in office and shall be ground for removal ~~therefrom~~ from office.

~~The department shall keep all~~ All abstracts received ~~hereunder at its main office and the same~~ by the department under this section shall be open to public inspection during reasonable business hours.

Sec. 74. Section 321.555, subsection 1, paragraph c, Code Supplement 1989, is amended to read as follows:

c. Driving a motor vehicle while ~~operator's or chauffeur's~~ the person's motor vehicle license is suspended or revoked.

Sec. 75. Section 321.555, subsection 1, paragraph f, Code Supplement 1989, is amended to read as follows:

f. Failure to stop and leave information or to render aid as required by ~~section~~ sections 321.261 and 321.263.

Sec. 76. Section 321.555, subsection 2, Code Supplement 1989, is amended to read as follows:

2. Six or more of any separate and distinct offenses within a two-year period in the operation of a motor vehicle, which are required to be reported to the department by section ~~321.207~~ 321.491 or chapter 321C, except equipment violations, parking violations as defined in section 321.210, violations of registration laws, violations of sections 321.445 and 321.446, operating a vehicle with an expired license or permit, failure to appear, weights and measures violations and speeding violations of less than fifteen miles per hour over the legal speed limit.

Sec. 77. Section 321A.1, subsections 3 and 7, Code 1989, are amended to read as follows:

3. LICENSE. ~~Any license, temporary instruction permit, or temporary~~ A motor vehicle license as defined in section 321.1 issued under the laws of this state ~~pertaining to the licensing of persons to operate motor vehicles~~.

7. OPERATOR. ~~Every~~ A person who is in actual physical control of a motor vehicle whether or not ~~licensed as an operator or chauffeur~~ that person has a motor vehicle license as required under the laws of this state.

Sec. 78. Section 321A.17, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. This section does not apply to a commercial driver's licensee who is merely disqualified from operating a commercial motor vehicle under section 321.208 if the licensee's driver's license is not suspended or revoked.

Sec. 79. Section 321E.26, Code 1989, is amended to read as follows:

321E.26 DRIVER OF ESCORT VEHICLE — LICENSE REQUIRED.

~~Any~~ An operator of an escort vehicle, serving as an escort in the movement of vehicles and loads of excess size and weight under permits as required by this chapter shall have a ~~valid operator's or chauffeur's~~ motor vehicle license as defined in section 321.1 valid for the operation of the escort vehicle.

Sec. 80. Section 321G.9, subsection 6, paragraph b, Code Supplement 1989, is amended to read as follows:

b. A person twelve to fifteen years of age and possessing a valid safety certificate must be under the direct supervision of a 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~~ motor vehicle license~~, instruction permit, restricted license or temporary permit issued under chapter 321~~ as defined in section 321.1, or a safety certificate issued under this chapter.

Sec. 81. Section 321G.20, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

~~No~~ An owner or operator of ~~any~~ a snowmobile shall not permit ~~any~~ a person under twelve years of age to operate ~~nor shall any~~ and a person less than twelve years of age shall not operate, ~~the~~ a snowmobile except when accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and who possesses a valid ~~operator's or chauffeur's~~ motor vehicle license, ~~instruction permit, restricted license, or temporary permit issued under chapter 321~~ as defined in section 321.1, or a safety certificate issued under this chapter.

Sec. 82. Section 321G.24, subsection 1, Code Supplement 1989, is amended to read as follows:

1. A person under eighteen years of age shall not operate an all-terrain vehicle or snowmobile in this state without obtaining a valid safety certificate issued by the commission and having the certificate in the person's possession, ~~or~~ unless the person is accompanied on the same 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~~ motor vehicle license, ~~instruction permit, restricted license or temporary permit issued under chapter 321~~ as defined in section 321.1, or a safety certificate issued under this chapter.

Sec. 83. Section 321J.1, subsection 6, Code 1989, is amended to read as follows:

6. "Motor vehicle license" means any license or permit issued to a person to operate a motor vehicle ~~in~~ on the highways of this state, including but not limited to ~~an operator, chauffeur, or motorized bicycle license and an instruction~~ a driver's, commercial driver's, temporary restricted, or temporary license and an instruction, chauffeur's instruction, commercial driver's instruction, temporary restricted, or temporary permit.

Sec. 84. Section 321J.4, subsection 8, Code 1989, is amended to read as follows:

8. A person whose motor vehicle license has either been revoked under this chapter, or revoked or suspended under chapter 321 solely for violations of this chapter, or who has been determined to be a habitual offender under chapter 321 based solely on violations of this chapter, and who is not eligible for a temporary restricted license under this chapter may petition the court for an order to the department to require the department to issue a temporary restricted license to the person notwithstanding section 321.560. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, the court shall order the department to issue to the person a temporary restricted license conditioned upon the person's certification to the court of the installation of approved ignition interlock devices in all motor vehicles that it is necessary for the person to operate to maintain the person's present employment. Section 321.561 does not apply to a person operating a motor vehicle in the manner permitted under this subsection. If the person operates a motor vehicle which does not have an approved ignition interlock device or if the person tampers with or circumvents an ignition interlock device, in addition to other penalties provided, the person's temporary restricted license shall be revoked. A person holding a temporary restricted license issued under this subsection shall not operate a commercial motor vehicle, as defined in section 321.1, on a highway if a commercial driver's license is required for the person to operate the commercial motor vehicle.

Sec. 85. Section 321J.6, subsection 1, paragraph e, Code 1989, is amended to read as follows:

e. The preliminary breath screening test was administered to a person operating a commercial motor vehicle as defined in section 321.1 and it indicated an alcohol concentration of 0.04 or more.

f. The preliminary breath screening test was administered and it indicated an alcohol concentration of less than ~~.10~~ 0.10 and the peace officer has reasonable grounds to believe that the person was under the influence of a drug other than alcohol or a combination of alcohol and another drug.

Sec. 86. Section 321J.8, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the person is operating a commercial motor vehicle as defined in section 321.1 and either refuses to submit to the test or submits to the test and the results indicate an alcohol concentration of 0.04 or more, the person is disqualified from operating a commercial motor vehicle for the applicable period under section 321.208 in addition to any revocation of the person's license or operating privilege which may be applicable under this chapter.

Sec. 87. Section 321J.20, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person holding a temporary restricted license issued by the department under this section shall not operate a commercial motor vehicle on a highway if a commercial driver's license is required for the person's operation of the commercial motor vehicle. However, this subsection does not apply if the temporary restricted license was issued as a result of a violation of this chapter while the person was operating a vehicle other than a commercial motor vehicle.

Sec. 88. Section 321J.20, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A person holding a temporary license issued by the department under this chapter shall be prohibited from operating a school bus.

Sec. 89. Section 326.6, subsection 2, paragraph d, Code 1989, is amended to read as follows:

d. The product so obtained under paragraph "c" of this subsection shall be the amount payable by the owner for proportional registration of the fleet for the registration year. Payment of registration fees shall be made in accordance with ~~law~~ section 321.134, subsection 2, or a fleet owner on a renewal registration may pay a fee equal to one-half of the applicable fee and post a surety bond, certificate of deposit, or letter of credit, equal to one-half of the applicable fee at the time of the first installment. Payment of the first installment entitles an owner to the issuance of full-year credentials. The second installment shall be paid by July 15. If the second installment is not paid by July 15, the department shall file claim against the security for payment of fees and penalties due and the owner shall not be entitled to elect the installment payment option for the following year. Excess surety moneys received shall be refunded minus a fifty dollar administration fee.

Sec. 90. Section 331.427, subsection 1, unnumbered paragraph 1, Code Supplement 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, 422.65, 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 chapter 405A, and the following:

Sec. 91. Section 331.653, subsection 31, Code 1989, is amended by striking the subsection.

Sec. 92. Section 331.655, subsection 1, paragraph n, Code 1989, is amended by striking the paragraph.

Sec. 93. Section 805.6, subsection 1, paragraph a, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The commissioner of public safety, the director of transportation, and the director of natural resources, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation or ordinance, and which shall be used for charging all other violations which are designated by section 805.8 to be scheduled violations. The court costs in cases of parking violations which are denied, and charged and collected pursuant to section 321.236, subsection 1, are eight dollars per court appearance, regardless of the number of parking violations considered at that court appearance. The court costs in scheduled violation cases where a court appearance is not required are ten dollars. The court costs in scheduled violation cases where a court appearance is required are fifteen dollars. This subsection does not prevent the charging of any of those violations by information, by private complaint filed under chapter 804, or by a simple notice of fine where permitted by section 321.236, subsection 1. Each uniform citation and complaint shall be serially numbered and shall be in quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward ~~the copy~~ an abstract of the uniform citation and complaint in accordance with section ~~321.207~~ 321.491 when applicable.

Sec. 94. Section 805.8, subsection 2, paragraph f, Code Supplement 1989, is amended to read as follows:

f. For violations of ~~a restricted~~ the conditions or restrictions of a motor vehicle license under section 321.180, 321.193 and 321.194, the scheduled fine is twenty dollars.

Sec. 95. Section 805.9, subsections 1 and 2, Code 1989, are amended to read as follows:

1. In cases of scheduled violations, the defendant, before the time specified in the citation and complaint for appearance before the court, may sign the admission of violation on the citation and complaint and deliver or mail a copy of the citation and complaint, together with the minimum fine for the violation, plus court costs, to a scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter 321, forward ~~a copy~~ an abstract of the citation and complaint and admission to the state department of transportation as required by section ~~321.207~~ 321.491. In this case the defendant is not required to appear before the court. The admission constitutes a conviction.

2. A defendant charged with a scheduled violation by information may obtain two copies of the information from the court and, before the time the defendant is required to appear before the court, deliver or mail the copies, together with the defendant's admission, fine, and court costs, to the scheduled violations office in the county. The procedure, fine, and costs are the same as when the charge is by citation and complaint, with the admission and the number of the defendant's ~~operator's or chauffeur's~~ motor vehicle license as defined in section 321.1 placed upon the information, when the violation involves the use of a motor vehicle.

Sec. 96. Section 805.16, subsection 2, Code 1989, is amended to read as follows:

2. A person under the age of eighteen who refuses to sign the citation without qualification, who persists in engaging in the conduct for which the citation was issued, who refuses to provide proper identification or to identify the person's self, or who constitutes an immediate threat to the person's own safety or the safety of the public may be arrested in the manner provided in subsection 3. In addition, or alternatively, the peace officer may require that person to surrender the person's motor vehicle ~~operator's~~ license as defined in section 321.1 until the time of the person's initial court appearance. The peace officer shall immediately send the person's ~~operator's~~ motor vehicle license along with a copy of the unsigned citation indicating the juvenile's refusal to sign to the clerk of the district court for the district in which the peace officer issued the citation.

Sec. 97. Sections 321.175, 321.183, 321.192, 321.202, 321.207, 321.214, and 321A.35, Code 1989, are repealed.

Sec. 98.

The legislative council may authorize an interim study in the 1991 interim to evaluate the implementation of this Act and to recommend necessary legislative changes.

Sec. 99.

Notwithstanding contrary provisions of the Code or this Act, the state department of transportation shall not issue commercial driver's licenses until the commercial driver's license provisions of this Act have been approved by federal authorities. A valid chauffeur's license issued by the state department of transportation which expires on or after July 1, 1990, shall be valid to operate a motor vehicle according to the terms and limitations of the license until the date commercial driver's licenses may be issued by the state department of transportation under this section in accordance with rules adopted by the state department of transportation.

Sec. 100.

Section 89 of this Act applies to the 1992 and subsequent registration years.

Approved May 1, 1990

CHAPTER 1231

ENTREPRENEURSHIP TASK FORCE

H.F. 2482

AN ACT establishing an entrepreneurship task force, and providing an appropriation.

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

Section 1. ENTREPRENEURSHIP TASK FORCE.

The department of economic development shall convene an entrepreneurship task force on November 15, 1990, or as soon thereafter as practicable, for the purpose of studying how to encourage, promote, and support entrepreneurship in the state with the goal of increasing the formation and success of new business enterprises. The entrepreneurship task force shall be composed of twenty-five members appointed or designated by August 1, 1990, as follows:

1. The director of the department of economic development or the director's designee.
2. A member of the board of directors of the Wallace technology transfer foundation appointed by the board of directors of the Wallace technology transfer foundation.
3. A member of the board of directors of a small business economic development corporation appointed by the director of the department of economic development.
4. A member of the board of directors of the Iowa product development corporation appointed by the board of directors of the Iowa product development corporation.
5. A member of the board of directors of the Iowa business development corporation appointed by the board of directors of the Iowa business development corporation.
6. A member of the Iowa finance authority board appointed by the Iowa finance authority board.
7. A representative of the university of Iowa to be appointed by the president of the university of Iowa, a representative of Iowa state university of science and technology to be appointed by the president of Iowa state university of science and technology, and a representative of the university of northern Iowa to be appointed by the president of the university of northern Iowa.
8. A representative of the community colleges appointed by the Iowa association of community college presidents.
9. A representative of the private colleges and universities appointed by the Iowa association of independent colleges and universities.
10. A designee of the governor from state government.
11. A senator appointed by the majority leader of the senate.
12. A senator appointed by the minority leader of the senate.

13. A member of the house of representatives appointed by the speaker of the house of representatives.

14. A member of the house of representatives appointed by the minority leader of the house of representatives.

15. Nine public members who are actively engaged as entrepreneurs appointed by the governor.

If a member has not been appointed by the date of the convening of the task force, the members already in place shall appoint the member at the task force's first meeting. A vacancy occurring in the membership of the entrepreneurship task force shall be filled in the same manner as the original appointment. The members' appointments shall terminate December 31, 1991. The members shall elect a chairperson at the first meeting of the task force. The chairperson shall call and conduct all future meetings.

The entrepreneurship task force shall submit a report of the task force's deliberations with a request for assistance to further study entrepreneurship or with specific recommendations to the department of economic development for transmission to the governor and the general assembly by January 15, 1991.

Sec. 2. APPROPRIATION.

There is appropriated from the general fund of the state to the department of economic development for the fiscal period beginning July 1, 1990, and ending January 15, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the entrepreneurship task force for expenses as necessary:

..... $ 25,000

Approved May 2, 1990

CHAPTER 1232

STATE TAXES

H.F. 2551

AN ACT relating to taxes administered and fees collected by the department of revenue and finance including technical corrections, payment and liability for certain sales and use taxes, special fuel taxes, income tax, franchise tax, inheritance tax, and providing for certain retroactive applicability and effective dates.

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

Section 1. Section 98.44, subsection 4, Code Supplement 1989, is amended to read as follows:

4. Each application for a distributor's license shall be accompanied by a fee of ~~twenty-five~~ one hundred dollars, except that ~~no~~ an applicant holding a permit pursuant to division I of this chapter shall not be required to pay an additional fee. The application shall ~~also~~ be accompanied by a corporate surety bond issued by a surety licensed to do business in this state, in the sum of one thousand dollars, conditioned upon the true and faithful compliance by the distributor with all the provisions of this division and the payment when due of all taxes, penalties and accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the state of Iowa. This bond shall be in a form to be fixed by the director and approved by the attorney general. Whenever it is the opinion of the director that the bond given by a licensee is inadequate in amount to fully protect the state, the director shall require either an increase in the amount of said bond or additional bond, in such amount as the director deems sufficient. Any bond required by this subdivision, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license.

A separate application for license shall be made for each place of business ~~at which~~ where a distributor proposes to engage in business as such under this division.

Sec. 2. Section 324.34, unnumbered paragraph 6, Code 1989, is amended to read as follows:

All gallonage which is not for highway or aircraft use, dispensed through metered pumps as licensed under this section, on which special fuel tax is not collected, must be substantiated by exemption certificates as provided by the department or by valid exemption certificates provided by the dealers, signed by the purchaser, and retained by the dealer. A "valid exemption certificate provided by a dealer" is an exemption certificate which is in the form prescribed by the director to assist dealers in properly accounting for fuel dispensed for which special fuel tax is not collected and which is complete and correct according to the requirements of the director.

Sec. 3. Section 421.9, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The director may make application to the district court or judicial magistrate in the county where the books, records, or assets are located for an administrative search warrant as authorized by section 808.14, to ensure equitable administration of state tax law, if any of the following occurs:

a. A person refuses to allow the director or the director's authorized representative to audit the person's books or records or to inspect or value the person's assets.

b. The director has good and sufficient reason to believe that a person will not allow the department to audit books or records or inspect or value assets or to believe that the person will destroy books or records or secrete or transfer assets.

The director may make application to the district court or judicial magistrate for an administrative search warrant as authorized by section 808.14 to execute a distress warrant authorized by section 422.26.

Sec. 4. Section 421.17, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 31. At the director's discretion, accept payment of taxes, penalties, interest, and fees, or any portion thereof, by credit card. The director may adjust the payable amount to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.

Sec. 5. Section 421.26, Code 1989, is amended to read as follows:

421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 324.65, a retailer or purchaser under chapter 422A or 422B, or section 422.52, or a retailer or purchaser under section 423.13 or a user under section 423.14 fails to pay a tax under those sections when due, ~~any~~ an officer of a corporation or association, or ~~any~~ a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest, and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 6. Section 421.27, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The taxpayer was subject to the penalty provision of section 422.25, subsection 2, and was eligible to compute taxable income under the cash receipts and disbursements method of accounting under section 448(b)(3) of the Internal Revenue Code. The waiver provision in this paragraph applies only for tax years beginning in the 1985 and 1986 calendar years and only to the extent that the taxpayer failed to include in its net income for state tax purposes interest payable on short-term obligations as it accrued during those tax years as provided in section 1281 of the Internal Revenue Code and provided that an amended return is filed by July 1, 1990.

Sec. 7. Section 421.28, Code 1989, is amended to read as follows:

421.28 EXCEPTIONS TO SUCCESSOR LIABILITY.

The immediate successor to a licensee's or retailer's business or stock of goods under chapter 422A or 422B, or section 324.65, 422.52, ~~or~~ 423.13, or 423.14 is not personally liable for the amount of delinquent tax, interest, or penalty due and unpaid if the immediate successor shows that the purchase of the business or stock of goods was made in good faith that no delinquent tax, interest, or penalty was due and unpaid. For purposes of this section the immediate successor shows good faith by evidence that no tax liens were filed, that the department had informed the immediate successor that no delinquent tax, interest, or penalty is unpaid, or that the immediate successor had taken in good faith a certified statement from the licensee or retailer that no delinquent tax, interest, or penalty is unpaid. When requested to do so by a person with whom the licensee or retailer is negotiating the sale of the business or stock of goods, the director of revenue and finance shall, upon being satisfied that such a situation exists, inform that person as to the amount of unpaid delinquent tax, interest, or penalty due by the licensee or the retailer. The giving of the information under this circumstance is not a violation of section 324.63, 422.20, or 422.72.

Sec. 8. Section 422.26, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The lien ~~aforesaid~~ shall attach at the time the tax becomes due and payable and shall continue for ten years from the ~~time the lien attaches~~ date an assessment is issued unless sooner released or otherwise discharged. The lien may, within ten years from the date ~~the lien attaches~~ an assessment is issued, be extended by filing for record a notice with the appropriate county official of any 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. Liens having attached prior to January 1, 1969, will expire on January 1, 1979, unless extended by the director. 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 prescribed by the director that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

Sec. 9. Section 422.26, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsection:

NEW SUBSECTION. 6. Date of assessment.

Sec. 10. Section 422.26, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, "assessment issued" means the most recent assessment against the taxpayer for the tax type and tax period.

Sec. 11. Section 422.27, subsection 1, Code 1989, is amended to read as follows:

1. A final account of a personal representative, as defined in section 450.1, shall not be allowed by any court unless the account shows, and the judge of the court finds, that all taxes imposed by this division upon the personal representative, which have become payable, have been paid, and that all taxes which may become due are secured by bond~~,~~ or deposit, or are otherwise secured. The certificate of acquittances of the department of revenue and finance is conclusive as to the payment of the tax to the extent of the acquittance. This subsection does not apply if all property in the estate of a decedent is held in joint tenancy with right of survivorship by husband and wife alone.

Sec. 12. Section 422.42, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Property purchased for resale in connection with the performance of a service" means property which is purchased for resale in connection with the performance of a service by a person who renders, furnishes, or performs the service if all of the following occur:

a. The provider and user of the service intend that a sale of the property will occur.

b. The property is transferred to the user of the service in connection with the performance of the service in a form or quantity capable of a fixed or definite price value.

c. The sale is evidenced by a separate charge for the identifiable piece of property.

Sec. 13. Section 422.43, subsection 11, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The following enumerated services are subject to the tax imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property, except mobile homes which are tangible personal property; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; sewing and stitching; shoe repair and shoeshine; storage warehousing of raw agricultural products; telephone answering service; test laboratories, except tests on humans; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing; ~~cable~~ pay television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping and tree trimming and removal; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening.

Sec. 14. Section 422.45, subsection 5, Code Supplement 1989, is amended to read as follows:

5. The gross receipts or from services rendered, furnished, or performed and of all sales of goods, wares or merchandise used for public purposes to any tax-certifying or tax-levying body of the state ~~of Iowa~~ or governmental subdivision ~~thereof~~ of the state, including regional transit systems, as defined in section 601J.1, the state board of regents, state department of human services, state department of transportation, any municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which have no earnings going to the benefit of an equity investor or stockholder except sales of goods, wares or merchandise or from services rendered, furnished, or performed and used by or in connection with the operation of any municipally owned public utility engaged in selling gas, electricity or heat to the general public.

The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise or from services rendered, furnished, or performed and subject to use tax under the provisions of chapter 423.

Sec. 15. Section 422.45, subsection 7, Code Supplement 1989, is amended to read as follows:

7. A private nonprofit educational institution in this state, nonprofit private museum or a tax-certifying or tax-levying body or governmental subdivision of the state, including the state board of regents, state department of human services, state department of transportation, a municipally owned solid waste facility which sells all or part of its processed waste as fuel to a municipally owned public utility, and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government which do not have earnings going to the benefit of an equity investor or stockholder may make application to the department for the refund of the sales, services, or use tax upon the gross receipts of all sales of

goods, wares or merchandise, or from services rendered, furnished, or performed, to a contractor, used in the fulfillment of a written contract with the state of Iowa, any political subdivision of the state, or a division, board, commission, agency or instrumentality of the state or a political subdivision, ~~or~~ a private nonprofit educational institution in this state, or a nonprofit private museum if the property becomes an integral part of the project under contract and at the completion of the project becomes public property, ~~or~~ is devoted to educational uses; or becomes a nonprofit private museum except goods, wares or merchandise or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public; and except goods, wares, and merchandise used in the performance of a contract for a "project" under chapter 419 as defined in that chapter other than goods, wares or merchandise used in the performance of a contract for a "project" under chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968, or for which the goods, wares, or merchandise becomes an integral part of the project under contract and at the completion of the project becomes public property or is devoted to educational uses.

a. Such contractor shall state under oath, on forms provided by the department, the amount of such sales of goods, wares or merchandise or services rendered, furnished, or performed and used in the performance of such contract, and upon which sales or use tax has been paid, and shall file such forms with the governmental unit, ~~or~~ private nonprofit educational institution, or nonprofit private museum which has made any written contract for performance by ~~said~~ the contractor. ~~Such~~ The forms shall be filed by the contractor with the governmental unit, ~~or~~ educational institution, or nonprofit private museum before final settlement is made.

b. Such governmental unit, ~~or~~ educational institution, or nonprofit private museum shall, not more than six months after the final settlement has been made, make application to the department for any refund of the amount of such sales or use tax which shall have been paid upon any goods, wares or merchandise, or services rendered, furnished, or performed, such application to be made in the manner and upon forms to be provided by the department, and the department shall forthwith audit such claim and, if approved, issue a warrant to such governmental unit, ~~or~~ educational institution, or nonprofit private museum in the amount of such sales or use tax which has been paid to the state of Iowa under such contract.

c. Any contractor who shall willfully make false report of tax paid under the provisions of this subsection shall be guilty of a simple misdemeanor and in addition thereto shall be liable for the payment of the tax ~~with~~ and any applicable penalty and interest ~~thereon~~.

Sec. 16. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 43. The gross receipts of all sales of goods, wares, merchandise, or services, used for educational, scientific, historic preservation, or aesthetic purpose to a nonprofit private museum.

Sec. 17. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 44. The gross receipts from the sale of tangible personal property or the sale, furnishing, or servicing of electrical energy, natural or artificial gas, or communication service to another state or political subdivision of another state if the other state provides a similar reciprocal exemption for this state and political subdivisions of this state.

Sec. 18. Section 422.45, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 45. The gross receipts from the sale of tangible personal property consisting of advertising material including paper to a person in Iowa if that person or that person's agent will, subsequent to the sale, send that advertising material outside this state and the material is subsequently used solely outside of Iowa. For the purpose of this subsection, "advertising material" means any brochure, catalog, leaflet, flyer, order form, return envelope, or similar item used to promote sales of property or services.

Sec. 19. Section 422.72, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

It is unlawful for the director, or any person having an administrative duty under this chapter, or any present or former officer or other employee of the state authorized by the director to examine returns, to divulge in any manner whatever, the business affairs, operations, or information obtained by an investigation under this chapter of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy of a return or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law. However, the director may authorize examination of such state returns and other state information which is confidential under this section, if a reciprocal arrangement exists, by tax officers of another state or the federal government. The director may, by rules adopted pursuant to chapter 17A, authorize examination of state information and returns by other officers or employees of this state to the extent required by their official duties and responsibilities. Disclosure of state information to tax officers of another state is limited to disclosures which have a tax administrative purpose and only to officers of those states which ~~have laws that are as strict~~ by agreement with this state limit the disclosure of the information as strictly as the laws of this state protecting the confidentiality of returns and information. The director shall place upon the state tax form a notice to the taxpayer that state tax information may be disclosed to tax officials of another state or of the United States for tax administrative purposes.

PARAGRAPH DIVIDED. The department shall not authorize the examination of tax information by officers and employees of this state, another state, or of the United States if the officers or employees would otherwise be required to obtain a judicial order to examine the information if it were to be obtained from another source, and if the purpose of the examination is other than for tax administration. However, the director may provide sample individual income tax information to be used for statistical purposes to the legislative fiscal bureau. The information shall not include the name or mailing address of the taxpayer or the taxpayer's social security number. Any information contained in an individual income tax return which is provided by the director shall only be used as a part of a data base which contains similar information from a number of returns. The legislative fiscal bureau shall not have access to the income tax returns of individuals. Each request for individual income tax information shall contain a statement by the director of the legislative fiscal bureau that the individual income tax information received by the bureau shall be used solely for statistical purposes. This subsection does not prevent the department from authorizing the examination of state returns and state information under the provisions of section 252B.9. This subsection prevails over any general law of this state relating to public records.

Sec. 20. Section 450.7, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~The~~ Except for the share of the estate passing to the surviving spouse, the tax is a charge against and a lien upon the estate subject to tax under this chapter, and all property of the estate or owned by the decedent from the death of the decedent until paid, subject to the following limitations:

Sec. 21. Section 450.12, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. A liability shall not be deducted unless the personal representative or other person filing the inheritance tax return as provided in section 450.22 certifies that it has been paid or, if not paid, the director of revenue and finance is satisfied that it will be paid. If the amount of liabilities deductible under this section exceed the amount of property subject to the payment of the liabilities, the excess shall be deducted from other property included in the gross estate on a prorated basis that the gross value of each item of other property bears to the total gross value of all the other property. Subject to the previous provision, a liability is deductible whether or not the liability is legally enforceable against the decedent's estate.

Sec. 22. Section 421.8A, Code 1989, is repealed.

Sec. 23. Section 422.64, Code 1989, is repealed.

Sec. 24. Section 422.63A, Code Supplement 1989, is repealed.

Sec. 25. Section 4 of this Act is applicable to payments of taxes, penalties, interest, or fees made on or after July 1, 1990.

Sec. 26. Section 14 of this Act is retroactively applicable to July 1, 1985.

Sec. 27. Section 8 of this Act is applicable retroactively to January 1, 1990, for taxes due and payable before January 1, 1990, and unpaid on that date and for all taxes due on or after January 1, 1990.

Sec. 28. Sections 11 and 20 of this Act are retroactively applicable to January 1, 1988, for decedents dying on or after that date.

Sec. 29.
Section 6 of this Act applies retroactively to tax years beginning in the 1985 and 1986 calendar years.

Sec. 30.
Section 24 of this Act applies retroactively to January 1, 1990, for tax years beginning on or after that date.

Sec. 31.
Section 22 of this Act takes effect January 1, 1991, for assessments made on or after that date.

Approved May 2, 1990

CHAPTER 1233

SUBSTANTIVE CODE CORRECTIONS

H.F. 2313

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 49.7, Code Supplement 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~~ when the boundaries of election precincts are changed, and shall provide a map delineating the new boundary lines. Each county board and city council shall certify to the state commissioner the populations of the new election precincts or retained election precincts as determined under the latest federal decennial

census. 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. 2. Section 56.6, subsection 3, paragraph i, Code Supplement 1989, is amended by striking the paragraph.

Sec. 3. NEW SECTION. 56.31 REPORTING OF HONORARIA.

1. The commission shall adopt rules requiring the filing of periodic reports by officeholders showing all honoraria received during the reporting period.

2. The rules shall require that:

a. Holders of statewide office must file reports with the state commissioner of elections.

b. Holders of the office of state senator must file reports with the secretary of the senate.

c. Holders of the office of state representative must file reports with the chief clerk of the house of representatives.

d. Holders of county and other offices must file reports with the county commissioner of elections.

3. The reports shall be available for public inspection.

Sec. 4. Section 99B.1, subsection 18, Code Supplement 1989, is amended to read as follows:

18. "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 department shall not exceed ~~thirty~~ twenty-five percent of net receipts.

Sec. 5. Section 99D.13, subsection 2, Code Supplement 1989, is amended to read as follows:

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 all or part of 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~~ on an annual basis, 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. 6. Section 136C.3, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Establish minimum training standards including continuing education requirements, and administer examinations and disciplinary procedures for operators of radiation machines and users of radioactive materials. A state of Iowa license to practice medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygiene, or veterinary medicine, or licensure as a physician assistant pursuant to chapter 148C, or certification by the board of dental examiners in dental radiography, or by the board of podiatry examiners in podiatric radiology, or enrollment in a program or course of study approved by the Iowa department of public health which includes the application of radiation to humans satisfies the minimum training standards for operation of radiation machines only.

Sec. 7. Section 204.401, subsection 1, paragraph b, subparagraph (5), Code Supplement 1989, is amended to read as follows:

(5) Not more than ten grams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

Sec. 8. Section 232.141, subsection 3, paragraph c, Code Supplement 1989, is amended to read as follows:

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 of inspections and appeals which shall prescribe rules and forms to implement this subsection.

Sec. 9. Section 275.23A, subsection 3, Code Supplement 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~~ when the boundaries of director districts are changed. The board shall provide the commissioners with maps showing the new boundaries and shall also certify to the state commissioner the populations of the new director districts as determined under the latest federal decennial census. 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. 10. Section 282.18, Code Supplement 1989, is amended to read as follows:

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 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 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~~ pupils 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~~ pupil 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~~ pupil 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~~ pupil 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~~ pupil 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~~ is 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. 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~~ children 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~~ pupil 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. If the ~~child~~ pupil 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, the sending district ~~shall be~~ is responsible for providing transportation or paying the pro rata cost of the transportation to a parent or guardian for transporting the ~~child~~ pupil 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~~ pupil 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~~ pupil, whose parent or guardian has submitted a request to enroll the ~~child~~ pupil in a public school in another district, shall, if the request has resulted in the enrollment of the ~~child~~ pupil in the other district, attend school in the other district which is the subject of the request. This requirement ~~shall~~ does not apply, however, if the ~~child's~~ pupil'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~~ pupil 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~~ pupil 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~~ March 10, 1989, ~~shall be~~ is 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~~ pupil had attended.

~~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 by August 1, 1989, 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~~ pupil, for which a request to transfer has been filed with a district, has been suspended or expelled in the district, the receiving district named in the request may refuse the request to transfer until the ~~child~~ pupil has been reinstated in the sending district.

A laboratory school under chapter 265 ~~shall be~~ is 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. 11. Section 282.26, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The state board of regents and the ~~department~~ state board of education may by rule permit such students to attend any institution of higher learning under their jurisdiction. Credit earned in any such course at a junior college, college, or university may be applied toward credit for high school graduation. ~~No public~~ Public school funds shall not be expended for payment of tuition or other costs for such attendance at ~~any~~ a college or university, unless ~~such~~ the payment is expressly permitted or required by law.

Sec. 12. Section 307.25, subsection 4, Code 1989, is amended to read as follows:

4. Administer ~~the provisions of~~ chapters ~~322A,~~ ~~325,~~ ~~327,~~ 327A, ~~327B,~~ 328, 329 and 330.

Sec. 13. Section 307.26, subsection 10, Code 1989, is amended to read as follows:

10. Administer ~~the provisions of~~ chapters ~~327D to~~ 327C through 327H.

Sec. 14. Section 307.27, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 6. Administer the regulation of motor vehicle franchisers pursuant to chapter 322A.

NEW SUBSECTION. 7. Administer the regulation of motor vehicle certificated carriers pursuant to chapter 325.

NEW SUBSECTION. 8. Administer the regulation of motor vehicle truck operators pursuant to chapter 327.

NEW SUBSECTION. 9. Administer the registration of interstate commerce commission authority of motor carriers pursuant to chapter 327B.

Sec. 15. Section 307B.3, subsection 8, Code 1989, is amended by striking the subsection.

Sec. 16. Section 321.37, unnumbered paragraph 2, Code 1989, is amended by striking the unnumbered paragraph.

Sec. 17. Section 321.122, subsection 4, unnumbered paragraphs 2 and 3, Code 1989, are amended by striking the unnumbered paragraphs.

Sec. 18. Section 321.466, subsection 4, Code 1989, is amended to read as follows:

4. The registered gross weight of ~~any~~ a vehicle or combination of vehicles may also be increased by installing and using ~~a properly registered~~ an auxiliary axle or axles, and the combined registered gross weight of ~~such~~ the vehicle and auxiliary axle or axles shall determine the total registered gross weight ~~thereof~~. ~~No~~ An auxiliary axle ~~may~~ shall not be used to convert a single axle to a tandem axle unless equipped with a device to equalize the load carried by the single axle and the ~~said~~ auxiliary axle when in tandem and when in motion or when standing, and the load transmitted to the highway by either the single axle or the auxiliary axle shall not exceed that permitted for ~~any~~ a single axle, nor shall the load transmitted to the highway when in tandem and when in motion or when standing, exceed that permitted for ~~any~~ a tandem axle.

Sec. 19. Section 321E.16, Code 1989, is amended to read as follows:

321E.16 VIOLATIONS — PENALTIES.

Any person who is convicted of a violation of any provision of this chapter or of rules adopted under section 321E.15, other than length, height, width, or weight allowed by any permit issued under this chapter shall be punished by a fine of ~~not less than~~ one hundred dollars for the first conviction, two hundred fifty dollars for a second conviction within a twelve-month period, and five hundred dollars for a third conviction within a twelve-month period. The fine for violation of the length, height, width, and weight allowed by permit shall be based upon the difference between the actual length, height, width, and weight of the vehicle and load and the maximum allowable by permit and in accordance with section 321.482 for violations of length, height, or width limitations and sections 321.482 and 321.463 for violation of weight limitations. If a vehicle with indivisible load traveling under permit is found to be in violation of weight limitations, the vehicle operator shall be allowed a reasonable amount of time to remove any ice, mud, snow, and other weight attributable to climatic conditions accumulated along the route prior to application of the penalties prescribed in sections 321.463 and 321.482. The department shall adopt rules to require peace officer escorts for permit holders convicted for the third time in a twelve-month period of violating a provision of this chapter or a provision of rules adopted pursuant to section 321E.15.

Sec. 20. Section 321J.2, subsection 3, Code 1989, is amended to read as follows:

3. No conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall be considered in determining that the violation charged is a second, third, or subsequent offense. For the purpose of determining if a violation charged is a second, third, or subsequent offense, deferred judgments pursuant to section 907.3 for violations of this section and convictions or the equivalent of deferred judgments for violations in any other states under statutes substantially corresponding to this section shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the one defined in this section and can therefore be considered corresponding statutes. Each previous violation on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense ~~without regard to whether each was complete as to commission and conviction or deferral of judgment following or prior to any other previous violation~~.

Sec. 21. Section 321J.10, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Refusal to consent to a test under section 321J.6 does not prohibit the withdrawal of a specimen for chemical testing pursuant to a search warrant issued in the investigation of a suspected violation of section 707.5 or 707.6A if all of the following grounds exist:

Sec. 22. Section 325.26, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~No~~ A certificate shall not be issued until ~~and~~ after the applicant ~~shall have~~ has filed with the ~~authority~~ department an insurance policy, ~~policies,~~ surety bond, or certificate of insurance, in form ~~to be~~ approved by the ~~authority~~ department, issued by ~~some company, association, reciprocal or interinsurance exchange or other~~ an insurer authorized to do business in this state. The minimum limits of liability of ~~any policies~~ a policy or surety bond ~~shall~~, for each motor vehicle ~~thereby~~ covered, ~~be~~ are as follows:

Sec. 23. Section 331.101, subsection 8, Code 1989, is amended to read as follows:

8. "Clerk" means the clerk of the district court or ~~a deputy clerk designated by the clerk of the district court~~ the clerk's designee.

Sec. 24. Section 331.209, subsection 5, Code Supplement 1989, is amended to read as follows:

5. Each county board shall notify the state commissioner of elections ~~whenever~~ when the boundaries of supervisor districts are changed, ~~and~~ shall provide a map delineating the new boundary lines, and shall certify to the state commissioner of elections the populations of the new supervisor districts as determined under the latest federal decennial census. 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. 25. Section 331.424, subsection 1, paragraph m, Code 1989, is amended to read as follows:

m. The maintenance and operation of the courts, including but not limited to the salary and expenses of the clerk of the district court, ~~deputy clerks~~ and other employees of the clerk's office, and bailiffs, ~~establishment and operation of a public defender's office,~~ court costs if the prosecution fails or if the costs cannot be collected from the person liable, costs and expenses of prosecution under section 189A.17, salaries and expenses of juvenile court officers under chapter 602, court-ordered costs in domestic abuse cases under section 236.5, the county's expense for confinement of prisoners under chapter 356A, temporary assistance to the county attorney, county contributions to a retirement system for bailiffs, reimbursement for judicial magistrates under section 602.6501, claims filed under section 622.93, interpreters' fees under section 622B.7, uniform citation and complaint supplies under section 805.6, and costs of prosecution under section 815.13.

Sec. 26. Section 331.555, subsection 4, Code 1989, is amended to read as follows:

4. The treasurer shall make a complete settlement with the county semiannually and when the treasurer leaves office as provided in ~~sections 452.6 and~~ section 452.7.

Sec. 27. Section 423.4, subsection 10, Code 1989, is amended to read as follows:

10. Vehicles registered or operated under chapter 326 and used substantially in interstate commerce, section 423.5 notwithstanding. For purposes of this subsection, "substantially in interstate commerce" means that a minimum of twenty-five percent of the miles operated by the vehicle accrues in states other than Iowa. This subsection applies only to vehicles which are registered for a gross weight of thirteen tons or more.

For purposes of this subsection, trailers and semitrailers registered or operated under chapter 326 are deemed to be used substantially in interstate commerce and to be registered for a gross weight of thirteen tons or more.

Sec. 28. Section 441.10, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Immediately after the appointment of the assessor, and at other times as the conference board directs, one or more deputy assessors may be appointed by the assessor. Each appointment shall be made from either the list of eligible candidates provided by the director of revenue and finance, which shall contain only the names of those persons who achieve a score of seventy percent or greater on the examination administered by the director of revenue and finance, or the list of candidates eligible for appointment as city or county assessor. Examinations for the position of deputy assessor shall be conducted in the same manner as examinations for the position of city or county assessor. ~~The applicable provisions of section 441.5 regarding the register of names shall also apply to the list of eligible candidates established under the provisions of this section.~~

Sec. 29. Section 441.11, Code 1989, is amended to read as follows:

441.11 INCUMBENT DEPUTY ASSESSORS.

The director of revenue and finance shall grant a restricted certificate to any deputy assessor holding office as of January 1, 1976. A deputy assessor possessing such a certificate shall be considered eligible to remain in the deputy's present position. To become eligible for another deputy assessor position, a deputy assessor presently holding office is required to obtain certification as provided for in section 441.5 and 441.10.

Sec. 30. Section 452.10, unnumbered paragraph 2, Code 1989, is amended to read as follows:

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

Sec. 31. Section 455A.8, subsections 1 and 2, Code Supplement 1989, are amended to read as follows:

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~~ ten 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 voting 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~~, and 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 voting 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.

Sec. 32. Section 514F.1, Code Supplement 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, and 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, and 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.

Sec. 33. Section 516A.1, unnumbered paragraph 2, Code 1989, is amended to read as follows:

However, the named insured may reject all of such coverage, or reject the uninsured motor vehicle ~~or~~ (hit-and-run motor vehicle) coverage, or reject the underinsured motor vehicle coverage, by written rejections signed by the named insured. If rejection is made on a form or document furnished by an insurance company or insurance agent, it shall be on a separate sheet of paper which contains only the rejection and information directly related to it. Such coverage need not be provided in or supplemental to a renewal policy if the named insured has rejected the coverage in connection with a policy previously issued to the named insured by the same insurer.

Sec. 34. Section 523D.6, subsection 2, paragraph b, Code Supplement 1989, is amended to read as follows:

b. Within three business days after the execution of a contract to provide continuing care or senior adult congregate living services, or ~~at~~ after 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.

Sec. 35. Section 601J.5, subsection 3, paragraph a, Code Supplement 1989, is amended to read as follows:

a. If the activities that are not in compliance with section 601J.4 are funded with state or federal funds which are administered by the state and can be used by agencies or organizations that are in compliance with section 601J.4, then upon notice by the department, the director of revenue and finance shall not permit the expenditure of ten percent of the funds during the fiscal year ~~1986~~ immediately following the notice, an additional twenty percent of funds during the following year, an additional thirty percent during the third year, and the remaining funds in the fourth year that the activities remain in noncompliance. Any funds retained by the director of revenue and finance shall be ~~distributed~~ returned to the originating state agency for redistribution to agencies and organizations eligible to receive the funds for transportation purposes.

Sec. 36. Section 602.6106, Code 1989, is amended to read as follows:

602.6106 SESSIONS NOT AT COUNTY SEATS — EFFECT — DUTY OF CLERK.

When court is held at a place that is not the county seat, all of the provisions of the Code relating to district courts are applicable, except as follows: All proceedings in the court have, within the territory over which the court has jurisdiction, the same force and effect as though ordered in the court at the county seat, but transcripts of judgments and decrees, levies of writs of attachment upon real estate, mechanics' liens, lis pendens, sales of real estate, redemption, satisfaction of judgments and mechanics' liens, and dismissals or decrees in lis pendens, together with all other matters affecting titles to real estate, shall be certified by the ~~deputy clerk~~ clerk's designee to the clerk of district court at the county seat who shall immediately enter them upon the records at the county seat.

Sec. 37. Section 607A.3, subsection 1, Code 1989, is amended to read as follows:

1. "Clerk" means clerk of the district court~~, deputy clerk,~~ or the clerk's designee.

Sec. 38. Section 633.26, Code 1989, is amended to read as follows:

633.26 CLERK NOT TO PREPARE REPORTS.

~~No~~ A clerk~~, deputy,~~ of the district court or employee of the clerk shall not act as attorney for a fiduciary, or make or assist in making, drafting, or filling out any report of any fiduciary or any other report to be filed in the clerk's office.

Sec. 39. Section 691.6, subsection 3, Code 1989, is amended to read as follows:

3. To adopt rules pursuant to chapter 17A, and subject to the approval of the commissioner of public safety, regarding the manner and techniques to be employed while conducting autopsies; the nature, character, and extent of investigations to be made in cases of homicide or suspected homicide necessary to allow a medical examiner to render a full and complete analysis and report; the format and matters to be contained in all reports rendered by medical examiners; and all other things necessary to carry out this ~~chapter~~ section. All county medical examiners and peace officers are subject to the rules.

Sec. 40. Section 694.1, subsection 2, Code 1989, is amended to read as follows:

2. ~~Was, or is, in the company of another person~~ Is missing under circumstances indicating that the ~~missing~~ person's safety may be in danger.

Sec. 41. Section 713.3, Code 1989, is amended to read as follows:

713.3 BURGLARY IN THE FIRST DEGREE.

A person commits burglary in the first degree if, while perpetrating a burglary, the person has in the person's possession an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts ~~physical~~ bodily injury on any person. Burglary in the first degree is a class "B" felony.

Sec. 42. Section 730.5, subsection 2, Code 1989, is amended to read as follows:

2. Except as provided in subsection 7, an employer shall not require or request employees or applicants for employment to submit to a drug test as a condition of employment, preemployment, promotion, or change in status of employment. An employer shall not request, require, or conduct random or blanket drug testing of employees. However, this section does not apply to preemployment drug tests authorized for peace officers or correctional officers of the state, or to drug tests required under federal statutes, or as required under section 391, subpart H of the federal motor carrier safety regulations adopted by the United States department of transportation, or to drug tests conducted pursuant to a nuclear regulatory commission policy statement, or to drug tests conducted to determine if an employee is ineligible to receive workers' compensation under section 85.16, subsection 2.

Sec. 43. Section 801.4, subsection 11, Code Supplement 1989, is amended to read as follows:

11. "Complaint" means a statement in writing, under oath or affirmation, made before a magistrate or district court clerk or clerk's ~~deputy~~ designee as the case may be, of the commission of a public offense, and accusing someone ~~thereof~~ of committing the public offense. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure.

Sec. 44. Section 815.1, Code 1989, is amended to read as follows:

815.1 COSTS PAYABLE BY STATE IN SPECIAL CASES.

All costs and fees incurred in a parole revocation proceeding or in a criminal case brought against an inmate of a state institution for a crime committed while confined in the institution, or for a crime committed by the inmate while placed outside the walls or confines of the institution under the control and direction of a warden, supervisor, officer, or employee of the institution, or for a crime committed by the inmate during an escape or other unauthorized departure from the institution or from the control of a warden, supervisor, officer, or employee of the institution, or from wherever the inmate may have been placed by authorized personnel of the institution, are waived if the prosecution fails, or if the person liable to pay the costs and fees cannot pay the costs and fees. An award of attorney fees to a court-appointed attorney incurred in these cases shall be paid out of the state treasury from the general fund if the prosecution fails or if the person liable to pay the attorney fees cannot pay them. The facts shall be certified by the clerk of the district court under the clerk's seal of office to the director of ~~revenue and finance~~ inspections and appeals, including a statement of the amount of fees or costs incurred, approved by the presiding judge in writing. When a conviction is rendered and the court orders restitution for costs of the prosecution, the inmate, work releasee, or parolee shall make restitution to the general fund pursuant to section 910.2.

Sec. 45. Section 815.11, Code 1989, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the ~~supreme court~~ department of inspections and appeals for those purposes.

Sec. 46. Section 904A.1, Code Supplement 1989, is amended to read as follows:

904A.1 BOARD OF PAROLE.

The board of parole is created to consist of five members. Each member, except the chairperson, shall be compensated on a day-to-day basis. Each member shall serve a term of four years beginning ~~July 1~~ and ending as provided by section 69.19, except 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 a full-time, salaried member of the board. A majority of the members of the board constitutes a quorum to transact business.

Sec. 47. Section 452.6, Code 1989, is repealed.

Approved May 2, 1990

CHAPTER 1234

INSURANCE REGULATION

H.F. 2320

AN ACT relating to the regulation of insurers, insurance, and annuity contracts, including fire and casualty insurance, altering the method of filing rates subject to the approval of the commissioner of insurance, except for workers' compensation liability insurance rates, providing special effective dates, and authorizing civil penalties.

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

Section 1. Section 296.7, Code Supplement 1989, is amended by striking the section and inserting in lieu thereof the following:

296.7 INDEBTEDNESS FOR INSURANCE AUTHORIZED – TAX LEVY.

1. A school district or merged area school corporation may contract indebtedness and issue general obligation bonds or enter into insurance agreements obligating the school district or corporation to make payments beyond its current budget year for one or more of the following mechanisms 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:

a. To procure or provide for a policy of insurance.

b. To provide a self-insurance program.

c. To establish and maintain a local government risk pool.

However, this subsection does not apply to an insurance program described in subsection 3.

2. For purposes of subsection 1, an employee benefit plan which includes a specific or aggregate excess loss coverage or a program that self-insures only a per-employee or per-family deductible for each year and which transfers the risk remaining beyond this deductible is not a self-insurance program, but is instead an insurance program. As used in this section, an "employee benefit plan" includes, but is not limited to benefits for hospital and surgical, medical expense, major medical, dental, prescription drug, disability, or life insurance costs or benefits.

3. A school district, providing an insurance program as described in subsection 2, shall not contract indebtedness and issue general obligation bonds or enter into insurance agreements obligating the school district to make payments beyond its current budget year for that employee benefit plan. A school district may, however, apply to the school budget review committee for relief if necessitated by the expenses in the school district's insurance program as described in subsection 2.

4. Taxes may be levied in excess of any limitation imposed by statute for payment of one or more of the following authorized by subsection 1:

a. Principal, premium, or interest on bonds.

b. Premium on an insurance policy, including a stop loss or reinsurance policy, except as limited by subsection 3.

c. Costs of a self-insurance program.

d. Costs of a local government risk pool.

e. Amounts payable under an insurance agreement.

However, for a school district, a tax levied under this section shall be included in the district management levy under section 298.4.

5. A self-insurance program or local government risk pool authorized by subsection 1 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.

6. Notwithstanding the other provisions of this section or any other statute, the tax levy authorized by this section shall not be used to pay the costs of employee benefits, including, but not limited to costs for hospital and surgical, medical expense, major medical, dental, prescription drug, disability, or life insurance benefits.

7. 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. 2. Section 505.8, subsection 2, Code 1989, is amended to read as follows:

2. The commissioner shall, subject to ~~the provisions of~~ chapter 17A, establish, publish, and enforce rules not inconsistent with ~~the~~ law for the enforcement of ~~the provisions of~~ this title and for the enforcement of the laws, the administration and supervision of which are imposed on the division, including rules to establish fees sufficient to administer the laws, where appropriate fees are not otherwise provided for in rule or statute, and as necessary to obtain from persons authorized to do business in the state or regulated by the division that data required pursuant to section 145.3 by the state health data commission.

Sec. 3. Section 507.14, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

507.14 CONFIDENTIAL DOCUMENTS – EXCEPTIONS.

A report, preliminary or final, of an examination of a domestic or foreign insurer, and all notes, work papers, or other documents related to an examination of an insurer are not public records under chapter 22 except when sought by the insurer to whom they relate or an insurance regulator of another state, and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

1. An action commenced by the commissioner under chapter 507C.

2. An administrative proceeding brought by the insurance division under chapter 17A.

3. A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.

4. An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.

5. An action brought in a shareholders' derivative suit against an insurer.

6. An action brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation, or misuse of insurer funds.

Sec. 4. Section 507C.6, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. To make available to the commissioner any books, accounts, documents, or other records, ~~or~~ information, or property of or pertaining to the insurer and in the ~~commissioner's~~ person's possession, custody, or control.

Sec. 5. Section 508.5, Code 1989, is amended to read as follows:

508.5 CAPITAL AND SURPLUS REQUIRED.

A stock life insurance company shall not be authorized to transact business under ~~the provisions of~~ this chapter with less than ~~one~~ two million five hundred thousand dollars capital stock fully paid for in cash and ~~one~~ two million five hundred thousand dollars of surplus paid in ~~in~~ cash or invested as provided by law. A stock life insurance company shall not increase its capital stock unless the amount of the increase is fully paid in cash. The stock shall be divided into shares of not less than one dollar par value each.

Sec. 6. Section 508.9, Code 1989, is amended to read as follows:

508.9 MUTUAL COMPANIES – CONDITIONS.

Level premium and natural premium life insurance companies organized under the laws of this state upon the mutual plan shall, before issuing policies, have actual applications on at least two hundred and fifty lives for an average amount of one thousand dollars each. A list of the applications giving the name, age, residence, amount of insurance, and annual premium of each applicant shall be filed with the commissioner of insurance, and a deposit made with the commissioner of an amount equal to three-fifths of the whole annual premium on the applications, in cash or the securities required by section 508.5. In addition, a deposit of cash or securities of the character provided by law for the investment of funds for life insurance companies in the sum of ~~two~~ five million dollars shall be made with the commissioner, which shall constitute a guaranty fund for the protection of policyholders. ~~In no event shall the~~ The contribution to the guaranty fund shall not give to contributors to the fund or to other persons any voting or other power in the management of the affairs of the company. The guaranty fund may be repaid to the contributors ~~thereto~~ to the guarantee fund with interest at six percent from the date of contribution, at any time, in whole or in part, ~~provided~~ if the repayment does not reduce the surplus of the company below the amount of two million dollars and then only ~~provided~~ if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with ~~the provisions of~~ this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter.

Sec. 7. Section 508B.1, subsection 4, paragraph a, Code 1989, is amended to read as follows:

a. "Plan of conversion" or "conversion plan" means a plan authorized by section 508B.3 and, in the case of plans authorized by section 508B.3, subsections 1 and 3, includes a procedure by which the mutual company's participating policies and contracts in force on the effective date of the conversion plan are operated by the reorganized company as a closed block of participating business for the exclusive benefit of the policies and contracts included, for dividend purposes only~~,~~; to which are allocated assets of the mutual company in an amount which together with anticipated revenue from the business is reasonably expected to be sufficient to support the business~~,~~; and which includes, but is not limited to, provisions for payment of claims and reasonable expenses, and provisions for continuation of current payable dividend scales if the experience underlying the scales continues, and a procedure for appropriate adjustments in the scales if the experience changes. However, at the option of the mutual company, some or all classes of group policies and contracts shall not be placed in the closed block but shall continue to be eligible to receive dividends based on the experience of ~~such~~ the class or classes.

Sec. 8. Section 508B.2, unnumbered paragraph 3, Code 1989, is amended to read as follows:

In lieu of selecting a plan of conversion provided for in this chapter, a mutual company may convert to a stock company pursuant to a plan approved by the commissioner. The commissioner or the mutual company may use any provisions or combination of provisions provided for a plan in this chapter and may adopt any other provisions which are not unfair or inequitable to the policyholders of the mutual company. If a mutual company selects this procedure for conversion purposes, the mutual company shall reimburse the state for expenses incurred by the division in connection with the conversion plan except for expenses that are normal operating expenses of the division.

Sec. 9. Section 508B.3, subsection 2, paragraph a, Code 1989, is amended to read as follows:

a. The mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion, shall be operated by the reorganized insurer as a closed block of participating business. However, at the option of the mutual company, group policies and group contracts may be omitted from the closed block.

Sec. 10. Section 508B.3, subsection 2, paragraph e, Code 1989, is amended to read as follows:

e. The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated value in the market on the initial offering date of ~~such~~ the shares.

Sec. 11. Section 508B.3, subsection 2, paragraph g, Code 1989, is amended to read as follows:

g. If a purchaser or a group of purchasers acting in concert is to attain such control in the initial offering, the mutual company shall not, directly or indirectly, pay for any of the costs or expenses of ~~the proposed~~ conversion of the mutual company, whether or not the conversion is effected.

Sec. 12. Section 508B.3, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. The participating policyholders' consideration shall be based on the latest annual statement, updated to the effective date of the conversion plan, and filed prior to the effective date of the adoption by the board of directors of the plan of conversion ~~and~~. The policyholders' consideration shall be equal to the ~~excess of both of the following:~~

~~(1) The total amount of the mutual company's assets accumulated from the operations of participating policies and contracts in force on the date of the statement over the sum of the total amount of assets allocated to the participating business.~~

~~(2) An amount equal to reserves and other liabilities attributable to any group participating policies and contracts not included in the closed block of participating business~~ sum of the total amount of assets allocated to the participating business and an amount equal to reserves and other liabilities attributable to any group participating policies and contracts not included in the closed block of participating business.

Sec. 13. Section 508B.3, subsection 3, paragraph j, Code 1989, is amended to read as follows:

j. The liquidation account referred to in paragraph "c" must be equal to the excess of the total amount of the assets of the mutual company as of the effective date of the conversion over the sum of the total amount of assets allocated to the closed block of participating business and the policyholders' consideration and other reserves and liabilities attributed to policies and contracts not included in the amount attributable to policies and contracts in force on that effective date. The determinations shall be based on the latest annual statement of the mutual company, updated to the effective date, and filed before the effective date of the conversion plan. The function of the liquidation account ~~shall be~~ is solely to establish a priority on liquidation and its existence ~~shall~~ does not ~~operate to~~ restrict the use or application of the surplus of the reorganized company except as specified in paragraph "i". The liquidation account shall be allocated equally as of the effective date of conversion among the then participating policyholders. The amount allocated to ~~any~~ a policy or contract shall not increase and shall be reduced to zero when the policy or contract terminates. In the event of a complete liquidation of the reorganized company, the policyholders among which the liquidation account is allocated ~~shall be~~ are entitled to receive a liquidation distribution in the then amount of the liquidation account before any liquidation distribution is made with respect to shares.

Sec. 14. Section 508B.3, subsection 3, paragraph k, Code 1989, is amended to read as follows:

k. At the option of the mutual company, the consideration to be given in exchange for the policyholders' membership ~~interest or into which the membership is to be converted~~ interests may consist of cash, securities of the reorganized company, securities of another institution, a certificate of contribution, additional life insurance, annuity benefits, increased dividends, or other consideration or any combination of forms of consideration. The consideration, if any,

given to ~~any~~ a class or category of ~~policyholder~~ policyholders may differ from the consideration given to another class or category of policyholders. The certificate of contribution shall be repayable in ten years, equal to one hundred percent of the value of the policyholders' membership interest, and bear interest at the highest rate charged by the reorganized company for policy loans on the effective date of the conversion.

Sec. 15. Section 508B.5, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The consultant may assist in determining the equity ~~or value~~ of the policyholders ~~and~~ or value of the mutual company. The consultant may consider the value of the consideration to be given to the participating policyholders in exchange for their membership interests ~~or into which the membership interest is to be converted~~ and may consider the valuations necessary to carry out the plans provided for in section 508B.3. Valuations shall be made taking into account the latest filed annual statement of the mutual company, updated to the effective date of the conversion plan, and any significant developments occurring subsequent to the date of the statement.

Sec. 16. Section 508B.7, Code 1989, is amended to read as follows:

508B.7 REVIEW OF PLAN BY COMMISSIONER – HEARING AUTHORIZED – APPROVAL.

The commissioner of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, is not unfair or inequitable to the mutual company and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual company, its policyholders, and other interested persons, all of whom have the right to appear at the hearing. Costs incurred in connection with the notice shall be paid by the company.

Sec. 17. Section 508B.13, Code 1989, is amended to read as follows:

508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

Prior to and for a period of five years following the effective date of the conversion, and in the case of the plans of conversion specified in subsections 1 and 3 of section 508B.3, five years following the date of distribution of consideration to the policyholders in exchange for their membership interests, ~~an officer or director, including family members and their spouses, of the mutual company or the reorganized company~~ a person, shall not directly or indirectly acquire or offer to acquire ~~or acquire~~ the beneficial ownership of the reorganized company unless the acquisition is made pursuant to a ~~stock option~~ plan approved by the commissioner, made pursuant to the plan of conversion, or made after the initial public offering from a broker or dealer of registered securities with the securities and exchange commission at the quoted price on the date of purchase. An approved plan may include a stock option plan. As used in this section, "beneficial ownership" means, with respect to ~~any~~ a security, the sole or shared power to vote or direct the voting of the security or the sole power to dispose or direct the disposition of the security, ~~and "family member" includes a brother, sister, spouse, parent, grandparent, ancestor, or descendant of the officer or director~~.

Sec. 18. Section 508B.14, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The reorganized company or ~~any~~ a defendant may ~~require the plaintiff~~ petition the court in such an action to give security for the reasonable attorney fees which may be incurred by any party to the action. The amount of the security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Sec. 19. Section 508C.5, subsection 6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

"Impaired insurer" means a member insurer ~~domiciled in this state~~ which, after July 1, 1987, is either of the following:

Sec. 20. Section 508C.5, subsection 7, Code 1989, is amended to read as follows:

7. "Insolvent insurer" means a member insurer which, after July 1, 1987, becomes insolvent and is placed under a final order of liquidation~~, rehabilitation, or conservation~~ by a court of competent jurisdiction.

Sec. 21. Section 508C.8, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

If a domestic, foreign, or alien insurer is an impaired insurer, the association, subject to conditions imposed by the association and approved by the impaired insurer and the commissioner, may:

Sec. 22. Section 508C.8, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. If a domestic, foreign, or alien insurer is an impaired insurer and the insurer is not paying claims timely, then, subject to the approval of the commissioner and to the preconditions specified in this subsection, the association may do either or both of the following:

(1) Take any of the actions specified in subsection 1, subject to the conditions in that subsection.

(2) Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for health claims, periodic annuity benefits, death benefits, supplemental benefits, and cash withdrawals for policy or contract owners who petition for the benefits under claims of emergency or hardship in accordance with standards proposed by the association and approved by the commissioner.

b. The association is subject to this subsection only if all of the following conditions are met:

(1) The laws of the state of domicile provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations, along with all interest on the payments and expenses have been repaid to the guaranty associations or a plan of repayment by the impaired insurer has been approved by the guaranty associations all of the following apply:

(a) The delinquency proceeding shall not be dismissed.

(b) Neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management.

(c) The impaired insurer shall not be permitted to solicit or accept new business or have any suspended or revoked license restored.

(2) If the impaired insurer is a domestic insurer it has been placed under an order of rehabilitation by a court of competent jurisdiction in this state; or, if the impaired insurer is a foreign or alien insurer it has been prohibited from soliciting or accepting new business in this state, its certificate of authority has been suspended or revoked in this state, and a petition for rehabilitation or liquidation has been filed in a court of competent jurisdiction in its state or nation of domicile by the commissioner of that state or similar authority in an alien nation.

Sec. 23. Section 508C.9, subsection 3, paragraph a, Code 1989, is amended to read as follows:

a. The amount of a class A assessment shall be determined by the board and to the extent that class A assessments do not exceed one hundred dollars per company in any one calendar year may be made on a per capita basis. ~~The assessment shall be credited against future insolvency assessments.~~ The amount of a class B assessment shall be allocated for assessment purposes among the accounts as the liabilities and expenses of the association, either experienced or reasonably expected, are attributable to those accounts, all as determined by the association and on as equitable a basis as is reasonably practical.

Sec. 24. Section 508C.9, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. Class A assessments in excess of one hundred dollars per company per calendar year and class B assessments against member insurers for each account shall be in the proportion that the aggregate premiums received on business in this state by each assessed member insurer on policies or contracts related to that account for the three most recent calendar years for

which information is available, preceding the year ~~of impairment or insolvency~~ in which the insurer became impaired or insolvent, ~~bear to~~ is to the aggregate premiums received on business in this state by all assessed member insurers on policies related to that account for the three most recent calendar years for which information is available preceding the assessment.

Sec. 25. Section 508C.9, subsection 5, paragraph a, Code 1989, is amended to read as follows:

a. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of the insurer's premiums received in this state during the ~~calendar year preceding the assessment~~ three most recent calendar years for which information is available, preceding the year in which the insurer becomes impaired or insolvent, on the policies related to that account. If the maximum assessment for ~~any~~ an account, together with the other assets of the association in the account, does not provide in any one year in the account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the account ~~as soon thereafter~~ in succeeding years as soon as permitted by this chapter.

Sec. 26. Section 508C.13, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. ~~Stock dividends~~ Distributions are not recoverable if the insurer shows that when paid the ~~distribution was~~ distributions were lawful and reasonable and that the insurer did not know and could not reasonably have known that the ~~distribution~~ distributions might adversely affect the ability of the insurer to fulfill its contractual obligations.

Sec. 27. Section 509.16, Code 1989, is amended to read as follows:

509.16 PREMIUM RATES APPROVED.

~~No~~ An individual policy of credit life or credit accident and health insurance or certificate under a policy of group credit life or credit accident and health insurance shall not be issued for delivery or delivered in this state unless the premium rates charged for the insurance are approved by the commissioner of insurance.

The commissioner of insurance, after notice and hearing, may adopt rules as are necessary to identify specific methods of competition or acts or practices within the business of credit life and credit accident and health insurance which are unfair or deceptive.

Sec. 28. Section 509.17, subsection 2, Code 1989, is amended to read as follows:

2. Due consideration shall be given to past and prospective loss experience within and outside this state, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses both countrywide and those especially applicable to this state, and to all other relevant factors within and outside this state~~, but rates shall be deemed reasonable under this section and section 509.16 if they reasonably may be expected to produce a ratio of fifty percent by dividing claims incurred by premiums earned~~.

Sec. 29. Section 509.17, subsection 3, Code 1989, is amended to read as follows:

3. The commissioner shall, after a public hearing, approve a reasonable charge or premium for credit accident and health insurance and for credit life insurance as the commissioner deems appropriate and necessary for the implementation of this section. ~~A charge or premium of not more than sixty-five cents per annum per one hundred dollars of the initial amount of decreasing term credit life insurance, or its actuarial equivalent for credit life insurance written on other than the decreasing term basis, shall be conclusively presumed to meet the requirements of this section.~~

Sec. 30. NEW SECTION. 509.17A SMALL GROUP RATING.

1. The commissioner shall with all due diligence adopt by rule the recommendations of the national association of insurance commissioners concerning life and accident or health insurance rating practices for small employer groups, provided that the final recommendations are generally consistent with the following principles:

a. Better disclosure to the group of the insurer's group rating practices.

b. Limits on the amount of rate increase that can be based upon the group's own claim experience in the small group market.

c. Actuarial certification that the insurer's rating practices meet the requirements of the national association of insurance commissioners and meet generally accepted actuarial practice.

2. Specific limitations which may be contained in the rules adopted pursuant to subsection 1 include, but are not limited to, the following:

a. The annual rate increase for a group cannot exceed the change in the block's new business rate level plus a fixed percentage of the average rate level for the block.

b. The maximum renewal rate within a block of business cannot exceed the average rate for that block of business by more than a fixed percentage.

c. The maximum renewal rate in any block of business of an insurer cannot exceed the lowest new business rate for any block of business for that insurer by more than a fixed percentage.

d. Other limits on tier and duration rating practices.

3. Within six months of adopting any rule pursuant to subsection 1, the commissioner shall prepare a report to the general assembly regarding the success, if any, of the rules, and make such recommendations as necessary, including offering proposed legislation, to effectuate the general assembly's goals of reducing the potential for abuse in charging higher than actuarially justified rates for some small groups and in underpricing for new small group business.

Sec. 31. Section 514A.3, subsection 1, paragraph m, unnumbered paragraph 3, Code 1989, is amended to read as follows:

~~(In addition to incorporating the~~ The foregoing provision ~~into the policy, the insurer shall deliver to the insured at the time of delivery of the policy a duplicate statement of the foregoing provision which shall be contained in conspicuous print on a separate and otherwise blank sheet of paper.)~~ shall be prominently printed on the first page of the policy or attached to the policy.

Sec. 32. NEW SECTION. 514D.9 REGULATIONS REGARDING LIMITATION ON COMPENSATION.

The commissioner shall issue rules to establish minimum standards to assure fair and reasonable benefits, claim payment, marketing practices, and compensation arrangements and reporting practices for the following classes of policies:

1. Medicare supplement insurance.
2. Nursing home insurance.
3. Long-term care insurance.

Sec. 33. Section 515.8, Code 1989, is amended to read as follows:

515.8 PAID-UP CAPITAL REQUIRED.

An insurance company other than a life insurance company shall not be incorporated to transact business upon the stock plan with less than ~~one~~ two million five hundred thousand dollars capital, the entire amount of which shall be fully paid up in cash and invested as provided by law. An insurance company other than a life insurance company shall not increase its capital stock unless the amount of the increase is fully paid up in cash. The stock shall be divided into shares of not less than one dollar each.

Sec. 34. Section 515.10, Code 1989, is amended to read as follows:

515.10 SURPLUS REQUIRED.

An insurance company other than a life insurance company shall have, in addition to the required paid-up capital, a surplus in cash or invested in securities authorized by law of not less than ~~one~~ two million five hundred thousand dollars. ~~If the commissioner of insurance finds that a company offers or plans to offer only one kind of insurance the commissioner may reduce the amount of surplus required, but in no event shall it be reduced to less than three hundred thousand dollars.~~

Sec. 35. Section 515.11, Code 1989, is amended to read as follows:

515.11 PROHIBITED LOANS.

~~No part of the capital referred to~~ Capital, surplus, funds, or other assets, or any part of any or all of the foregoing, shall not be directly or indirectly loaned to ~~any~~ an officer, director, stockholder, or employee of ~~the~~ a company or to a relative of ~~any~~ an officer or director of ~~the~~ a company.

Sec. 36. Section 515.12, subsection 5, Code 1989, is amended to read as follows:

5. The mutual company shall have in cash or in securities in which insurance companies are authorized to invest, surplus in an amount not less than ~~two~~ five million dollars. The surplus so required may be advanced in accordance with ~~the provisions of~~ section 515.19.

~~Provided, however, that such~~ However, the surplus requirements ~~shall~~ do not apply to a company which establishes and maintains a guaranty fund as provided by section 515.20.

Sec. 37. Section 515.70, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part. The approval of the commissioner may be based upon such factors as:

1. Maintenance of an appropriate trust account, surplus account, or other financial mechanism in this state.
2. Maintenance of all books and records of United States operations in this state.
3. Maintenance of a separate financial reporting system for its United States operations.
4. Any other provisions deemed necessary by the commissioner.

Sec. 38. Section 515.80, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

515.80 FORFEITURE OF POLICIES — NOTICE.

A policy or contract of insurance, unless otherwise provided in section 515.81A or 515.81B, provided for in this chapter shall not be forfeited, suspended, or canceled except by notice to the insured as provided in this chapter. A notice of cancellation is not effective unless mailed or delivered by the insurer to the named insured at least twenty days before the effective date of cancellation, or, where cancellation is for nonpayment of a premium, assessment, or installment provided for in the policy, or in a note or contract for the payment thereof, at least ten days prior to the date of cancellation. The notice may be made in person, or by sending by mail a letter addressed to the insured at the insured's address as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding.

An insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy.

If the reason does not accompany the notice of cancellation or nonrenewal, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation or nonrenewal.

Sec. 39. Section 515.81, Code 1989, is amended to read as follows:

515.81 CANCELLATION OF POLICY — NOTICE TO INSURED OR MORTGAGEE.

Unless otherwise provided in section 515.81A or 515.81B, at any time after the maturity of a premium, assessment, or installment provided for in the policy, or ~~any~~ a note or contract for the payment thereof, or after the suspension, forfeiture, or cancellation of ~~any~~ a policy or contract of insurance, the insured may pay to the company the customary short rates and costs of action, if one has been commenced or judgment rendered thereon, and may, if the insured so elects, have the policy and all contracts or obligations connected ~~therewith~~ with the policy, whether in judgment or otherwise, canceled, and all such policy and contracts shall be void; and in case of suspension, forfeiture, or cancellation of ~~any~~ a policy or contract of insurance, the insured ~~shall~~ is not ~~be~~ liable for ~~any~~ a greater amount than the short rates earned at the date of ~~such~~ the suspension, forfeiture, or cancellation and the costs of action provided for in

this section. ~~The policy may be canceled by the insurance company by service of notice in writing upon the insured which notice shall fix the date of cancellation which shall be not less than ten days after service of the notice. The service of notice may be made in person, or by mailing the notice to the insured at the insured's post office address as given in or upon the policy, or to another address given to the company in writing by the insured. A post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice.~~ If the policy is canceled by the insurance company, the insurer may retain only the pro rata premium, and if the initial cash premium, or any part ~~thereof~~ of the premium, has not been paid, the policy may be canceled by the insurance company by giving notice to the insured as provided in section 515.80 and ten days' notice to the mortgagee, or other person to whom the policy is made payable, if any, without tendering any part ~~or portion~~ of the premium, anything to the contrary in the policy notwithstanding.

Sec. 40. NEW SECTION. 515.81C CANCELLATION OR NONRENEWAL OF COMMERCIAL UMBRELLA OR EXCESS POLICIES OR CONTRACTS.

1. As used in this section, "umbrella or excess insurance policy" means a commercial line policy or contract of insurance providing liability or property coverage over one or more underlying policies or over a specified amount of self-insured retention. Umbrella or excess insurance policy includes policies or contracts written over an umbrella or excess insurance policy or policies.

2. An umbrella or excess insurance policy which has not previously been renewed may be canceled by the insurer if it has been in effect for less than sixty days at the time notice of cancellation is mailed or delivered.

3. An umbrella or excess insurance policy which has been renewed or which has been in effect for sixty or more days shall not be canceled by the insurer, except as provided in section 515.81A, subsections 2 and 3, except by notice to the insured as required by this section or unless at least one of the following conditions occurs:

a. A material change in the limits, scope of coverage, or exclusions in one or more of the underlying policies.

b. Cancellation or nonrenewal of one or more of the underlying policies where the policies are not replaced without lapse.

c. A reduction in the financial rating or grade of one or more of the insurers insuring one or more of the underlying policies based on an evaluation by a recognized financial rating organization.

4. A notice of cancellation is not effective unless mailed by certified mail or delivered to the named insured and any loss payee at least ten days prior to the effective date of cancellation. A notice of cancellation shall include the reason for cancellation of the umbrella or excess insurance policy. A post office department certificate of mailing to the named insured at the address shown in the umbrella or excess policy is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

5. An insurer shall not fail to renew an umbrella or excess insurance policy except by notice to the insured as provided in this section; however, an insurer may condition renewal of an umbrella or excess insurance policy upon requirements relating to the underlying policy or policies. If the requirements are not satisfied as of the expiration date of the umbrella or excess insurance policy, or thirty days after mailing or delivery of the notice, whichever is later, the conditional renewal notice shall be deemed to be an effective notice of nonrenewal. This subsection does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal.

6. A notice of nonrenewal is not effective unless mailed by certified mail or delivered to the named insured and any loss payee at least forty-five days prior to the expiration date of the umbrella or excess insurance policy. If the insurer fails to meet the notice requirements of this subsection the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing umbrella or excess policy.

7. Section 515.81A and 515.81B are not applicable to umbrella or excess insurance policies except as provided in subsection 3.

Sec. 41. Section 515.147, Code 1989, is amended to read as follows:

515.147 BUSINESS WITH UNAUTHORIZED INSURERS.

~~Nothing contained in this~~ This chapter ~~shall be construed to~~ does not prevent a licensed resident agent of this state from procuring insurance in certain ~~unauthorized~~ nonadmitted insurers ~~providing that~~ if such insurance is restricted to the type and kind of insurance authorized by this chapter and the agent makes oath to the commissioner of insurance in ~~such~~ the form ~~as is~~ prescribed by the commissioner that the agent has made diligent effort to place ~~said~~ the insurance in authorized insurers and has either exhausted the capacity of all authorized insurers or has been unable to obtain the desired insurance in insurers licensed to transact business in this state. The procuring of ~~any such contracts~~ a contract of insurance in ~~unauthorized insurers~~ a nonadmitted insurer makes ~~such insurers~~ the insurer liable for, and the agent shall pay, the taxes on ~~such~~ the premiums as if ~~such~~ the insurer were duly authorized to transact business in the state. A sworn report of all business transacted by agents of this state in ~~such unauthorized~~ nonadmitted insurers shall be made to the commissioner of insurance on or before March 1 of each year for the preceding calendar year, on ~~such~~ the form ~~as~~ required by the commissioner of insurance ~~may require; such~~. The report shall be accompanied by a remittance to cover the taxes ~~thereon~~ on the premiums. ~~Any~~ An agent who makes the oath ~~as above provided~~, pays the taxes on the premiums, and files the report ~~above provided, shall~~ has not ~~be deemed to have~~ written such contracts of insurance unlawfully, and ~~such agent shall~~ is not ~~be~~ personally liable for ~~such~~ the contracts.

Sec. 42. Section 515.148, Code 1989, is amended to read as follows:

515.148 BANNED COMPANIES.

~~No~~ An agent shall not knowingly place insurance, either directly or through an intermediary broker, in insurers who are insolvent or unsound financially; and ~~in no event~~ shall ~~an agent~~ not place or renew ~~any~~ insurance with ~~unauthorized~~ nonadmitted insurers found by the commissioner of insurance to have failed or refused to furnish, in ~~such~~ the manner ~~as is~~ provided in section 515.149, information reasonably showing the ability or willingness of ~~such~~ the insurers to satisfy obligations undertaken with respect to insurance issued by them.

Sec. 43. Section 515A.2, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

515A.2 DEFINITIONS — SCOPE OF CHAPTER.

1. As used in this chapter:

a. "Insurance" means workers' compensation liability insurance.

b. "Insurer" means an insurer which issues a policy of workers' compensation liability insurance.

c. "Policy" means a policy of workers' compensation liability insurance.

d. "Rate" means a rate for workers' compensation liability insurance.

e. "Rating organization" means a workers' compensation rating organization licensed pursuant to this chapter.

f. "Rate filing" means a rate filing by a rating organization or an insurer.

2. This chapter applies only to workers' compensation liability insurance.

Sec. 44. Section 515E.9, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

515E.9 PURCHASING GROUP RESTRICTIONS.

A purchasing group shall not purchase insurance from an insurer not admitted in this state unless the purchase is effected through a duly licensed agent or broker acting pursuant to sections 515.147 through 515.149.

Sec. 45. NEW SECTION. 515F.1 PURPOSE OF CHAPTER.

1. The purpose of this chapter is to promote the public welfare by regulating insurance rates so they are not excessive, inadequate, or unfairly discriminatory, and to authorize and

regulate limited cooperative action among insurers in ratemaking-related activities and in other matters within the scope of this chapter. This chapter is not intended to:

a. Prohibit or discourage reasonable competition.

b. Prohibit or encourage, except to the extent necessary to accomplish its purpose, uniformity in rating systems, rating plans, or practices.

2. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

Sec. 46. NEW SECTION. 515F.2 DEFINITIONS.

1. "Advisory organization" means an entity, including its affiliates or subsidiaries, which either has two or more member insurers or is controlled either directly or indirectly by two or more insurers, and which assists insurers in ratemaking-related activities such as enumerated in sections 515F.10 and 515F.11. Two or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer for purposes of this definition.

2. "Commercial risk" means any kind of risk which is not a personal risk.

3. "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those needed to provide actual ultimate loss (including loss adjustment expense) payments.

4. "Expenses" means that portion of a rate attributable to acquisition, field supervision, collection expenses, general expenses, taxes, licenses, and fees.

5. "Joint underwriting" means a voluntary arrangement established on an ad hoc basis to provide insurance coverage for a commercial risk pursuant to which two or more insurers jointly contract with the insured at a price and under policy terms agreed upon between the insurers.

6. "Loss trending" means a procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective.

7. "Personal risk" means insurance covering homeowners, tenants, private passenger nonfleet automobiles, and mobile homes, and other property and casualty insurance for personal, family, or household needs.

8. "Pool" means a voluntary arrangement, established on an ongoing basis, pursuant to which two or more insurers participate in the sharing of risks on a predetermined basis. The pool may operate through an association, syndicate, or other pooling agreement.

9. "Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

10. "Rate" means the cost of insurance per exposure unit whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premium.

11. "Residual market mechanism" means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be offered to applicants who are unable to obtain insurance through ordinary methods.

12. "Supplementary rating information" includes a manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, underwriting rule, statistical plan, and any other similar information needed to determine the applicable rate in effect or to be in effect.

13. "Supporting information" means the experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied upon by the filer, the interpretation of any other data relied upon by the filer, descriptions of methods used in making the rates, and any other information required by the commissioner to be filed.

Sec. 47. NEW SECTION. 515F.3 SCOPE OF CHAPTER.

This chapter applies to all forms of casualty insurance, including fidelity, surety, and guaranty bonds, including but not limited to all forms of fire and inland marine insurance, and to any combination of any of the foregoing, on risks or operations located in this state.

This chapter does not apply to:

1. Reinsurance, other than statutorily authorized joint reinsurance mechanisms to the extent stated in section 515F.13.

2. Accident and health insurance.

3. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, excluding inland marine insurance, as determined by the commissioner.

4. Workers' compensation insurance.

5. Surplus lines insurance.

6. Insurance written by a county mutual assessment association as provided in chapter 518A.

Sec. 48. NEW SECTION. 515F.4 RATE STANDARDS.

Rates shall be made in accordance with the following:

1. Rates shall not be excessive, inadequate, or unfairly discriminatory.

2. Due consideration may be given to past and prospective loss experience within and outside this state; to the conflagration and catastrophe hazards; to a reasonable margin for profit and contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to past and prospective expenses both within and outside this state; and to all other relevant factors within and outside this state; and in the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which experience data is available.

3. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. A risk classification, however, shall not be based upon race, creed, national origin, or the religion of the insured.

4. The expense provisions included in the rates to be used by an insurer shall reflect to the extent possible the operating methods of the insurer and its anticipated expenses.

5. The rates may contain a provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to investment income attributable to unearned premium and loss reserves. Income from other sources shall not be considered.

Sec. 49. NEW SECTION. 515F.5 RATE FILINGS.

1. An insurer shall file with the commissioner, except as to inland marine risks which are not written according to manual rates or rating plans, every manual, minimum premium, class rate, rating schedule, rating plan, and every other rating rule, and every modification of any of the foregoing which it proposes to use. A filing shall state its proposed effective date, and shall indicate the character and extent of the coverage contemplated.

An insurer shall file or incorporate by reference to material which has been approved by the commissioner, at the same time as the filing of the rate, all supplementary rating and supporting information to be used in support of or in conjunction with a rate. The information furnished in support of a filing may include or consist of a reference to any of the following:

a. The experience or judgment of the insurer or rating information filed by the advisory organization on behalf of the insurer as permitted by section 515F.11.

b. An interpretation of any statistical data the insurer relies upon.

c. The experience of other insurers or rating advisory organizations.

d. Any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

When a filing is not accompanied by the information upon which the insurer supports the filing, the commissioner may require the insurer to furnish the supporting information and the waiting period commences on the date the information is furnished. Until the required information is furnished, the filing shall not be deemed complete or filed or available for use by the insurer. If the requested information is not furnished within a reasonable time period, the filing may be returned to the insurer as not filed and not available for use.

After reviewing an insurer's filing, the commissioner may require that the insurer's rates be based upon the insurer's own loss and expense information. If an insurer's loss or allocated loss adjustment expense information is not actuarially credible, as determined by the commissioner, the insurer may supplement its experience with information filed with the commissioner by an advisory organization.

Insurers using the services of an advisory organization shall, at the request of the commissioner, provide with a rate filing, a description of the rationale for that use, including its own information and method of using the advisory organization's information.

2. The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

3. Subject to the exception in subsection 4, a filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if written notice is given within the waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or an extension of the waiting period. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or an extension of the waiting period.

4. Under rules adopted under chapter 17A, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, or subdivision or combination of insurance, or as to classes of risks, the rates for which cannot practicably be filed before they are used. The commissioner may make an examination as the commissioner deems advisable to ascertain whether rates affected by the order meet the standards set forth in section 515F.4.

5. Upon the written application of the insured stating the insured's reasons, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on a specific risk.

6. An insurer shall not make or issue a contract or policy except in accordance with the filings which have been approved and are in effect for the insurer as provided in this chapter. This subsection does not apply to contracts or policies for inland marine risks as to which filings are not required.

Sec. 50. NEW SECTION. 515F.6 DISAPPROVAL OF FILINGS.

1. If, within the waiting period or any extension of it as provided in section 515F.5, subsection 3, the commissioner finds that a filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the insurer or advisory organization which made the filing, specifying in what respects the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective. If a filing is disapproved by the commissioner, the insurer or advisory organization, may request a hearing on the disapproval within thirty days. The insurer bears the burden of proving compliance with the standards established by this chapter.

2. If, at any time after a rate has been approved, the commissioner finds that the rate no longer meets the requirements of this chapter, the commissioner may order the discontinuance of use of the rate. The order of discontinuance may be issued only after a hearing with

at least ten days' prior notice for all insurers affected by the order. The order must be in writing and state the grounds for the order. The order shall state when, within a reasonable period after the order is issued, the order of discontinuance shall be effective. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

3. An insured which is aggrieved with respect to a filing which is in effect may make written application to the commissioner for a hearing on that filing. The application shall specify the grounds to be relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established, and that the grounds otherwise justify holding a hearing, a hearing shall be held within thirty days after receipt of the application, upon not less than ten days' written notice to the applicant and to every insurer and advisory organization which made that filing.

If, after hearing, the commissioner finds that the filing does not meet the requirements of this chapter, the commissioner shall issue an order specifying in what respects the filing fails to meet the requirements of this chapter, and stating when, within a reasonable period after the order is issued, the filing shall no longer be in effect. Copies of the order shall be sent to the applicant and to every insurer and advisory organization which made that filing. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

Sec. 51. NEW SECTION. 515F.7 INFORMATION TO BE FURNISHED INSUREDS — HEARINGS AND APPEALS OF INSUREDS.

An insurer shall, within a reasonable time after receiving written request and upon payment of reasonable charges set by the commissioner, furnish to an insured affected by a rate made by the insurer, or to the authorized representative of the insured, all pertinent information as to the rate. An insurer shall provide within this state reasonable means for the insured aggrieved by the application of its rating system to be heard, in person or by the insured's authorized representative, on written request to review the manner in which the rating system has been applied in connection with the insurance afforded the insured. If the insurer fails to grant or reject a request for hearing and review within thirty days after it is made, the applicant may proceed in the same manner as if the application had been rejected. The insured affected by the action of the insurer on a request may, within thirty days after written notice of the action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to the insurer, may affirm or reverse the action.

Sec. 52. NEW SECTION. 515F.8 LICENSING ADVISORY ORGANIZATIONS.

1. LICENSE REQUIRED. An advisory organization shall not provide a service relating to the rates of insurance subject to this chapter, and an insurer shall not utilize the services of an advisory organization for such purposes unless the advisory organization has obtained a license under subsection 3.

2. AVAILABILITY OF SERVICES. An advisory organization shall not refuse to supply any services for which it is licensed in this state to an insurer authorized to do business in this state and offering to pay the fair and usual compensation for the services.

3. LICENSING.

a. APPLICATION. An advisory organization applying for a license shall include with its application all of the following:

(1) A copy of its constitution, charter, articles of organization, agreement, association, or incorporation, and a copy of its bylaws, plan of operation, and any other rules or regulations governing the conduct of its business.

(2) A list of its members and subscribers.

(3) The name and address of one or more residents of this state upon whom notices, process affecting it, or orders of the commissioner may be served.

(4) A statement showing its technical qualifications for acting in the capacity for which it seeks a license.

(5) A biography of the ownership and management of the organization.

(6) Any other relevant information and documents that the commissioner may require.

b. CHANGE OF CIRCUMSTANCES. An advisory organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on which its application was based. An amendment to a document filed under this section shall be filed at least thirty days before it becomes effective.

c. GRANTING OF LICENSE. If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of the law are met, the commissioner shall issue a license specifying the authorized activity of the applicant. The commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen the competition in any market.

d. DURATION. A license issued under this section shall remain in effect for one year unless the license is suspended or revoked. The commissioner may, at any time after hearing, revoke or suspend the license of an advisory organization which does not comply with the requirements and standards of this chapter.

Sec. 53. NEW SECTION. 515F.9 INSURERS AND ADVISORY ORGANIZATIONS — PROHIBITED ACTIVITY.

1. An insurer or advisory organization shall not:

a. Attempt to monopolize, or combine or conspire with any other person to monopolize, an insurance market.

b. Engage in a boycott, on a concerted basis, of an insurance market.

2. a. An insurer shall not agree with any other insurer or with an advisory organization to mandate adherence to or to mandate use of a rate, rating plan, rating schedule, rating rule, policy or bond form, rate classification, rate territory, underwriting rule, survey, inspection, or similar material, except as needed to develop statistical plans permitted by section 515F.11, subsection 1. The fact that two or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently, the same rates, rating plans, rating schedules, rating rules, policy or bond forms, rate classifications, rate territories, underwriting rules, surveys or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.

b. Two or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to any matters pertaining to those activities authorized in this chapter as if they constituted a single insurer.

3. An insurer or advisory organization shall not make an arrangement with any other insurer, advisory organization, or other person which has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

Sec. 54. NEW SECTION. 515F.10 ADVISORY ORGANIZATIONS — PROHIBITED ACTIVITY.

In addition to the other prohibitions contained in this chapter, except as specifically permitted under section 515F.11, an advisory organization shall not compile or distribute recommendations relating to rates that include profit or expenses, other than loss adjustment expenses.

Sec. 55. NEW SECTION. 515F.11 ADVISORY ORGANIZATIONS — PERMITTED ACTIVITY.

An advisory organization, in addition to other activities not prohibited, may, on behalf of its members and subscribers, do any or all of the following:

1. Develop statistical plans including territorial and class definitions.

2. Collect statistical data from members, subscribers, or any other source.

3. Prepare and distribute prospective loss costs.

4. Prepare and distribute factors, calculations, or formulas pertaining to classifications, territories, increased limits, and other variables.

5. Prepare and distribute manuals of rating rules and rating schedules that do not include final rates, expense provisions, profit provisions, or minimum premiums.

6. Distribute information that is required or directed to be filed with the commissioner.

7. Conduct research and on-site inspections in order to prepare classifications of public fire defenses.

8. Consult with public officials regarding public fire protection as it would affect members, subscribers, and others.

9. Conduct research and collect statistics in order to discover, identify, and classify information relating to causes or prevention of losses.

10. Prepare policy forms and endorsements and consult with members, subscribers, and others relative to their use and application.

11. Conduct research and on-site inspections for the purpose of providing risk information relating to individual structures.

12. Collect, compile, and distribute past and current prices of individual insurers and publish such information.

13. File final rates, at the direction of the commissioner, for residual market mechanisms.

14. Collect, compile, and distribute historical expense information.

15. Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

Sec. 56. NEW SECTION. 515F.12 ADVISORY ORGANIZATIONS — FILING REQUIREMENTS.

An advisory organization shall file with the commissioner for approval all prospective loss costs and all supplementary rating information and every change or amendment or modification of any of the foregoing proposed for use in this state. The filings are subject to sections 515F.5 and 515F.6 and other provisions of this chapter relating to filings made by insurers.

Sec. 57. NEW SECTION. 515F.13 POOL AND RESIDUAL MARKET ACTIVITIES.

1. AUTHORIZATION. Notwithstanding section 515F.9, rating organizations, advisory organizations, and insurers participating in joint underwriting, joint reinsurance pools, or residual market mechanisms may in connection with such activity act in cooperation with each other in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections, and investigations, the furnishing of loss and expense statistics or other information, or carrying on research. Joint underwriting, joint reinsurance pools, and residual market mechanisms shall not be deemed advisory organizations.

2. REGULATION.

a. Except to the extent modified by this section, insurers, and joint underwriting, joint reinsurance pool, and residual market mechanism activities are subject to the other provisions of this chapter.

b. If, after hearing, the commissioner finds that an activity or practice of an insurer participating in joint underwriting or a pool is unfair, is unreasonable, will tend to lessen competition in a market, or is otherwise inconsistent with the provisions or purposes of this chapter, the commissioner may issue a written order and require the discontinuance of that activity or practice.

c. A pool shall file with the commissioner a copy of its constitution; its articles of incorporation, agreement, or association; its bylaws, rules, and regulations governing its activities; its members; the name and address of a resident of this state upon whom notices or orders of the commissioner or process may be served; and any changes in amendments or changes in the foregoing.

d. A residual market mechanism, or plan or agreement to implement such a mechanism, and any changes or amendments thereto, shall be submitted in writing to the commissioner for consideration and approval, together with information as reasonably required by the commissioner. The commissioner shall only approve agreements found to contemplate both of the following:

(1) The use of rates which meet the standards prescribed by this chapter.

(2) Activities and practices that are not unfair, unreasonable, or otherwise inconsistent with this chapter.

At any time after the agreements are in effect, the commissioner may review the practices and activities of the adherents to the agreements and if, after a hearing, the commissioner finds that any such practice or activity is unfair or unreasonable, or is otherwise inconsistent with this chapter, the commissioner may issue a written order to the parties and either require the discontinuance of the acts or revoke approval of the agreement.

Sec. 58. NEW SECTION. 515F.14 EXAMINATIONS.

The commissioner may, as often as deemed expedient, make or cause to be made an examination of each advisory organization referred to in section 515F.8 and of each group, association, or other organization referred to in section 515F.13. The reasonable costs of an examination shall be paid by the advisory organization or group, association, or other organization examined. The officers, manager, agents, and employees of the advisory organization, or group, association, or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of an examination, the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of that state.

Sec. 59. NEW SECTION. 515F.15 RATE ADMINISTRATION.

1. RECORDING AND REPORTING OF LOSS AND EXPENSE EXPERIENCE.

The commissioner may adopt reasonable rules for use by companies to record and report to the commissioner their rates and other information determined by the commissioner to be necessary or appropriate for the administration of this chapter and the effectuation of its purposes.

The commissioner may adopt reasonable rules and statistical plans, which shall then be used by each insurer in the recording and reporting of its loss and expense experience, in order that the experience of all insurers may be made available at least annually in the form and detail necessary to aid the commissioner in determining whether rating systems comply with the standards set forth in section 515F.4. The commissioner may designate one or more advisory organizations or other agencies to assist in gathering the experience and making compilations, and the compilations shall be public documents.

2. INTERCHANGE OF RATING PLAN DATA.

Reasonable rules and plans may be adopted by the commissioner for the interchange of data necessary for the application of rating plans.

3. CONSULTATION WITH OTHER STATES.

In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and advisory organization may exchange information and experience data with insurance supervisory officials, insurers, and advisory organizations in other states and may consult with them with respect to the application of rating systems.

4. RULES.

The commissioner may make reasonable rules necessary, including definitions of the rate standards contained in section 515F.4, to effect the purposes of this chapter.

Sec. 60. NEW SECTION. 515F.16 FALSE OR MISLEADING INFORMATION.

A person, including an insurer, or advisory organization, shall not willfully withhold information which will affect the rates or premiums chargeable under this chapter from, or knowingly give false or misleading information to, the commissioner, a statistical agency designated by the commissioner, an advisory organization, or an insurer. A violation of this section subjects the one guilty of the violation to the penalties provided in section 515F.19.

Sec. 61. NEW SECTION. 515F.17 ASSIGNED RISKS.

Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but who

are unable to procure, the insurance through ordinary methods, and the insurers may agree among themselves on the use of reasonable rate modifications for such insurance, the agreements and rate modifications to be subject to the approval of the commissioner.

Sec. 62. NEW SECTION. 515F.18 EXEMPTIONS.

The commissioner may, upon the commissioner's own initiative or upon request of any person, by rule, exempt a market from any or all of the provisions of this chapter, if and to the extent that the exemption is necessary to achieve the purposes of this chapter.

Sec. 63. NEW SECTION. 515F.19 PENALTIES.

The commissioner may, upon a finding that a person or organization has violated a provision of this chapter, impose a civil penalty of not more than ten thousand dollars for each violation, but if the violation is found to be willful, a penalty of not more than twenty-five thousand dollars may be imposed for each violation. The civil penalties may be in addition to any other penalty provided by law.

For purposes of this section, an insurer using a rate for which the insurer has failed to file the rate, supplementary rate information, underwriting rules or guides, or supporting information as required by this chapter, has committed a separate violation for each day the failure continues.

The commissioner may suspend or revoke the license of an advisory organization or insurer which fails to comply with an order of the commissioner within the time limit set by the order, or an extension of the order.

The commissioner may determine when a suspension of license becomes effective and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or rescinds the suspension, or until the order upon which the suspension is based is modified, rescinded, or reversed.

A penalty shall not be imposed and a license shall not be suspended or revoked except upon a written order of the commissioner stating the commissioner's findings, made after hearing.

Sec. 64. Section 507B.4, subsection 11, Code Supplement 1989, is amended to read as follows:

11. Rating organizations. Any violation of section ~~515A.16~~ 515F.16.

Sec. 65. Section 515A.21, Code 1989, is amended to read as follows:

515A.21 SCOPE OF APPLICATION.

Section 515A.20 and sections 515A.22 through 515A.25 apply to all forms of casualty insurance except ~~those described in sections 515A.11 and 515A.15~~ joint underwriting and joint reinsurance, assigned risks, and those excluded by section 515A.2.

Sec. 66. Section 515A.23, Code 1989, is amended to read as follows:

515A.23 NONCOMPETITIVE MARKET.

Unless the commissioner has determined a market to be competitive, the provisions of sections ~~515A.1~~ 515F.1 through ~~515A.19~~ 515F.19 apply.

Sec. 67. Section 515A.24, Code 1989, is amended to read as follows:

515A.24 FILING OF RATES IN A COMPETITIVE MARKET.

1. Subject to the inland marine exception specified in section ~~515A.4, subsection 5~~ 515F.5, subsection 1, a competitive filing shall become effective when filed and shall be deemed to meet the requirements of section ~~515A.3~~ 515F.4 as long as the filing remains in effect unless it is disapproved upon review by the commissioner.

2. In a competitive market, every insurer shall file with the commissioner all rates and supplementary rate information which are used in this state. The rates and supplementary rate information shall be filed not later than fifteen days after the effective date of the rates.

3. In a competitive market, if the commissioner finds that an insurer's rates require closer supervision because of the insurer's financial condition or unfairly discriminatory rating practices, the insurer shall file with the commissioner at least thirty days prior to the effective

date of the rates all the rates and supplementary rate information and supporting information as prescribed by the commissioner. Upon application by the filer, the commissioner may authorize an earlier effective date.

Sec. 68. Section 515A.25, Code 1989, is amended to read as follows:

515A.25 DISAPPROVAL OF A RATE FILING IN A COMPETITIVE MARKET.

1. If the commissioner believes that an insurer's rate filing in a competitive market violates the requirements of section ~~515A.3~~ 515F.4 through 515F.5, the commissioner may require the insurer to file supporting information. If after reviewing the supporting information the commissioner continues to believe that the filing violates section ~~515A.3~~ 515F.4 through 515F.5, the commissioner shall notify the insurer of the insurer's right to petition for a hearing on any subsequent order relating to the filing.

2. The commissioner may disapprove prefiled rates that have not become effective. However, the commissioner shall notify the insurer whose rates have been disapproved of the insurer's right to petition for a hearing on the disapproval within thirty days after the disapproval.

3. If the commissioner disapproves a filing in a competitive market, the commissioner shall issue an order specifying the reasons the filing fails to meet the requirements of section ~~515A.3~~ 515F.4 through 515F.5. For rates in effect at the time of disapproval, the commissioner shall inform the insurer within a reasonable period of time the date when further use of the rates for policies or contracts of insurance is prohibited. The order shall be issued within thirty days of disapproval, or within thirty days of a hearing on the disapproval if a hearing is held. The order may include a provision for premium adjustment for the period after the effective date of the order for policies or contracts in effect on the date of the order.

4. Whenever an insurer has filed no legally effective rates as a result of the commissioner's disapproval of a filing, the commissioner shall on request of the insurer work with the insurer to develop interim rates for the insurer that are sufficient to protect the interest of all parties and the commissioner may order that a specified portion of the premium be placed in an escrow account approved by the commissioner. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately. The commissioner may waive distribution if the commissioner determines that the amount involved would not warrant such action.

Sec. 69. Section 518.10, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An alien insurer, with the approval of the commissioner, may be treated as a domestic insurer of this state in whole or in part. The approval of the commissioner may be based upon such factors as:

1. Maintenance of an appropriate trust account, surplus account, or other financial mechanism in this state.

2. Maintenance of all books and records of United States operations in this state.

3. Maintenance of a separate financial reporting system for its United States operations.

4. Any other provisions deemed necessary by the commissioner.

Sec. 70. NEW SECTION. 518.25 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross property risk in force, whichever is greater. Reinsurance sufficient to protect the financial stability of the company is also required. The insurance commissioner may require additional reinsurance if necessary to protect the policyholders of the company. An association authorized to transact business in this state before July 1, 1990, shall meet this requirement not later than July 1, 1993.

Sec. 71. NEW SECTION. 518A.37 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than one hundred thousand dollars. Reinsurance sufficient to protect the financial stability

of the company is also required. The insurance commissioner may require additional reinsurance if necessary to protect the policyholders of the company. An association authorized to transact business in this state before July 1, 1990, shall meet this requirement not later than July 1, 1992.

Sec. 72. Section 521A.1, subsection 6, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Insurer ~~shall mean~~ means a company qualified and licensed by the insurance division to transact the business of insurance in this state by certificate issued pursuant to chapters 508, 514B, 515, 518A, and 520, except that it shall not include:

Sec. 73.

Sections 5, 6, 33, 34, and 36 of this Act do not affect insurance companies which, on or before the effective date of this Act, were authorized to transact business in this state.

Sec. 74.

Section 1 of this Act, applies to all indebtedness contracted for, general obligation bonds issued, or insurance agreements entered into or renewed pursuant to section 296.7 on or after the effective date of section 1, but shall not apply to an act permitted by section 296.7 at any time prior to January 1, 1990.

Sec. 75.

Sections 1 and 74 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 76. Sections 515A.1 through 515A.19, Code 1989, are repealed effective July 1, 1992.

Sec. 77.

The Code editor shall transfer sections 515A.20 through 515A.25 to be a division of new chapter 515F.

Approved May 2, 1990

CHAPTER 1235

PETROLEUM STORAGE TANKS

H.F. 2552

AN ACT relating to storage tanks, including the conditions and funding mechanisms of the Iowa comprehensive petroleum underground storage tank fund, and providing an effective date.

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

Section 1. Section 101.12, Code Supplement 1989, is amended to read as follows:

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~~ as permitted by the latest edition of the national fire protection association rule 30A, subject to the approval of the governing body of the local governmental subdivision with jurisdiction over the site of the outlet.

Sec. 2. Section 101.21, Code Supplement 1989, is amended to read as follows:

101.21 DEFINITIONS.

As used in this part unless the context otherwise requires:

1. "Aboveground petroleum 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~~ petroleum and the volume of which, including the volume of the underground pipes, is more than ninety percent above the surface of the ground. Aboveground petroleum 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.

2. "Nonoperational aboveground petroleum tank" means an aboveground storage tank in which ~~regulated substances are~~ petroleum is not deposited or from which ~~regulated substances are~~ petroleum is not dispensed on or after July 1, 1989.

3. "Operator" means a person in control of, or having responsibility for, the daily operation of ~~the~~ an aboveground petroleum storage tank.

4. "Owner" means:

a. In the case of an aboveground petroleum storage tank in use on or after July 1, 1989, a person who owns the aboveground petroleum storage tank used for the storage, use, or dispensing of ~~regulated substances~~ petroleum.

b. In the case of an aboveground petroleum storage tank in use before July 1, 1989, but no longer in use on or after that date, a person who owned the tank immediately before the discontinuation of its use.

5. "~~Regulated substance~~ Petroleum" means ~~regulated substance~~ petroleum as defined in section 455B.471.

6. "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an aboveground petroleum storage tank into groundwater, surface water, or subsurface soils.

7. "State fire marshal" means the state fire marshal~~,~~ or the state fire marshal's designee.

8. "Tank site" means a tank or grouping of tanks within close proximity of each other located on ~~the~~ a facility for the purpose of storing ~~regulated substances~~ petroleum.

Sec. 3. Section 101.22, Code Supplement 1989, is amended to read as follows:

101.22 REPORT OF EXISTING AND NEW TANKS — REGISTRATION FEE — TAG — PENALTY.

1. Except as provided in subsection 2, the owner or operator of an aboveground petroleum 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 petroleum 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 from the site. 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 petroleum 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~~ petroleum in an aboveground petroleum 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~~ is unlawful to deposit ~~a regulated substance~~ petroleum in an aboveground petroleum storage tank which has not been registered pursuant to subsections 1 through ~~5~~ 4.

The state fire marshal shall furnish the owner or operator of an aboveground petroleum storage tank with a registration tag for each aboveground petroleum storage tank registered with the state fire marshal. The owner or operator shall affix the tag to the fill pipe of each registered aboveground petroleum storage tank. A person who conveys or deposits ~~a regulated substance~~ petroleum shall inspect the aboveground petroleum storage tank to determine the existence or absence of the registration tag. If a registration tag is not affixed to the aboveground petroleum storage tank fill pipe, the person conveying or depositing the ~~regulated substance~~ petroleum may deposit the ~~regulated substance~~ petroleum in the unregistered tank ~~provided that~~. However, 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 petroleum 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. 4. NEW SECTION. 101.22A EXEMPTION.

An aboveground petroleum storage tank which is subject to regulation or registration under either the federal department of transportation or state department of transportation or both, is exempt from the registration requirements of section 101.22.

Sec. 5. Section 101.23, Code Supplement 1989, is amended to read as follows:

101.23 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 petroleum storage tanks.

Sec. 6. Section 101.24, subsections 1 and 2, Code Supplement 1989, are amended to read as follows:

1. Inspect and investigate the facilities and records of owners and operators of aboveground petroleum storage tanks as ~~may be~~ necessary to determine compliance with this division and the rules adopted pursuant to this division. An inspection or investigation shall be conducted subject to subsection 4. For purposes of developing a rule, maintaining an accurate inventory, or enforcing this division, the department may:

a. Enter at reasonable times ~~any~~ an establishment or other place where an aboveground storage tank is located.

b. Inspect and obtain samples from any person of ~~a~~ petroleum or another 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~~ documents 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~~ a proceeding under the federal Solid Waste Disposal Act or this division.

2. Maintain an accurate inventory of aboveground petroleum storage tanks.

Sec. 7. Section 312.1, subsection 3, Code Supplement 1989, is amended to read as follows:

3. ~~All~~ Except as provided in section 423.24, revenue derived from the use tax, under chapter 423 on motor vehicles, trailers, and motor vehicle accessories and equipment, as same may be collected as provided by section 423.7.

Sec. 8. Section 423.24, subsection 1, Code 1989, is amended to read as follows:

1. a. Twenty-five percent of all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7, up to a maximum of three million dollars per quarter, shall be deposited into the Iowa comprehensive petroleum underground storage tank 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.

b. ~~All~~ Any remaining revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7 shall be credited to the primary road fund to the extent necessary to reimburse that fund for the expenditures, not otherwise eligible to be made from the primary road fund, made for repairing, improving and maintaining bridges over the rivers bordering the state. Expenditures for those portions of bridges within adjacent states may be included when they are made pursuant to an agreement entered into under sections 313.63, 313A.34 and 314.10.

~~b~~ c. Any remaining revenues derived from the operation of section 423.7 shall be credited to the road use tax fund.

Sec. 9. Section 424.3, subsection 5, Code Supplement 1989, is amended to read as follows:

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~~ reasonably calculated to generate an annual average revenue, year to year, of twelve million dollars from the charge, excluding penalties and interest, if any. The board may determine or adjust the cost factor at any time after May 5, 1989, but shall at minimum determine the cost factor at least once each fiscal year.

Sec. 10. Section 424.3, subsection 6, Code Supplement 1989, is amended by striking the subsection.

Sec. 11. Section 424.3, subsection 7, Code Supplement 1989, is amended by striking the subsection.

Sec. 12. Section 424.6, subsection 1, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall permit a credit against the charge due from a person operating an eligible underground bulk storage facility equal to the total volume of petroleum tranferred or sold from a tank in bulk quantities and delivered to a person for deposit in a tank which is exempt, deferred, or excluded pursuant to this subsection, multiplied by the diminution rate multiplied by the cost factor, subject to rules adopted by the board. "Bulk quantities" as used in this paragraph means at least a portion of a standard tanker truck load. "Eligible underground bulk storage facility" means an underground bulk storage facility in operation on or before January 1, 1990.

Sec. 13. Section 424.7, subsection 4, Code Supplement 1989, is amended to read as follows:

4. Upon receipt of a payment pursuant to this chapter, the department shall deposit the moneys into the road use tax 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~~ 312.1.

Sec. 14. Section 424.15, Code Supplement 1989, is amended to read as follows:

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 road use tax fund ~~created in section 455G.3~~, and are limited by the total amount budgeted by the ~~fund's~~ board for charge refunds.

Sec. 15. Section 424.16, subsection 1, Code Supplement 1989, is amended to read as follows:

424.16 NOTICE OF CHANGE IN DIMINUTION RATE — SERVICE OF NOTICE.

1. a. The board shall notify each person who has previously filed an environmental protection charge return, and any other person known to the board who will owe the charge at any address obtainable for that person, at least ~~forty-five~~ thirty 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.~~

b. 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~~ thirty days in advance of the first day of the calendar quarter during which a change in paragraph "a" ~~or "b"~~ becomes effective.

Sec. 16. Section 455B.304, Code Supplement 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules providing for the land application of soils resulting from the remediation of underground storage tank releases in the state.

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules providing for the issuance of a certificate to the owner of an underground petroleum storage tank evidencing completion of a remediation action by cleaning the site to the then current action standards. The certificate shall be issued upon request of the owner if the department does not order further

remediation work to be performed within ninety days of the department's letter acknowledging compliance with current action standards. The certificate may be recorded with the county recorder to evidence completion of a remediation in the chain of title. A person issued a certificate shall not be required to perform further remediation solely because action standards are changed at a later date. The certificate shall not prevent the department from ordering remediation of a new release.

Sec. 17. Section 455G.2, subsection 13, paragraph c, Code Supplement 1989, is amended to read as follows:

c. Has a net worth of ~~two~~ four hundred thousand dollars or less.

Sec. 18. Section 455G.2, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 15. "Third-party liability" means both of the following:

a. Property damage including physical injury to tangible property, but not including loss of use, other than costs to remediate.

b. Bodily injury including sickness, bodily injury, illness, or death.

Third-party liability does not include any claim, cause of action, or suit, for personal injury including, but not limited to, loss of use or of private enjoyment, mental anguish, false imprisonment, wrongful entry or eviction, humiliation, discrimination, or malicious prosecution.

Sec. 19. Section 455G.3, subsection 1, Code Supplement 1989, is amended to read as follows:

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 this section and sections ~~424.7~~ 423.24, 455G.8, 455G.9, 455G.10, 455G.11, and 455G.13, 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.

Sec. 20. Section 455G.6, subsection 4, Code Supplement 1989, is amended to read as follows:

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~~ revenues derived from the use tax imposed under chapter 423 and deposited in the fund or an account of the fund.

Sec. 21. Section 455G.8, subsection 2, Code Supplement 1989, is amended to read as follows:

2. ~~Environmental protection charge~~ Use tax. The ~~environmental protection charge~~ revenues derived from the use tax imposed under chapter ~~424~~ 423. The proceeds of the ~~environmental protection charge~~ use tax 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.

Sec. 22. Section 455G.9, subsection 1, paragraph a, subparagraph (1), unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

Total payments for claims pursuant to this subparagraph are limited to no more than six million dollars. Claims for eligible retroactive releases shall be prorated if claims filed in a permitted application period or for a particular priority class of applicants exceed six million dollars or the then remaining balance of 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.

Sec. 23. Section 455G.9, subsection 1, paragraph a, subparagraph (1), subparagraph subdivision (a), Code Supplement 1989, is amended by striking the subparagraph subdivision.

Sec. 24. Section 455G.9, subsection 1, paragraph a, subparagraph (2), Code Supplement 1989, is amended to read as follows:

(2) Corrective action, up to one million dollars total, and subject to prioritization rules as established pursuant to section 455G.12A, for a release reported to the department of natural resources after May 5, 1989, 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.

Sec. 25. Section 455G.9, subsection 1, paragraph b, Code Supplement 1989, is amended to read as follows:

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. For the purposes of this section property shall not be deeded or quitclaimed to the state or board in lieu of cleanup. Additionally, the ability to pay shall be determined after a claim has been filed. The board is not liable for any cost where either the responsible owner or operator, or both, have a net worth greater than fifteen thousand dollars, or where the responsible party can be determined.

Sec. 26. Section 455G.9, subsection 1, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Corrective action for a release reported to the department of natural resources after May 5, 1989, and on or before October 26, 1990, in connection with a tank owned or operated by a state agency or department which elects to participate in the remedial account pursuant to this paragraph. A state agency or department which does not receive a standing unlimited appropriation which may be used to pay for the costs of a corrective action may opt, with the approval of the board, to participate in the remedial account. As a condition of opting to participate in the remedial account, the agency or department shall pay all registration fees, storage tank management fees, environmental protection charges, and all other charges and fees upon all tanks owned or operated by the agency or department in the same manner as if the agency or department were a person required to maintain financial responsibility. Once an agency has opted to participate in the remedial program, it cannot opt out, and shall continue to pay all charges and fees upon all tanks owned or operated by the agency or department so long as the charges or fees are imposed on similarly situated tanks of a person required to maintain financial responsibility. The board shall by rule adopted pursuant to chapter 17A provide the terms and conditions for a state agency or department to opt to participate in the remedial account. A state agency or department which opts to participate in the remedial account shall be subject to the minimum copayment schedule of subsection 4, as if the state agency or department were a person required to maintain financial responsibility.

Sec. 27. Section 455G.9, subsection 2, Code Supplement 1989, is amended to read as follows:

2. REMEDIAL ACCOUNT FUNDING. The remedial account shall be funded by that portion of the proceeds of the ~~environmental protection charge~~ use tax imposed under chapter ~~424~~ 423 and other moneys and revenues budgeted to the remedial account by the board.

Sec. 28. Section 455G.9, subsection 3, Code Supplement 1989, is amended to read as follows:

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.~~

Sec. 29. Section 455G.10, subsection 1, Code Supplement 1989, is amended to read as follows:

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 derived from the use tax imposed under chapter 423 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.

Sec. 30. Section 455G.10, subsection 2, Code Supplement 1989, is amended to read as follows:

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.

Sec. 31. Section 455G.10, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. In calculating the net worth of an applicant for a loan guarantee, the board shall use the fair market value of any property on which a tank is sited, and not the precorrective action value required for recovery of gain upon later sale of the same property under section 455G.9, subsection 6.

Sec. 32. Section 455G.10, subsection 7, Code Supplement 1989, is amended to read as follows:

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.~~ In administering the program, the board shall periodically determine the necessary loan loss reserve needed and shall set aside the appropriate moneys in the loan loss reserve account for payment of loan defaults. This reserve shall be determined based on the credit quality of the outstanding guaranteed loans at the time that the reserve requirement is being determined. 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. 33. Section 455G.11, subsection 1, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The source of funds for the insurance account shall be from the following:

a. Moneys allocated to the board or moneys allocated to the account by the board according to the fund budget approved by the board.

b. Moneys collected as an insurance premium including service fees, if any, and investment income attributed to the account by the board.

Sec. 34. Section 455G.11, subsection 3, paragraph c, Code Supplement 1989, is amended to read as follows:

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~~ 1992, 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~~ 1992, shall not insure that tank through the insurance account unless and until the tank satisfies the requirements of paragraph "a" or "b".

Sec. 35. Section 455G.11, subsection 3, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The applicant either:

(1) Is maintaining financial responsibility pursuant to current or previously applicable federal or state financial responsibility requirements on petroleum underground storage tanks within the state.

(2) Complies with the applicable following date for financial responsibility:

(a) On or before April 26, 1990, for a petroleum marketing firm owning at least thirteen, but no more than ninety-nine petroleum underground storage tanks.

(b) On or before October 26, 1990, for an owner or operator not described in subparagraph subdivision (a), and not currently or previously required to maintain financial responsibility by federal or state law on tanks within the state.

Sec. 36. Section 455G.11, subsection 6, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

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, local fire marshal, ~~or~~ state fire marshal's designee, or other person who is unaffiliated with the tank owner, operator, or installer, who is 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 31, 1989. For the period from May 5, 1989,~~

~~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.~~

Sec. 37. Section 455G.11, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. The board shall provide for insurance coverage to be offered to installers for a tank installation certified pursuant to subsection 6, through at least one of the following methods:

a. Directly through the fund with premiums and deductibles as provided for owners and operators in subsection 4.

b. In cooperation with a private insurance carrier with excess or stop loss coverage provided by the fund to reduce the cost of insurance to such installers, and including such other terms and conditions as the board deems necessary and convenient to provide adequate coverage for a certified tank installation at a reasonable premium.

Sec. 38. Section 455G.11, subsection 7, paragraph a, Code Supplement 1989, is amended to read as follows:

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. A personal injury is not a compensable third-party liability damage.

Sec. 39. Section 455G.11, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person engaged in the wholesale or retail sale of petroleum shall receive a discount of eight percent on that person's annual insurance premium for all tanks located at a site which meets all of the following conditions:

a. The person maintains a tank for the purpose of storing waste oil.

b. The person accepts waste oil from the general public.

c. The person posts a notice at the site in a form and manner approved by the administrator advertising that the person will accept waste oil from the general public.

Sec. 40. NEW SECTION. 455G.12A COST CONTAINMENT AUTHORITY.

1. VALIDITY OF CONTRACTS. A contract in which one of the parties to the contract is an owner or operator of a petroleum underground storage tank, for goods or services which may be payable or reimbursable from the fund, is invalid unless and until the administrator has approved the contract as fair and equitable to the tank owner or operator, and found that the contract terms are within the range of usual and customary rates for similar or equivalent goods or services within the state, and found that the goods or services are necessary for the owner or operator to comply with fund or regulatory standards. An owner or operator may appoint the administrator as an agent for the purposes of negotiating contracts with suppliers of goods or services compensable by the fund. The administrator may select another contractor for goods or services other than the one offered by the owner or operator, if the scope of the proposed work or actual work of the offered contractor does not reflect the quality of workmanship required, or the costs are determined to be excessive.

2. CONTRACT APPROVAL. In the course of review and approval of a contract pursuant to this section, the administrator may require an owner or operator to obtain and submit three bids, provided that the administrator coordinates bid submission with the department. The administrator may require specific terms and conditions in a contract subject to approval.

3. EXCLUSIVE CONTRACTS. The administrator may enter into a contract or an exclusive contract with the supplier of goods or services required by a class of tank owners or operators in connection with an expense payable or reimbursable from the fund, to supply a specified good or service for a gross maximum price, fixed rate, on an exclusive basis, or subject to another contract term or condition reasonably calculated to obtain goods or services for

the fund or for tank owners and operators at a reasonable cost. A contract may provide for direct payment from the fund to a supplier.

The administrator may retain, subject to board approval, an independent person to assist in the review of work required in connection with a release or tank system for which fund benefits are sought, and to establish prevailing cost of goods and services needed. Nothing in this section is intended to preempt the regulatory authority of the department.

Sec. 41. Section 455G.17, subsections 1 and 2, Code Supplement 1989, are amended to read as follows:

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, or other person unaffiliated with the tank owner, operator, or installer.

2. The board shall adopt approved ~~curricula~~ curriculum for training both engineers and fire marshals or other unaffiliated persons as a precondition to their certification as underground storage tank installation inspectors.

Sec. 42. Section 558.69, unnumbered paragraph 1, Code 1989, is amended to read as follows:

With each declaration of value submitted to the county recorder under chapter 428A, there shall also be submitted a statement that no known wells are situated on the property, or if known wells are situated on the property, the statement must state the approximate location of each known well and its status with respect to section 159.29 or 455B.190. The statement shall also state that no known disposal site for solid waste, as defined in section 455B.301, which has been deemed to be potentially hazardous by the department of natural resources, exists on the property, or if such a known disposal site does exist, the location of the site on the property. The statement shall additionally state that no known underground storage tank, as defined in section 455B.471, subsection 6, exists on the property, or if a known underground storage tank does exist, the type and size of the tank, and any known substance in the tank. The statement shall also state that no known hazardous waste as defined in section 455B.411, subsection 4, or listed by the department pursuant to section 455B.412, subsection 2, or section 455B.464, exists on the property, or if known hazardous waste does exist, that the waste is being managed in accordance with rules adopted by the department of natural resources. The statement shall be signed by at least one of the sellers or their agents. The county recorder shall refuse to record any deed, instrument, or writing for which a declaration of value is required under chapter 428A unless the statement required by this section has been submitted to the county recorder. A buyer of property shall be provided with a copy of the statement submitted, and, following the fulfillment of this provision, if the statement submitted reveals no well, disposal site, underground storage tank, or hazardous waste on the property, the county recorder may destroy the statement. The land application of sludges or soils resulting from the remediation of underground storage tank releases accomplished in compliance with department of natural resources rules without a permit is not required to be reported as the disposal of solid waste or hazardous waste.

Sec. 43.

Provided that amounts reserved for the retroactive portion of the remedial account claims pursuant to section 455G.9, subsection 1, paragraph "a", subparagraph (1), do not exceed six million dollars, the administrator shall from the effective date of this Act, through September 1, 1990, reopen applications previously received but denied based upon section 455G.9, subsection 1, paragraph "a", subparagraph (1), subparagraph subdivision (a), Code Supplement 1989, which subparagraph subdivision is repealed by this Act, and may accept new applications under section 455G.9, subsection 1, paragraph "a", subparagraph (1) for that period. If claims

reopened or received exceed the remaining balance of unobligated or unreserved funds of the six million dollars, the remaining balance shall be prorated among the reopened and newly received claims. If claims remain partially or totally unpaid after total payments under the retroactive portion of the remedial account exceed six million dollars, all remaining claims are void, and no entitlement exists for further payment. If claims paid pursuant to this section do not exceed the remaining balance of unobligated or unreserved funds of the six million dollars, the remaining balance shall be distributed among the claims accepted for payment which were submitted on or before January 31, 1990, by increasing the allowable percentage of payment contained in section 455G.9, subsection 1, paragraph "a", subparagraph (1) by an amount necessary to reduce the remaining balance of the six million dollars allocated for retroactive claims to zero.

Sec. 44.

In response to concerns over the cost of recurring liability due to regulatory uncertainty and the threat of continued liability in connection with prior contamination after conducting a remediation action or tank closure consistent with current action standards, the petroleum underground storage tank board, in consultation with the state attorney general and the department of natural resources, shall assess state and federal laws regarding liability for site remediation and third-party liability in connection with underground storage tanks. Based on this assessment, the board shall identify whether it is desirable and appropriate to define limits to liability among parties involved in the purchase or transfer of property which has been subject to a remediation action or tank closure consistent with action standards at the time of the action or tank closure. Any recommendations of the board shall be incorporated into a written report and the written report shall be submitted to the general assembly on or before January 15, 1991. The report shall include a discussion of the financial implications of any proposals, including, but not limited to, any risk that the state would incur if the state would assume some portion of the liability to pay for future remedial action due to a change in regulatory action standards.

Sec. 45.

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

Approved May 2, 1990

CHAPTER 1236

LAND SURVEYS AND PLATS

H.F. 724

AN ACT relating to the survey of land including the practice of land surveying and the preparation, recording, and vacation of plats, and subjecting violators to civil penalties.

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

Section 1. NEW SECTION. 114A.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Corner" means a point at which two or more lines meet.

2. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purpose of this chapter.

3. "Government lot" means a tract, within a section, which is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

4. "Land surveying" means surveying of land pursuant to chapter 114.

5. "Lot" means a tract of land, generally a subdivision of a city or town block, represented and identified as a lot on a recorded plat.

6. "Meander line" means a traverse approximately along the margin of a body of water. A meander line provides data for computing areas and approximately locates the margin of the body of water. A meander line does not ordinarily determine or fix boundaries.

7. "Monument" means a physical structure which marks the location of a corner or other survey point.

8. "Offset line" means a supplementary traverse close to and approximately parallel with an irregular boundary line. An offset line provides data for computing areas and locates salient points on the irregular boundary line by measured distances referenced to the offset line.

9. "Plat of survey" means a graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

10. "Subdivision" means a tract of land divided into three or more lots.

11. "Subdivision plat" means a graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

12. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to chapter 114.

Sec. 2. NEW SECTION. 114A.2 APPLICABILITY.

This chapter applies to all agencies of the United States government, this state, or a political subdivision of this state and to all persons engaged in the practice of land surveying.

Sec. 3. NEW SECTION. 114A.3 RULES.

Pursuant to chapter 114, the engineering and land surveying examining board may adopt rules consistent with the rules prescribed by the Acts of Congress and the Instructions of the United States Secretary of the Interior.

Sec. 4. NEW SECTION. 114A.4 BOUNDARY LOCATION.

The surveyor shall acquire data necessary to retrace record title boundaries, center lines, and other boundary line locations in accordance with the legal descriptions including applicable provisions of chapter 650. The surveyor shall analyze the data and make a careful determination of the position of the boundaries of the parcel or tract of land being surveyed. The surveyor shall make a field survey, locating and connecting monuments necessary for location of the parcel or tract and coordinate the facts of the survey with the analysis and legal description. The surveyor shall place monuments marking the corners of the parcel or tract unless monuments already exist at the corners.

Sec. 5. NEW SECTION. 114A.5 MEASUREMENTS.

1. Measurements shall be made with instruments and methods capable of attaining the required accuracy for the particular problem involved.

2. Measurements as placed on plats shall be in conformance with the capabilities of the instruments used.

3. In a closed traverse the sum of the measured angles shall agree with the theoretical sum by a difference not greater than thirty seconds times the square root of the number of angles.

4. Distances shall be shown in decimal feet in accordance with the definition of the international foot. Distance measurements shall refer to the horizontal plane.

Sec. 6. NEW SECTION. 114A.6 MONUMENTATION.

1. The surveyor shall confirm the prior establishment of control monuments at each controlling corner on the boundaries of the parcel or tract of land being surveyed. If no control monuments exist, the surveyor shall place the monuments. Control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap

of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of each monument which the surveyor places.

2. Control monuments shall be placed at the following locations:

a. Each corner and angle point of each lot, block, or parcel of land surveyed.

b. Each point of intersection of the outer boundary of the survey with an existing or created right-of-way line of a street, railroad, or other way.

c. Each point of curve, tangency, reversed curve, or compounded curve on each right-of-way line established.

3. If the placement of a monument required by this chapter at the prescribed location is impractical, a reference monument shall be established near the prescribed location. If a point requiring monumentation has been previously monumented, the existence of the monument shall be confirmed by the surveyor.

4. At least a minimum number of two survey control monuments are required to be placed before the recording of a subdivision provided the surveyor includes in the surveyor's statement a declaration that additional monuments shall be placed before a date specified in the statement or within one year from the date the subdivision is recorded, whichever is earlier.

Sec. 7. NEW SECTION. 114A.7 PLATS OF SURVEY.

A plat of survey shall be made, showing information developed by the survey, for each land survey performed for the purpose of correcting boundaries, correcting descriptions of surveyed land, or for the division of land. Each plat of survey shall conform to the following provisions:

1. The original plat drawing shall remain the property of the surveyor.

2. The size of each plat sheet shall not be less than eight and one-half inches by eleven inches.

3. The scale of the plat drawing shall be clearly stated and graphically illustrated by a bar scale on every plat sheet.

4. An arrow indicating the northern direction shall be shown on each plat sheet.

5. The plat shall show that the survey is tied to a physically monumented land line which is identified by two United States public land survey system corners, or by two physically monumented corners of a recorded subdivision.

6. The plat shall show the lengths and bearings of the boundaries of the parcels surveyed. The course of each boundary line shown on the plat may be indicated by a direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line or an offset line having a shown course. The bearings shall be referenced to a United States public land survey system land line, or recorded subdivision line. If the boundary lines show bearings, lengths, or locations which vary from those recorded in deeds, abutting plats, or other instruments of record, the following note shall be placed along the lines, "recorded as (show recorded bearing, length, or location)". Bearings and angles shown shall be given to at least the nearest minute of arc.

7. The plat shall show and identify all monuments necessary for the location of the parcel and shall indicate whether the monuments were found or placed.

8. If United States public land survey system corners control the land description, the corners shall be clearly identified on the plat including a description of the monumentation and shall indicate whether the monuments were found or placed.

9. Control monuments shall be adequately described and clearly identified on the plat and noted as found or placed. If additional monuments are to be placed subsequent to the recording of a subdivision as provided in section 114A.6, the location of the additional monuments shall be shown on the plat.

10. Distance shall be shown in decimal feet in accordance with the definition of the international foot. Distance measurements shall refer to the horizontal plane.

11. Curve data shall be stated in terms of radius, central angle, and length of curve, and as otherwise specified by local ordinance. In all cases, the curve data must be shown for the line affected.

12. The unadjusted error of closure shall not be greater than one in five thousand for an individual parcel.

13. If any part of the surveyed land is bounded by an irregular line, that part shall be enclosed by a meander line or an offset line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary, and shown with as much certainty as can be determined or as "more or less", if variable. In all cases, the true boundary shall be clearly indicated on the plat.

14. The plat shall be captioned to show the date of the survey, and shall be accompanied by a description of the parcel.

15. The plat shall contain a statement by a surveyor that the work was done and the plat was prepared by the surveyor or under the surveyor's direct personal supervision, shall be signed and dated by the surveyor, and shall bear the surveyor's Iowa registration number and legible seal.

Sec. 8. NEW SECTION. 114A.8 PLATS FOR SUBDIVISIONS.

Subdivision plats shall conform to the following provisions where applicable:

1. The original plat drawing shall remain the property of the surveyor.

2. The size of each plat sheet shall not be less than eight and one-half inches by eleven inches.

3. If more than one sheet is used, each sheet shall display both the number of the sheet and the total number of sheets included in the plat, and clearly labeled match lines indicating where the other sheets adjoin. An index shall be provided to show the relationship between the sheets.

4. The scale of the plat drawing shall be clearly stated and graphically illustrated by a bar scale on every plat sheet.

5. Each subdivision plat shall be designated, by name or as otherwise prescribed, in bold letters inside the margin at the top of each plat sheet.

6. An arrow indicating the northern direction shall be shown on each plat sheet.

7. The plat shall show that the subdivision is tied to a physically monumented land line which is identified by two United States public land survey system corners, or by two physically monumented corners of a recorded subdivision.

8. The plat shall show the lengths and bearings of the boundaries of the tracts surveyed. The course of each boundary line shown on the plat may be indicated by a direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing, except when the boundary line has an irregular or constantly changing course, as along a body of water, or when a description of the boundary line is better achieved by measurements shown at points or intervals along a meander line or an offset line having a shown course. The bearing shall be referenced to a United States public land survey system land line, or recorded subdivision line. If the boundary lines show bearings, lengths, or locations which vary from those recorded in deeds, abutting plats, or other instruments of record, the following note shall be placed along the lines, "recorded as (show recorded bearing, length, or location)". Bearings and angles shown shall be given to at least the nearest minute of arc.

9. The plat shall show and identify all monuments necessary for the location of the tracts and shall indicate whether the monuments were found or placed.

10. If United States public land survey system corners control the land description, the corners shall be clearly identified on the plat including a description of the monumentation and shall indicate whether the monuments were found or placed.

11. Control monuments shall be adequately described and clearly identified on the plat and noted as found or placed. If additional monuments are to be placed subsequent to the recording of a subdivision as provided in section 114A.6, the location of the additional monuments shall be shown on the plat.

12. Survey data shall be shown to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, and the boundaries of the surveyed lands.

13. Distances shall be shown in feet to at least the nearest one-tenth of a foot in accordance with the definition of the international foot. Distance measurements shall refer to the horizontal plane.

14. Curve data shall be stated in terms of radius, central angle, and length of curve. Unless otherwise specified by local ordinance, curve data for streets of uniform width need only be shown with reference to the center line and lots fronting on such curves need only show the chord bearing and distance of the part of the curve included in the lot boundary. Otherwise, the curve data shall be shown for the line affected.

15. The unadjusted error of closure shall not be greater than one in ten thousand for subdivision boundaries and shall not be greater than one in five thousand for an individual lot.

16. If part of the surveyed land is bounded by an irregular line, that part shall be enclosed by a meander line or an offset line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary, and shown with as much certainty as can be determined or as "more or less", if variable. In all cases, the true boundary shall be clearly indicated on the plat.

17. Interior excepted parcels, shall be clearly indicated and labeled, "not a part of this survey (or subdivision)".

18. Adjoining properties shall be identified, and if the adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the survey is a subdivision of a portion of a previously recorded subdivision plat, sufficient ties shall be shown to controlling lines appearing on such plat to permit a comparison to be made.

19. The purpose of any easement shown on the plat shall be clearly stated.

20. The purpose of areas dedicated to the public shall be clearly indicated on the plat.

21. The plat shall be accompanied by a description of the land included in the subdivision and shall contain a statement by the surveyor that the work was done and the plat was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa registration number and legible seal.

Sec. 9. NEW SECTION. 114A.9 DESCRIPTIONS.

A description defining land boundaries written for conveyance or other purposes shall be complete, providing definite and unequivocal identification of the property lines or boundaries. The description shall be sufficient to enable the description to be platted and retraced. The description shall commence at or relate to a physically monumented corner or boundary line of record.

a. If the land is located in a recorded subdivision, the description shall contain the number or other description of the lot, block, or other part of the subdivision, or shall describe the land by reference to a known corner of the lot, block, or other part.

b. If the land is not located in a recorded subdivision, the description shall identify the section, township, range, and county, and shall describe the land by reference to government lot, by quarter-quarter section, by quarter section, or by metes and bounds commencing with a corner marked and established in the United States public land survey system.

Sec. 10. NEW SECTION. 114A.10 RECORD.

1. The surveyor shall record a plat and description with the county recorder no later than thirty days after signature on the plat by the surveyor if the survey was made for one of the following purposes:

a. To correct boundaries and descriptions of land.

b. For the division of land.

2. The plat and description shall show distinctly what piece of land was surveyed, the surveyor, and the date of the survey.

3. The thirty-day requirement shall not apply to subdivision plats.

Sec. 11. NEW SECTION. 114A.11 UNITED STATES PUBLIC LAND SURVEY CORNER CERTIFICATE.

1. A United States public land survey corner certificate shall be prepared as part of any land surveying which includes the use of a United States public land survey system corner, having the status of a corner of a quarter-quarter section or larger aliquot part of a section, if one or more of the following conditions exist:

a. There is no certificate for the corner on file with the recorder of the county in which the corner is located.

b. The surveyor in responsible charge of the land surveying accepts a corner position which differs from that shown in the public records of the county in which the corner is located.

c. The corner monument is replaced or modified in any way.

d. The reference ties referred to in an existing public record are not correct.

2. The surveyor shall record the required certificate with the recorder and forward a copy to the county engineer of the county in which the corner is located within thirty days after completion of the surveying. The certificate shall comply with the following requirements:

a. The size of the sheet or sheets making up the certificate shall not be less than eight and one-half inches by eleven inches.

b. The identity of the corner, with reference to the United States public land survey system, shall be clearly indicated.

c. The certificate shall contain a narrative explaining the reason for preparing the certificate, the evidence and detailed procedures used in establishing the corner position, and the monumentation found or placed perpetuating the corner position including reference monumentation.

d. The certificate shall contain a plan-view site drawing depicting the relevant monuments, physical surroundings, and reference ties in sufficient detail to enable recovery of the corner.

e. The certificate shall contain at least three reference ties, measured to the nearest one-hundredth of a foot from the corner to durable physical objects near the corner, which are located so that the intersection of any two of the ties will yield a strong corner position recovery.

f. The certificate shall contain a statement by the surveyor that the work was done and the certificate was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa registration number and seal.

Sec. 12. NEW SECTION. 114A.12 INDEXING OF SURVEY DOCUMENTS BY RECORDER.

The recorder shall index survey documents and United States public land corner certificates by township, range, and section number. If the survey is in a recorded subdivision, the recorder shall also index the document alphabetically by subdivision name.

Sec. 13. NEW SECTION. 114A.13 SURVEYS AUTHORIZED BY THE UNITED STATES GOVERNMENT.

1. A person employed in the execution of a survey authorized by the United States government may enter upon lands within this state for the purpose of exploring, triangulating, leveling, surveying, and doing any other work necessary to carry out the objects of laws relative to surveys, and may establish permanent station marks, and erect the necessary signals and temporary observatories, doing no unnecessary injury thereby.

2. If the parties interested cannot agree upon the amount to be paid for damages caused by entry upon lands pursuant to subsection 1, either of them may petition the district court in the county in which the land is situated and the district court shall appoint a time for a hearing. The district court shall order at least twenty days' notice to be given to all interested parties, and, with or without a view of the premises as the court may determine, hear the parties and their witnesses and assess damages.

3. The person entering upon land, pursuant to subsection 1, may tender to the injured party damages caused thereby, and if, in case of petition or complaint to the district court, the damages finally assessed do not exceed the amount tendered, the person entering shall recover costs. Otherwise, the prevailing party shall recover costs.

4. The costs to be allowed in cases taken pursuant to this section shall be the same as allowed according to the rules of the court and provisions of law relating to costs.

Sec. 14. NEW SECTION. 114A.14 FEDERAL SURVEYS – DEFACEMENT.

If a person willfully defaces, injures, or removes a signal, monument, building, or other property of the United States national geodetic survey, or the United States geological survey,

constructed or used under the federal law, the person is subject to a civil penalty not exceeding fifty dollars for each offense, and is liable for damages sustained by the United States in consequence of the defacing, injury, or removal, to be recovered in a civil action in any court of competent jurisdiction.

Sec. 15. NEW SECTION. 409A.1 STATEMENT OF PURPOSE.

It is the purpose of this chapter to provide for a balance between the review and regulation authority of governmental agencies concerning the division and subdivision of land and the rights of landowners. It is therefore determined to be in the public interest:

1. To provide for accurate, clear, and concise legal descriptions of real estate in order to prevent, wherever possible, land boundary disputes or real estate title problems.

2. To provide for a balance between the land use rights of individual landowners and the economic, social, and environmental concerns of the public when a city or county is developing or enforcing land use regulations.

3. To provide for statewide, uniform procedures and standards for the platting of land while allowing the widest possible latitude for cities and counties to establish and enforce ordinances regulating the division and use of land, within the scope of, but not limited to, chapters 331, 358A, 364, 409A, and 414.

4. To encourage orderly community development and provide for the regulation and control of the extension of public improvements, public services, and utilities, the improvement of land, and the design of subdivisions, consistent with an approved comprehensive plan or other specific community plans, if any.

Sec. 16. NEW SECTION. 409A.2 DEFINITIONS.

As used by this chapter, unless the context clearly indicates otherwise:

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

3. "Auditor's plat" means a subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the auditor.

4. "Conveyance" means an instrument filed with a recorder as evidence of the transfer of title to land, including any form of deed or contract.

5. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purpose of this chapter.

6. "Forty-acre aliquot part" means one-quarter of one-quarter of a section.

7. "Governing body" means a city council or the board of supervisors, within whose jurisdiction the land is located, which has adopted ordinances regulating the division of land.

8. "Government lot" means a tract, within a section, which is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

9. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.

10. "Metes and bounds description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

11. "Official plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the recorder, auditor, and assessor.

12. "Parcel" means a part of a tract of land.

13. "Permanent real estate index number" means a unique number or combination of numbers assigned to a parcel of land pursuant to section 441.29.

14. "Plat of survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

15. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest.

16. "Subdivision" means a tract of land divided into three or more lots.

17. "Subdivision plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

18. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to chapter 114.

19. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

Sec. 17. NEW SECTION. 409A.3 COVENANT OF WARRANTY.

The duty to file for record a plat as provided in sections 409A.4 and 409A.6 attaches as a covenant of warranty in all conveyances by a grantor who divides land against all assessments, costs, and damages paid, lost, or incurred by a grantee or person claiming under a grantee, in consequence of the omission on the part of the grantor to file the plat. A conveyance of land is deemed to be a warranty that the description contained in the conveyance is sufficiently certain and accurate for the purposes of assessment, taxation, and entry on the transfer books and plat books required to be kept by the auditor. The description contained in a conveyance shall be sufficiently certain and accurate for assessment and taxation purposes if it provides sufficient information to allow all the boundaries to be accurately determined and does not overlap with or create a gap between adjoining land descriptions.

A recorded conveyance in violation of this chapter may be entered on the transfer books of the auditor's office. The auditor shall notify the grantor and the grantee that the conveyance is in violation of this chapter and demand compliance as provided for in section 409A.13.

Sec. 18. NEW SECTION. 409A.4 DIVISIONS REQUIRING A PLAT OF SURVEY OR ACQUISITION PLAT.

1. The grantor of land which has been divided using a metes and bounds description shall have a plat of survey made of the division, except as provided for in subsection 3. The grantor or the surveyor shall contact the county auditor who, for the purpose of assessment and taxation, shall review the division to determine whether the survey shall include only the parcel being conveyed or both the parcel being conveyed and the remaining parcel. The plat of survey shall be prepared in compliance with chapter 114A and shall be recorded. The plat shall be clearly marked by the surveyor as a plat of survey and shall include the following information for each parcel included in the survey:

a. A parcel letter designation approved by the auditor.

b. The names of the proprietors.

c. An accurate description of each parcel.

d. The total acreage of each parcel.

e. The acreage of any portion lying within a public right-of-way.

2. The auditor may note a permanent real estate index number upon each parcel shown on a plat of survey according to section 441.29 for real estate tax administration purposes. The surveyor shall not assign parcel letters or prepare a metes and bounds description for any parcel shown on a plat of survey unless the parcel was surveyed by the surveyor in compliance with chapter 114A. Parcels within a plat of survey prepared pursuant to this section are subject to the regulations and ordinances of the governing body.

3. When land or rights in land are divided for right-of-way purposes by an agency of the government or other persons having the power of eminent domain and the description of the land or rights acquired is a metes and bounds description then an acquisition plat shall be made and attached to the description when the acquisition instrument is recorded. Acquisition plats shall be clearly marked as an acquisition plat and shall conform to the following:

a. Acquisition plats shall not be required to conform to the provisions of chapter 114A.

b. The information shown on the plat shall be developed from instruments of record together with information developed by field measurements. The unadjusted error of field measurements shall not be greater than one in five thousand.

c. The plat shall be signed and dated by a surveyor, bear the surveyor's Iowa registration number and legible seal, and shall show a north arrow and bar scale.

d. The original drawing shall remain the property of the surveyor or the surveyor's agency and shall not be less than eight and one-half by eleven inches in size.

e. If the right-of-way on an acquisition plat is a portion of lots within an official plat, reference shall be made to both the lots and plat name. If the right-of-way acquisition plat is not within an official plat, reference shall be made to the government lot or quarter-quarter section and to the section, township, range, and county.

f. The plat shall indicate whether the monuments shown are existing monuments or monuments to be established. Monuments shall be established as necessary to construct or maintain the right-of-way project.

g. The acquisition plat shall identify the project for which the right-of-way was acquired and a parcel designation shall be assigned to each right-of-way parcel.

4. The acreage shown for each parcel included in a plat of survey or acquisition plat shall be to the nearest one-hundredth acre. If a parcel described as part of the United States public land survey system and not entirely within an official plat, lies within more than one forty-acre aliquot part of a section, the acreage shall be shown only for assessment and taxation purposes for each portion of the parcel that lies within each forty-acre aliquot part. The surveyor shall not be required to establish the location of the forty-acre aliquot line by survey but is required to use reasonable assumptions in determining its approximate location for assessment and taxation purposes.

5. Governmental agencies shall not be required to survey a remaining parcel when land is divided for right-of-way purposes and shall not be required to contact the auditor for approval of parcel designations shown on an acquisition plat.

Sec. 19. NEW SECTION. 409A.5 DESCRIPTIONS AND CONVEYANCE ACCORDING TO PLAT OF SURVEY OR ACQUISITION PLAT.

1. A conveyance of a parcel shown on a recorded plat of survey shall describe the parcel by using the description provided on the plat of survey or by reference to the plat of survey, which reference shall include all of the following:

a. The parcel letter or designation.

b. The book and page number of the recorded plat of survey.

c. The lot number or letter and name of the official plat, if the parcel lies within an official plat.

d. The section, township, and range number and reference to the aliquot part of the section, if the parcel lies outside of an official plat.

2. A conveyance of a parcel shown on a recorded acquisition plat shall describe the parcel by using the description provided on the acquisition instrument or by reference to the acquisition plat, which reference shall include all of the following:

a. The parcel designation and reference to the project for which the right-of-way was acquired.

b. The book and page number of the recorded acquisition plat.

c. The lot number or letter and name of the official plat, if the parcel lies within an official plat.

d. The section, township, and range number and reference to the aliquot part of the section, if the parcel lies outside of an official plat.

3. A description by reference to the recorded plat of survey, in compliance with subsection 1, is valid.

4. A description by reference to the recorded acquisition plat, in compliance with subsection 2, is valid.

5. A description by reference to a permanent real estate index number is valid for the purpose of assessment and taxation when a county has established a permanent real estate index number system pursuant to section 441.29.

Sec. 20. NEW SECTION. 409A.6 SUBDIVISION PLATS.

1. A subdivision plat shall be made when a tract of land is subdivided by repeated divisions or simultaneous division into three or more parcels, any of which are described by metes and bounds description for which no plat of survey is recorded. A subdivision plat is not required when land is divided by conveyance to a governmental agency for public improvements.

2. A subdivision plat shall have a succinct name or title that is unique, as approved by the auditor, for the county in which the plat lies. The plat shall include an accurate description of the land included in the subdivision and shall give reference to two section corners within the United States public land survey system in which the plat lies or, if the plat is a subdivision of any portion of an official plat, two established monuments within the official plat. Each lot within the plat shall be assigned a progressive number. Streets, alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and shall have the proposed use clearly designated. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of practical use or service as determined by the governing body. Progressive block numbers or letters may be assigned to groups of lots separated from other lots by streets or other physical features of the land. The surveyor shall not assign lot numbers or letters to a lot shown within a subdivision plat unless the lot has been surveyed by the surveyor in compliance with chapter 114A. The auditor may note a permanent real estate index number upon each lot within a subdivision plat. Sufficient information, including dimensions and angles or bearings, shall be shown on the plat to accurately establish the boundaries of each lot, street, and easement. Easements necessary for the orderly development of the land within the plat shall be shown and the purpose of the easement shall be clearly stated.

3. If a subdivision plat, described as part of the United States public land survey system and not entirely within an official plat, lies within more than one forty-acre aliquot part of a section, the acreage shall be shown only for assessment and taxation purposes for the portion of the subdivision that lies within each forty-acre aliquot part of the section. The area of the irregular lots within the plat shall be shown and may be expressed in either acres, to the nearest one-hundredth acre, or square feet, to the nearest ten square feet. The surveyor shall not be required to establish the location of a forty-acre aliquot line by survey but is required to use reasonable assumptions in determining its approximate location for assessment and taxation purposes.

Sec. 21. NEW SECTION. 409A.7 CONVEYANCES BY REFERENCE TO OFFICIAL PLAT.

A description of land by reference to lot number or letter designation and block, if block designations are shown on the plat, and the title or name of the official plat, is valid.

Sec. 22. NEW SECTION. 409A.8 REVIEW AND APPROVAL BY GOVERNING BODIES.

A proposed subdivision plat lying within the jurisdiction of a governing body shall be submitted to that governing body for review and approval prior to recording. A city may establish jurisdiction to review subdivisions outside its boundaries pursuant to the provisions of section 409A.9. Governing bodies shall apply reasonable standards and conditions in accordance with applicable statutes and ordinances for the review and approval of subdivisions. The governing body, within sixty days of application for final approval of the subdivision plat, shall determine whether the subdivision conforms to its comprehensive plan and shall give consideration to the possible burden on public improvements and to a balance of interests between the proprietor, future purchasers, and the public interest in the subdivision when reviewing the proposed subdivision and when requiring the installation of public improvements in conjunction with approval of a subdivision. The governing body shall not issue final approval of a subdivision plat unless the subdivision plat conforms to sections 114A.8, 409A.6, and 409A.11.

If the subdivision plat and all matters related to final approval of the subdivision plat conform to the standards and conditions established by the governing body, and conforms to this chapter and chapter 114A, the governing body, by resolution, shall approve the plat and

certify the resolution which shall be recorded with the plat. The recorder shall refuse to accept a subdivision plat presented for recording without a resolution from each applicable governing body approving the subdivision plat or waiving the right to review.

Sec. 23. NEW SECTION. 409A.9 REVIEW OF SUBDIVISION PLATS WITHIN TWO MILES OF A CITY.

1. If a city, which has adopted ordinances regulating the division of land, desires to review subdivisions outside the city's boundaries, then the city shall establish by ordinance specifically referring to the authority of this section, the area subject to the city's review and approval. The area of review may be identified by individual tracts, by describing the boundaries of the area, or by including all land within a certain distance of the city's boundaries, which shall not extend more than two miles distance from the city's boundaries. The ordinance establishing the area of review or modifying the area of review by a city, shall be recorded in the office of the recorder and filed with the county auditor.

2. If a subdivision lies in a county, which has adopted ordinances regulating the division of land, and also lies within the area of review established by a city pursuant to this section, then the subdivision shall be submitted to both the city and county for approval. The standards and conditions applied by a city for review and approval of the subdivision shall be the same standards and conditions used for review and approval of subdivisions within the city limits or shall be the standards and conditions for review and approval established by agreement of the city and county pursuant to chapter 28E. Either the city or county may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of subdivisions, and certify the resolution which shall be recorded with the plat.

3. If cities establish overlapping areas of review outside their boundaries, then the cities shall establish by agreement pursuant to chapter 28E reasonable standards and conditions for review of subdivisions within the overlapping area. If no agreement is recorded pursuant to chapter 28E then the city which is closest to the boundary of the subdivision shall have authority to review of the subdivision.

Sec. 24. NEW SECTION. 409A.10 APPEAL OF REVIEW OR DISAPPROVAL.

When application is made to a governing body for approval of a subdivision plat, the applicant or a second governing body, which also has jurisdiction for review, may be aggrieved by any of the following:

1. The requirements imposed by a governing body as a condition of approval.
2. The governing body exceeding the time for review established by ordinance.
3. The denial of the application.
4. Failure of the governing body to approve or reject a subdivision plat within sixty days from the date of application for final approval.

If the plat is disapproved by the governing body, such disapproval shall state how the proposed plat is objectionable. The applicant has the right to appeal, within twenty days, the failure of the governing body to issue final approval of the plat as provided in this section.

The applicant or the aggrieved governing body has the right to appeal to the district court within twenty days after the date of the denial of the application or the date of the receipt by the applicant of the requirements for approval of the subdivision. Notice of appeal shall be served on the governing body in the manner provided for the service of original notice pursuant to the rules of civil procedure. The appeal shall be tried de novo as an equitable proceeding and accorded a preference in assignment so as to assure its prompt disposition.

Sec. 25. NEW SECTION. 409A.11 ATTACHMENTS TO SUBDIVISION PLATS.

A subdivision plat, other than an auditor's plat, that is presented to the recorder for recording shall conform to section 409A.6 and shall not be accepted for recording unless accompanied by the following documents:

1. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an

officer authorized to take the acknowledgment of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the governing body.

2. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in section 409A.12, may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the governing body or dedicated to the public.

3. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens, or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

4. A certified resolution by each governing body as required by section 409A.8 either approving the subdivision or waiving the right to review.

5. A certificate of the treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with section 409A.12.

A subdivision plat which includes no land set apart for streets, alleys, parks, open areas, school property, or public use other than utility easements, shall be accompanied by the documents listed in subsections 1, 2, 3, and 4 and a certificate of the treasurer that the land is free from certified taxes other than certified special assessments.

Sec. 26. NEW SECTION. 409A.12 BONDS TO SECURE LIENS.

A bond in double the amount of the lien shall be secured and recorded if a lien exists on the land included in a subdivision plat and the required consent of the lienholder is not attached for one of the following reasons:

1. The lienholder cannot be found, in which case an affidavit by the proprietor stating that the lienholder could not be found shall be recorded with the bond.

2. The lienholder will not accept payment or cannot, because of the nature of the lien, accept payment in full of the lien, in which case an affidavit by the lienholder stating that payment of the lien was offered but refused shall be recorded with the bond.

The bond shall run to the county and be for the benefit of purchasers of lots within the plat and shall be conditioned for the payment and cancellation of the debt as soon as practicable and to hold harmless purchasers or their assigns and the governing body from the lien.

Sec. 27. NEW SECTION. 409A.13 AUDITOR'S PLATS AND PLATS OF SURVEY.

If a tract is divided or subdivided in violation of section 409A.4 or 409A.6 or the descriptions of one or more parcels within a tract are not sufficiently certain and accurate for the purpose of assessment and taxation under the guidelines of section 409A.3, the auditor shall notify the proprietors of the parcels within the tract for which no plat has been recorded as required by this chapter, and demand that a plat of survey or a subdivision plat be recorded as required by this chapter. Notice shall be served by mail and a certified copy of the notice shall be recorded. The auditor shall mail a copy of the notice to the applicable governing bodies. If the proprietors fail, within thirty days of the notice, to comply with the notice or file with the auditor a statement of intent to comply, the auditor shall contract with a surveyor to have a survey made of the property and have a plat of survey or an auditor's plat recorded as necessary to comply with this chapter. Upon receipt of a statement of intent to comply, the auditor may extend the time period for compliance.

Sec. 28. NEW SECTION. 409A.14 APPEAL OF NOTICE.

A proprietor aggrieved by a notice to plat by the auditor may appeal to the district court within twenty days after service of notice. Upon appeal, the auditor shall take no further action

pending a decision of the district court. The appeal shall be tried de novo as an equitable proceeding.

Sec. 29. NEW SECTION. 409A.15 REVIEW OF AUDITOR'S PLATS.

A proposed auditor's plat shall be filed with the applicable governing body which shall review the plat within the time specified by ordinance, and if it conforms to chapter 114A, the governing body shall by resolution approve the plat and certify the resolution to be recorded with the plat. The governing body may state in the resolution whether the lots within the auditor's plat meet the standards and conditions established by ordinance for subdivision lots. The lots within a recorded auditor's plat and parcels within a recorded plat of survey prepared under section 409A.13 are individually subject to local regulations and ordinances. Approval of an auditor's plat shall not impose any liability on a governing body to install or maintain public improvements or utilities within the plat. Approval of an auditor's plat by a governing body shall not constitute a waiver of ordinances requiring a subdivision plat.

Sec. 30. NEW SECTION. 409A.16 ATTACHMENTS TO AUDITOR'S PLATS AND PLATS OF SURVEY.

1. A plat of survey prepared pursuant to section 409A.13 shall be accompanied by a certificate of the auditor that the plat of survey was prepared at the direction of the auditor because the proprietors failed to file a plat.

2. An auditor's plat shall conform to section 409A.6, but is exempt from section 409A.11. An auditor's plat presented to the recorder for recording shall be accompanied by the following documents:

a. A certificate of the auditor that the auditor's plat was prepared at the direction of the auditor because the proprietors failed to file a plat, that the plat was prepared for assessment and taxation purposes, and that the recording of the plat does not constitute a dedication or impose any liability upon the state or governmental agency.

b. A certified resolution by the governing body, approving the plat or waiving the right to review.

c. A list for each lot within the plat of the proprietor's names, the area, expressed in acreage or square feet, the book and page number of the recorded conveyance to the proprietors and the permanent real estate index number, where established.

d. A certificate of the auditor that no search was made at the time of the recording of the plat to determine the existence of any liens, mortgages, delinquent taxes, or special assessments, that no search was made, other than the records of the auditor's office, to establish title to the property within the plat, and that the lots within the plat are subject individually to the regulations and ordinances of the applicable governing body.

Sec. 31. NEW SECTION. 409A.17 COSTS AND COLLECTION OF COSTS.

The surveyor shall present to the auditor a statement of the total cost of the surveying, platting, and recording of a plat prepared pursuant to section 409A.13. The surveyor shall also present a statement of the part of the total cost to be assessed to each parcel included in the plat based on the time involved in establishing the boundaries of each parcel. The auditor shall certify to the treasurer an assessment for the platting costs against the lots within the plat which shall be collected in the same manner as general taxes, except that the board of supervisors, by resolution, may establish not more than ten equal annual installments and provide for interest on unpaid installments at a rate not to exceed that permitted by chapter 74A.

Sec. 32. NEW SECTION. 409A.18 RECORDING OF PLATS.

A plat of survey prepared pursuant to this chapter and a subdivision plat, with attachments, shall be recorded in the office of the county recorder, and an exact copy of the plat shall be filed in the offices of the county auditor and assessor. A replat of any part of an official plat pursuant to section 409A.25, or a recorded subdivision plat of any part of an existing official plat shall supersede that part of the original official plat, including unused public utility easements.

The recorder shall examine each plat of survey and subdivision plat to determine whether the plat is clearly legible and whether the approval by the applicable governing body and the other attachments required by this chapter are presented with the plat. The recorder shall also keep a reproducible copy of the plat from which legible copies can be made. The recorder may specify the material and the size of the plat, not less than eight and one-half inches by eleven inches, that will be accepted for recording in order to comply with this section. The recorder shall not record a subdivision plat that violates this chapter.

Sec. 33. NEW SECTION. 409A.19 DEDICATION OF LAND.

An official plat which conforms to this chapter and has attached to the plat a dedication by the proprietors to the public and approval of the dedication by the governing body is equivalent to a deed in fee simple from the proprietors to the public of any land within the plat that is dedicated for street, alley, walkway, park, open area, school property, or other public use. An approved dedication of land for street purposes by the proprietors establishes an easement for public access, whether or not a deed has been recorded or the improvement of the street is complete, except when the resolution approving the plat specifically sets aside portions of the dedicated land as not being open for public access at the time of recording for public safety reasons. The recording of a subdivision plat shall dedicate to the public any utility, sewer, drainage, access, walkway, or other public easement shown on the plat.

The recording of an auditor's plat shall not serve to dedicate streets, alleys, parks, open areas, school property, public improvements, or utilities. The failure to show the existence of an easement or any public interest on the auditor's plat shall not remove or otherwise affect the interest.

Sec. 34. NEW SECTION. 409A.20 ACTION TO ANNUL PLATS.

If a plat is filed and recorded in violation of this chapter, a governing body or a proprietor aggrieved by the violation, after filing written notice with the proprietors who joined in the acknowledgement of the plat or their successors in interest, may institute a suit in equity in the district court. The court may order the plat annulled except as provided in section 409A.21.

Sec. 35. NEW SECTION. 409A.21 LIMITATION OF ACTIONS ON OFFICIAL PLATS.

An action shall not be maintained, at law or in equity, in any court, against a proprietor, based upon an omission of data shown on an official plat or upon an omission, error, or inconsistency in any of the documents required by this chapter unless the action is commenced within ten years after the date of recording of the official plat. Limitation of actions based on claims other than those provided for in this section shall be consistent with chapter 614.

Sec. 36. NEW SECTION. 409A.22 VACATION OF OFFICIAL PLATS.

The proprietors of lots within an official plat who wish to vacate any portion of the official plat shall file a petition for vacation with the governing body which would have jurisdiction to approve the plat at the time the petition is filed. After the petition has been filed, the governing body shall fix the time and place for public hearing on the petition. Written notice of the proposed vacation shall be served in the manner of original notices as provided in Iowa rules of civil procedure and be served upon proprietors and mortgagees within the official plat that are within three hundred feet of the area to be vacated. If a portion of the official plat adjoins a river or state-owned lake, the Iowa department of natural resources shall be served written notice of the proposed vacation. Notice of the proposed vacation shall be published twice, with ten days between publications stating the date, time, and place of the hearing.

The official plat or portion of the official plat shall be vacated upon recording of all of the following documents:

1. An instrument signed, executed, and acknowledged by all the proprietors and mortgagees within the area of the official plat to be vacated, declaring the plat to be vacated. The instrument shall state the existing lot description for each proprietor along with an accurate description to be used to describe the land after the lots are vacated.

2. A resolution by the governing body approving the vacation and providing for the conveyance of those areas included in the vacation which were previously set aside or dedicated for public use.

3. A certificate of the auditor that the vacated part of the plat can be adequately described for assessment and taxation purposes without reference to the vacated lots.

No part of this section authorizes the closing or obstructing of public highways.

The vacation of a portion of an official plat shall not remove or otherwise affect a recorded restrictive covenant, protective covenant, building restriction, or use restriction. Recorded restrictions on the use of property within an official plat shall be modified or revoked by recording a consent to the modification or removal, signed and acknowledged by the proprietors and mortgagees within the official plat.

Sec. 37. NEW SECTION. 409A.23 VACATION OF STREETS OR OTHER PUBLIC LANDS.

A city or a county may vacate part of an official plat that had been conveyed to the city or county or dedicated to the public which is deemed by the governing body to be of no benefit to the public.

The city or county shall vacate by resolution following a public hearing or by ordinance and the vacating instrument shall be recorded. The city or county may convey the vacated property by deed or may convey the property to adjoining proprietors through the vacation instrument. If the vacating instrument is used to convey property then the instrument shall include a list of adjoining proprietors to whom the vacated property is being conveyed along with the corresponding description of each parcel being conveyed. A recorded vacation instrument which conforms to this section is equivalent to a deed of conveyance and the instrument shall be filed and indexed as a conveyance by the recorder and auditor.

A vacation instrument recorded pursuant to this section shall not operate to annul any part of an official plat except as provided for in section 409A.22.

Sec. 38. NEW SECTION. 409A.24 ERRORS ON RECORDED PLATS.

If an error or omission in the data shown on a recorded plat is detected by subsequent examinations or revealed by retracing the lines shown on the plat, the original surveyor or two surveyors confirming the error through independent surveys shall record an affidavit confirming that the error or omission was made. The affidavit shall describe the nature and extent of the error or omission and also describe the corrections or additions to be made to the plat and note the book and page number of the recorded plat. The recorder shall write across that part of the plat so corrected the word "corrected", and note the book and page number of the recorded affidavit. A copy of the recorded affidavit shall be filed with the auditor and assessor. The affidavit shall raise a presumption from the date of recording that the purported facts stated in the affidavit are true, and after the lapse of three years from the date of recording the presumption shall be conclusive.

Sec. 39. NEW SECTION. 409A.25 SURVEY AND REPLAT OF OFFICIAL PLATS.

A survey of an official plat shall conform as nearly as possible to the original lot lines shown on the official plat. The surveyor may summon witnesses, administer oaths, and prepare affidavits and boundary line agreements as necessary in order to establish the location of property lines or lot lines. If a substantial error is discovered in an official plat or if it is found to be materially defective, a proprietor may petition the governing body which would have jurisdiction to approve the plat at the time the petition is filed for a replat of any part of the official plat. Notice of the proposed replat shall be served, in the manner of original notice as provided in Iowa rules of civil procedure, to the proprietors of record and holders of easements specifically recorded within the area to be replatted. The governing body has jurisdiction of the matter upon proof of publication of notice of the petition once each week for two weeks in a newspaper of general circulation within the area of the replat.

A replat of an official plat ordered by the governing body:

1. Shall be prepared by a surveyor pursuant to chapter 114A and recorded; and

2. Shall be exempt from the provisions of section 409A.11; and

3. Shall have attached to the plat a statement by the surveyor that the replat is prepared at the direction of the governing body. The costs of the replat shall be presented to the auditor and assessed against the property included in the replat as provided for in section 409A.17.

Sec. 40. NEW SECTION. 409A.26 CORRECTIONS OR CHANGES TO PLATS.

A vacation, correction, or replatting as provided for in this chapter, shall be recorded and an exact copy shall be filed with the auditor and assessor. If a governing body changes the addresses or street names shown on an official plat, notice of the change shall note the name or other designation of each official plat affected and shall be filed with the recorder, auditor, and assessor. The recorder shall note the vacation, correction, or replatting on the margin of the official plat or upon an attachment to the official plat for that purpose. The auditor shall make the proper changes on the plats required to be kept by the auditor.

Sec. 41. NEW SECTION. 409A.27 NOTING THE PERMANENT REAL ESTATE INDEX NUMBER.

When a permanent real estate index number system has been established by a county pursuant to section 441.29, the auditor may note the permanent real estate index number on every conveyance.

Sec. 42. Section 117A.1, subsection 1, Code 1989, is amended to read as follows:

1. "Subdivided land" means improved or unimproved land divided or proposed to be divided for the purpose of sale or lease into five or more lots or parcels, or additions ~~thereto,~~ or parts ~~thereof~~ of lots or parcels; however, subdivided land does not ~~apply to~~ include a subdivision subject to section 306.21 or chapter ~~409~~ 409A nor ~~to~~ the leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, or commercial building unless an undivided interest in the land is granted as a condition precedent to occupying space in the structure. Subdivided land does not include subdivisions of land located within the state of Iowa or time-share intervals as defined in section 557A.2.

Sec. 43. Section 306.21, Code 1989, is amended to read as follows:

306.21 PLANS, PLATS AND FIELD NOTES FILED.

All road plans, plats and field notes and true and accurate diagrams of water, sewage and electric power lines for rural subdivisions shall be filed with and ~~recorded by the county auditor and~~ approved by the board of supervisors and the county engineer before the subdivision is laid out ~~and platted, and if any proposed rural subdivision is within one mile of the corporate limits of any city such road plans shall also be approved by the city engineer or council of the adjoining municipality~~ or recorded. Such plans shall be clearly designated as "completed", "partially completed" or "proposed" with a statement of the portion completed and the expected date of full completion. ~~In the event~~ If such road plans are not approved as ~~herein~~ provided in this section such roads shall not become the part of any road system as defined in this chapter.

Sec. 44. Section 306.42, subsection 5, Code 1989, is amended to read as follows:

5. Notwithstanding ~~requirements of~~ chapter 114 and sections 306.22, 364.7, ~~409.12~~ 409A.13, ~~409.14~~ 409A.15 and 471.20, legal descriptions, plats, maps, or engineering drawings used to describe transfers of right of way shall, where available, be descriptions, plats, maps, or engineering drawings of record and shall be incorporated by reference to ~~such~~ the title instrument or proceedings. ~~Where~~ If a part but not all of the land acquired by a single conveyance or condemnation is being transferred, the description of that part to be transferred shall be abstracted from the present legal description, plat, map, or engineering drawing of record.

Sec. 45. Section 331.321, subsection 2, Code 1989, is amended to read as follows:

2. If the board proposes to appoint a county surveyor, it shall appoint a person qualified in accordance with ~~section 355.1~~ chapter 114 and provide the surveyor with a suitable book in which to record field notes and plats.

Sec. 46. Section 331.401, subsection 1, paragraph j, Code 1989, is amended to read as follows:

j. Serve on the conference board as provided in section 441.2 ~~and carry out duties relating to platting for assessment and taxation as provided in sections 441.67 and 441.70~~.

Sec. 47. 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, 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. 48. Section 331.511, subsections 1 through 5, Code 1989, are amended to read as follows:

1. Record each plat as provided in ~~sections 409.12 to 409.16~~ section 409A.18.

2. Record changes in names of platted streets as provided in section ~~409.17~~ 409A.26.

3. Record notations of errors or omissions on recorded plats as provided in section ~~409.32~~ 409A.24.

4. Record resurveyed plats as provided in section ~~409.43~~ 409A.25.

5. Provide for the platting of real estate which cannot otherwise be accurately assessed for taxation as provided in ~~sections 441.65 to 441.71~~ section 409A.13.

Sec. 49. Section 331.602, subsection 19, Code 1989, is amended to read as follows:

19. Carry out duties relating to the platting of land as provided in chapter ~~409~~ 409A ~~and sections 441.65 to 441.71~~.

Sec. 50. NEW SECTION. 441.72 ASSESSMENT OF PLATTED LOTS.

When a subdivision plat is recorded pursuant to chapter 409A, the individual lots within the subdivision plat shall not be assessed in excess of the total assessment of the land as acreage or unimproved property for three years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in chapter 428 and this chapter. This section does not apply to special assessment levies.

Sec. 51. Section 592.7, Code 1989, is amended to read as follows:

592.7 CHANGING NAMES OF STREETS.

Whereas, certain cities ~~or towns~~ throughout the state of Iowa have passed ordinances changing the name or names of certain streets in ~~said~~ the cities;

Now, therefore, it is provided that the acts of ~~said~~ the city ~~and town~~ councils of ~~such~~ the cities ~~and towns~~ in enacting ~~said~~ the ordinances changing the names of ~~said~~ certain streets are hereby declared valid. The proper method for recording a change of street name is found in section ~~409.17~~ 409A.26.

Sec. 52. Section 602.8102, subsection 57, Code 1989, is amended to read as follows:

57. Carry out duties relating to the platting of land as provided in ~~sections 409.9, 409.11, and 409.22~~ chapter 409A.

Sec. 53. Section 714.16, subsection 2, paragraph d, Code 1989, is amended to read as follows:

d. (1) No person shall offer or advertise within this state for sale or lease, any subdivided lands without first filing with the real estate commission, true and accurate copies of all road plans, plats, field notes, and diagrams of water, sewage, and electric power lines as they exist at the time of ~~such~~ the filing, ~~provided such~~ however, this filing ~~shall~~ is not ~~be~~ required for a subdivision subject to section 306.21 or chapter ~~409~~ 409A. ~~Each such~~ A filing shall be accompanied by a fee of fifty dollars for each subdivision included, payable to the real estate commission.

(2) False or misleading statements filed pursuant to subparagraph (1) ~~of paragraph "d" of this subsection~~ or section 306.21 or chapter ~~409~~ 409A, and advertising, offers to sell, or contracts not in substantial conformity with the filings made pursuant to section 306.21 or chapter ~~409~~ 409A are unlawful.

Sec. 54. REPEAL. Chapters 355 and 409, Code 1989, are repealed. Sections 441.65 through 441.71, Code 1989, are repealed.

Approved May 2, 1990

CHAPTER 1237

SOYBEAN-BASED INKS AND STARCH-BASED PLASTICS

H.F. 656

AN ACT relating to reducing pollution by products purchased by the state, and by setting requirements for procurement by the department of general services, the state board of regents, the state department of transportation, and the commission for the blind.

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

Section 1. Section 18.18, subsection 1, Code Supplement 1989, is amended to read as follows:

1. When purchasing paper products, the department of general services shall, whenever the price is reasonably competitive and the quality intended, purchase the recycled product. The department of general services shall also purchase, whenever the price is reasonably competitive and the quality intended, and in keeping with the schedule established in this subsection, soybean-based inks and starch-based plastics, including but not limited to starch-based plastic garbage can liners.

a. By July 1, 1989, a minimum of fifty percent of the purchases of inks which are used for newsprint printing services performed internally or contracted for by the department of general services shall be soybean-based. The percentage of purchases by the department of soybean-based inks used for newsprint printing services shall increase by July 1, 1991, to one hundred percent of the total purchases of inks used for newsprint printing services.

b. By July 1, 1991, a minimum of twenty-five percent of the purchases of inks, other than inks which are used for newsprint printing services, and which are used internally or contracted for by the department of general services, shall be soybean-based to the extent formulations for such inks are available. The percentage of purchases by the department of the soybean-based inks, to the extent formulations for such inks are available, shall increase by July 1, 1992, to fifty percent of the total purchases of the inks, and shall increase by July 1, 1993, to one hundred percent of the total purchases of the inks.

~~b~~ c. By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the department of general services shall be starch-based plastic garbage can liners. The percentage purchased shall increase by five percent annually until fifty percent of the purchases of garbage can liners are purchases of starch-based plastic garbage can liners.

e d. The department of general services shall report to the general assembly on ~~January~~ February 1 of each year the ~~plastic~~ following:

(1) Plastic products which are regularly purchased by the department of general services and other state agencies for which starch-based product alternatives are available. The report shall also include the cost of the plastic products purchased and the cost of the starch-based product alternatives.

(2) Information relating to soybean-based inks and starch-based garbage can liners regularly purchased by the department and other state agencies. The report shall include the cost

of purchasing soybean-based inks and starch-based garbage can liners, the percentage of inks purchased which are soybean-based and the percentage of liners purchased which are starch-based.

Sec. 2. Section 262.9, subsection 4, Code Supplement 1989, is amended to read as follows:

4. Manage and control the property, both real and personal, belonging to the institutions. The board shall purchase or require the purchase of, whenever the price is reasonably competitive and the quality intended, and in keeping with the schedule established in this subsection, soybean-based inks and starch-based plastics, including but not limited to starch-based plastic garbage can liners.

a. By July 1, 1989, a minimum of fifty percent of the purchases of inks which are used for newsprint paper for printing services performed internally or contracted for by the board shall be soybean-based. The percentage of purchases by the board of soybean-based inks used for newsprint printing services shall increase by July 1, 1991, to one hundred percent of the total purchases of inks used for newsprint printing services.

b. By July 1, 1991, a minimum of twenty-five percent of the purchases of inks, other than inks which are used for newsprint printing services, and which are used internally or contracted for by the board shall be soybean-based to the extent formulations for such inks are available. The percentage of purchases by the board of the soybean-based inks, to the extent formulations for such inks are available, shall increase by July 1, 1992, to fifty percent of the total purchases of the inks, and shall increase by July 1, 1993, to one hundred percent of the total purchases of the inks.

~~b~~ c. By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the board shall be starch-based plastic garbage can liners. The percentage purchased shall increase by five percent annually until fifty percent of the purchases of garbage can liners are purchases of starch-based plastic garbage can liners.

~~c~~ d. The board shall report to the general assembly on ~~January~~ February 1 of each year, the ~~plastic~~ following:

(1) Plastic products which are regularly purchased by the board for which starch-based product alternatives are available. The report shall also include the cost of the plastic products purchased and the cost of the starch-based product alternatives.

(2) Information relating to soybean-based inks and starch-based garbage can liners regularly purchased by the board. The report shall include the cost of purchasing soybean-based inks and starch-based garbage can liners, the percentage of inks purchased which are soybean-based and the percentage of liners purchased which are starch-based.

Sec. 3. Section 262.9, subsection 4, Code Supplement 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. The department of natural resources shall review the procurement specifications currently used by the board to eliminate, wherever possible, discrimination against the procurement of products manufactured with starch-based plastics and soybean-based inks.

NEW PARAGRAPH. e. The department of natural resources shall assist the board in locating suppliers of starch-based plastics and soybean-based inks and collecting data on starch-based plastic and soybean-based ink purchases.

NEW PARAGRAPH. f. The board, in conjunction with the department of natural resources, shall adopt rules to carry out the provisions of this section.

NEW PARAGRAPH. g. The department of natural resources shall cooperate with the board in all phases of implementing this section.

Sec. 4. Section 307.21, subsection 4, Code Supplement 1989, is amended to read as follows:

4. a. 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. However, the administrator need

not purchase garbage can liners in accordance with the schedule if the liners are utilized by a facility approved by the environmental protection commission created under section 455A.6, for purposes of recycling.

b. The administrator shall ~~also, in conjunction with recommendations made by the department of natural resources, purchase~~ do all of the following:

(1) Purchase and use recycled printing and writing paper in accordance with the schedule established in section 18.18; ~~shall establish~~ and in conjunction with recommendations made by the department of natural resources.

(2) 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~~.

(3) 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~~.

(4) Require in accordance with section 18.6 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.

c. The department shall report to the general assembly by February 1 of each year, the following:

(1) Plastic products which are regularly purchased by the board for which starch-based product alternatives are available. The report shall also include the cost of the plastic products purchased and the cost of the starch-based product alternatives.

(2) Information relating to soybean-based inks and starch-based garbage can liners regularly purchased by the department. The report shall include the cost of purchasing soybean-based inks and starch-based garbage can liners, the percentage of inks purchased which are soybean-based and the percentage of liners purchased which are starch-based.

Sec. 5. Section 601L.3, subsection 12, Code Supplement 1989, is amended to read as follows:

12. ~~Whenever the price is reasonably competitive and the quality intended, and in keeping with~~ Manage and control the property, both real and personal, belonging to the department. The commission shall, according to the schedule established in this subsection, whenever, the price is reasonably competitive and the qualify* intended, purchase soybean-based inks and starch-based plastics, including but not limited to starch-based garbage can liners.

a. By July 1, 1989, a minimum of fifty percent of the purchases of inks which are used for newsprint paper for printing services performed internally or contracted for by the commission shall be soybean-based. The percentage of purchases by the commission of soybean-based inks used for newsprint printing services shall increase by July 1, 1991, to one hundred percent of the total purchases of inks used for newsprint printing services.

b. By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the commission shall be starch-based plastic garbage can liners. The percentage purchased shall increase by five percent annually until fifty percent of the purchases of garbage can liners are purchases of starch-based plastic garbage can liners.

c. By July 1, 1991, a minimum of twenty-five percent of the purchases of inks, other than inks which are used for newsprint printing services, and which are used internally or contracted for by the commission, shall be soybean-based to the extent formulations for such inks are available. The percentage of purchases by the commission of the soybean-based inks, to the extent formulations for such inks are available, shall increase by July 1, 1992, to fifty percent of the total purchases of the inks, and shall increase by July 1, 1993, to one hundred percent of the total purchases of the inks.

e d. The commission shall report to the general assembly on ~~January~~ February 1 of each year, the ~~plastic~~ following:

*The word "quality" probably intended

(1) Plastic products which are regularly purchased by the commission for which starch-based product alternatives are available. The report shall also include the cost of the plastic products purchased and the cost of the starch-based product alternatives.

(2) Information relating to soybean-based inks and starch-based garbage can liners regularly purchased by the commission. The report shall include the cost of purchasing soybean-based inks and starch-based garbage can liners, the percentage of inks purchased which are soybean-based and the percentage of liners purchased which are starch-based.

Sec. 6. Section 601L.3, subsection 12, Code Supplement 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. The department of natural resources shall review the procurement specifications currently used by the commission to eliminate, wherever possible, discrimination against the procurement of products manufactured with starch-based plastics and soybean-based inks.

NEW PARAGRAPH. e. The department of natural resources shall assist the commission in locating suppliers of starch-based plastics and soybean-based inks, and collecting data on recycled content, starch-based plastic, and soybean-based ink purchases.

NEW PARAGRAPH. f. The commission, in conjunction with the department of natural resources, shall adopt rules to carry out the provisions of this section.

NEW PARAGRAPH. g. The department of natural resources shall cooperate with the commission in all phases of implementing this section.

Approved May 3, 1990

CHAPTER 1238

ELECTION LAWS

H.F. 2329

AN ACT relating to elections and election procedures, and providing effective and applicability dates.

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

Section 1. Section 39.2, subsections 1 and 2, Code 1989, are amended to read as follows:

1. All special elections which are authorized or required by law, unless the applicable law otherwise requires, shall be held on Tuesday. ~~No~~ A special election ~~may~~ shall not be held on the first ~~or~~ and second ~~Tuesday~~ Tuesdays preceding and following the primary and the general elections.

A special election shall not be held in conjunction with the primary election. A special election shall not be held in conjunction with a school election unless the special election is for a school district or merged area school.

2. ~~A~~ Except as otherwise provided in subsection 1, a special election may be held on the same day as a regularly scheduled election if the two elections are not in conflict within the meaning of section 47.6, subsection 2. A special election may be held on the same day as a regularly scheduled election with which it does so conflict if the commissioner who is responsible for conducting the elections concludes that to do so will cause no undue difficulties.

Sec. 2. Section 43.18, unnumbered paragraph 3, Code 1989, is amended to read as follows:

I am aware that I am required to organize a candidate's committee which shall file an organization statement and disclosure reports if ~~it receives~~ my committee or I receive contributions, ~~makes~~ make expenditures, or ~~incurs~~ incur indebtedness in excess of two hundred fifty dollars

for the purpose of supporting my candidacy for public office. This paragraph does not apply to candidates for federal offices.

. . . . . .

(Signed)

Sec. 3. Section 43.49, unnumbered paragraph 1, Code 1989, is amended to read as follows:

On the Monday or Tuesday following the primary election, the board of supervisors shall meet, open and canvass the returns from each voting precinct in the county, and make abstracts thereof, stating in words written at length:

Sec. 4. Section 43.67, unnumbered paragraph 3, Code Supplement 1989, is amended to read as follows:

I am aware that I am required to organize a candidate's committee which shall file an organization statement and disclosure reports if ~~it receives~~ my committee or I receive contributions, ~~makes~~ make expenditures, or ~~incurs~~ incur indebtedness in excess of two hundred fifty dollars for the purpose of supporting my candidacy for public office. This paragraph does not apply to candidates for federal offices.

. . . . . .

(Signed)

Sec. 5. Section 43.78, subsection 4, Code Supplement 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~~ a candidate so nominated shall be submitted in writing to the ~~state~~ appropriate commissioner, as required by section 43.88, at the earliest practicable time.

Sec. 6. Section 43.115, unnumbered paragraph 1, Code 1989, is amended to read as follows:

All candidates for nominations to be made in primary elections held pursuant to section 43.112 shall file nomination papers with the city clerk ~~not less~~ no later than five p.m. forty days ~~prior to~~ before the date of the election as established by section 43.114, except that candidates for precinct committee member shall file affidavits of candidacy as required by section 420.130. The number of eligible electors signing petitions required for printing the name of a candidate upon the official primary ballot shall be one hundred for an office to be filled by the voters of the entire city and twenty-five for an office to be filled by the voters of a subdivision of the city.

Sec. 7. Section 44.3, subsection 2, unnumbered paragraph 5, Code 1989, is amended to read as follows:

I am aware that I am required to organize a candidate's committee which shall file an organization statement and disclosure reports if ~~it receives~~ my committee or I receive contributions, ~~makes~~ make expenditures, or ~~incurs~~ incur indebtedness in excess of two hundred fifty dollars for the purpose of supporting my candidacy for public office. This paragraph does not apply to candidates for federal offices.

Sec. 8. Section 44.4, Code Supplement 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 ninety-nine days nor later than five ~~o'clock~~ p.m. on the eighty-first day before the date of the general election to be held in November~~; and those nominations~~. Nominations made for a special election called pursuant to section 69.14 shall be filed by five p.m. not less than twenty days before the date of an election called upon at least forty days' notice and not less than seven days before the date of an election called upon at least ten days' notice. Nominations made for a special election called pursuant to section 69.14A shall be filed by five p.m. not less than twenty days

before the date of the election. 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 ninety-two days nor later than five ~~o'clock~~ p.m. on the sixty-ninth day 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 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~~ The 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 seventy-four days before the date of the election.

2. Those filed with the commissioner, not less than sixty-four days before the date of the election.

3. Those filed with the city clerk, at least forty-two days before the municipal election.

4. In the case of nominations to fill vacancies occurring after the time when an original nomination for ~~any~~ an office is required to be filed, objections shall be filed within three days after the filing of the certificate.

Objections shall be filed no later than five p.m. on the final date for filing.

Sec. 9. Section 45.3, unnumbered paragraph 6, Code Supplement 1989, is amended to read as follows:

I am aware that I am required to organize a candidate's committee which shall file an organization statement and disclosure reports if ~~it receives~~ my committee or I receive contributions, ~~makes~~ make expenditures, or ~~incurs~~ incur indebtedness in excess of two hundred fifty dollars for the purpose of supporting my candidacy for public office. This paragraph does not apply to candidates for federal offices.

Sec. 10. Section 46.22, Code 1989, is amended to read as follows:

46.22 VOTING.

Voting at judicial elections shall be by separate paper ballot, special paper ballot, ballot cards, or by voting machine in the space provided for public measures. If paper ballots are used the election judges shall offer a ballot to each voter. If special paper ballots or ballot cards are used, either a separate ballot or a distinct heading may be used to distinguish the judicial ballot. Separate ballot boxes for the general election ballots and the judicial election ballots ~~shall~~ are not ~~be~~ required. The general election ballot and the judicial election ballot may be voted in the same voting booth.

Sec. 11. Section 46.24, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A judge of the supreme court, court of appeals, or district court including a district associate judge, or a clerk of the district court must receive more affirmative than negative votes to be retained in office. When the poll is closed, the election judges shall publicly canvass the vote forthwith. The board of supervisors shall canvass the returns ~~at its meeting~~ on the Monday or Tuesday after the election, and shall promptly certify the number of affirmative and negative votes on each judge or clerk to the state commissioner of elections.

Sec. 12. Section 47.6, subsection 1, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

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~~ thirty-two 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. 13. Section 48.3, Code 1989, is amended to read as follows:

48.3 REGISTRATION FORM.

As an alternative to the method of registration prescribed by section 48.2, a person entitled to register under that section may cause delivery of a completed voter registration form to the commissioner of registration in the person's county of residence. A registration form or the envelope containing one or more registration forms for the use of individual registrants must be postmarked ~~or otherwise delivered~~ by the fifteenth day ~~prior to~~ before an election or received by the county commissioner of registration no later than five p.m. on the date registration closes before an election or the registration will not take effect for that election. A separate registration form shall be signed by each individual registrant. Within five working days after receiving a registration, the commissioner shall send the registrant a receipt of the registration by first class mail marked "do not forward". If the receipt is returned by the postal service the commissioner shall treat the registration as prescribed by section 48.31, subsection 6. An improperly addressed or delivered registration form shall be forwarded to the appropriate county commissioner of registration within two working days after it is received by any other official.

Sec. 14. Section 48.9, Code 1989, is amended to read as follows:

48.9 USE OF UNIVERSITIES' FACILITIES.

The state board of regents shall provide access to the designated public portions of its university residence halls and lounges for a registrar, deputy registrar, ~~mobile deputy registrar,~~ person delivering voter registration forms provided in section 48.3 to register eligible electors, or a candidate. The state board of regents may establish reasonable restrictions on the time, manner and place of access by those registrars, persons and candidates.

Sec. 15. Section 48.11, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Registration shall close in a precinct at five ~~o'clock~~ p.m., ten days before a general or primary election and eleven days before all other elections~~, except as provided in section 48.3~~. The commissioner's office shall be open from eight ~~o'clock~~ a.m. until at least five ~~o'clock~~ p.m. on the day registration closes prior to each regularly scheduled election. ~~In counties where mobile deputy registrars have been appointed, the commissioner's office shall remain open until at least six o'clock p.m. on the day registration closes for mobile deputy registrars to deliver completed forms, unless all mobile deputy registrars have turned in their supplies earlier.~~

Sec. 16. NEW SECTION. 48.23 COMPLETING A VOTER REGISTRATION FORM.

A person offering a voter registration form to another person shall not complete any portion of the form without prior consent from the person being registered.

Sec. 17. Section 49.30, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

49.30 ALL CANDIDATES ON ONE BALLOT — EXCEPTIONS.

The names of all candidates to be voted for in each election precinct, other than presidential electors, shall be printed on one ballot, except that separate ballots are authorized under the following circumstances:

1. For judicial elections, separate ballots or headings shall be used as required by section 46.22.

2. At an election where voting machines are used, and it is impossible to place the names of all candidates on the machine ballot, the commissioner may provide a separate paper ballot for the candidates for judge of the district court and the township offices, or either; one of the paper ballots shall be furnished to each qualified elector.

3. Separate paper ballots may be used for the election of township officers in precincts including both incorporated and unincorporated areas.

Sec. 18. Section 49.31, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. For the purposes of ballot rotation the absentee ballot and special voters precinct shall be considered a separate precinct, unless the office will appear on the ballot in only one precinct other than the absentee ballot and special voters precinct.

Sec. 19. Section 49.33, Code 1989, is amended to read as follows:

49.33 ~~ONE~~ SINGLE SQUARE FOR ~~PRESIDENT AND VICE PRESIDENT~~ CERTAIN PAIRED OFFICES.

Upon the left-hand margin of each separate column of the ballot, immediately opposite the names of the candidates for president and vice president, a single square, the sides of which shall not be less than one-fourth of an inch in length, shall be printed in front of ~~a~~ the bracket enclosing the names of the ~~said~~ candidates for president and vice president, and a separate square of the same size shall be printed in front of the bracket enclosing the names of the candidates for governor and lieutenant governor. The votes for ~~said~~ a team of candidates shall be counted and certified to by the election board ~~in the same manner as the votes for other candidates~~ as a team. Write-in votes may be tabulated for each office separately.

Sec. 20. Section 49.42, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

49.42 FORM OF OFFICIAL BALLOT.

The ballot for the general election shall be arranged in vertical columns or horizontal rows each of which shall be substantially in the following form:

__REPUBLICAN	__DEMOCRATIC	__PROHIBITION	__UNION LABOR
(For President,	(For President,	(For President,	(For President,
(A.... B....,	(N.... O....,	(A.... B....,	(N.... O....,
(of Ohio.	(of Virginia.	(of Maine.	(of Idaho.
__(For Vice	__(For Vice	__(For Vice	__(For Vice
(President,	(President,	(President,	(President,
(C.... D....,	(P.... Q....,	(C.... D....,	(P.... Q....,
(of New York.	(of Indiana.	(of Illinois.	(of Ohio.
For	For	For	For
United States	United States	United States	United States
Senator.	Senator.	Senator.	Senator.
__E.... F....,	__R.... S....,	__E.... F....,	__R.... S....,
For	For	For	For
United States	United States	United States	United States
Representative,	Representative,	Representative,	Representative,
__G.... H....,	__T.... U....,	__G.... H....,	__T.... U....,
(For Governor,	(For Governor,	(For Governor,	(For Governor,
(I.... J....,	(V.... W....,	(I.... J....,	(V.... W....,
__(For Lieutenant	__(For Lieutenant	__(For Lieutenant	__(For Lieutenant
(Governor,	(Governor,	(Governor,	(Governor,
(K.... L....	(X.... Y....	(K.... L....	(X.... Y....

Sec. 21. Section 49.80, subsection 3, Code 1989, is amended by striking the subsection.

Sec. 22. Section 49.99, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The voter may also insert in writing in the proper place the name of any person for whom the voter desires to vote and place a cross or check in the square opposite ~~thereto~~ the name. ~~The~~ If the voter is using a voting system other than an electronic voting system, as defined in section 52.1, the writing of ~~such~~ the name shall constitute a valid vote for the person whose name has been written on the ballot without regard to whether the voter has made a cross or check opposite ~~thereto~~ the name. However, when a write-in vote is cast using an electronic voting system, the ballot must also be marked in the corresponding space in order to be counted. The

making of a cross or check in a square opposite a blank without writing a name ~~therein~~ in the blank, shall not affect the validity of the remainder of the ballot.

Sec. 23. Section 49.104, subsection 6, Code 1989, is amended to read as follows:

6. Any persons expressing an interest in a ballot issue to be voted upon at an election except a general or primary election. Any such person shall file a notice of intent to serve as an observer with the commissioner ~~prior to~~ before election day. If more than three ~~such~~ persons file a notice of intent to serve at the same time with respect to ballot issues at ~~any~~ an election, the commissioner shall appoint from those submitting a notice of intent the three persons ~~to~~ who may serve at that time as observers, and shall provide a schedule to all persons who filed notices of intent. The appointees, whenever possible, shall include both opponents and proponents of the ballot issues.

Sec. 24. Section 49.107, subsection 8, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

8. Serving as a member of a challenging committee or observer under section 49.104, subsection 2, 5, or 6, by a precinct election official serving at the polls or by an incumbent officeholder of, or a candidate for, an office being voted for at the election in progress.

Sec. 25. Section 50.21, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The commissioner shall reconvene the election board of the special precinct established by section 53.20 not earlier than noon on the second day following each election which is required by law to be canvassed on the Monday or Tuesday following the election. If the second day following such an election is a legal holiday the special precinct election board may be convened at noon on the day following the election, and if the canvass of the election is ~~required~~ scheduled at any time earlier than the Monday following the election, the special precinct election board shall be reconvened at noon on the day following the election.

Sec. 26. Section 50.24, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The county board of supervisors shall meet to canvass the vote ~~at nine o'clock~~ on ~~the morning of~~ the first Monday or Tuesday 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 or Tuesday 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 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.

Sec. 27. Section 50.46, Code 1989, is amended to read as follows:

50.46 SPECIAL ELECTIONS -- CANVASS AND CERTIFICATE.

When a special election has been held to fill a vacancy, pursuant to section 69.14, the board of county canvassers shall meet at one o'clock in the afternoon of the second day ~~thereafter~~ after the election, and canvass the votes cast ~~thereat~~ at the election. The commissioner, as soon as the canvass is completed, shall transmit to the state commissioner an abstract of the votes so canvassed, and the state board, within five days after receiving such abstracts, shall canvass the tally lists. A certificate of election shall be issued by the county or state board of canvassers, as in other cases. All the provisions regulating elections, obtaining tally lists, and canvass of votes at general elections, except as to time, shall apply to special elections.

Sec. 28. Section 53.1, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. When the elector expects to be unable to go to the polls and vote on election day.

Sec. 29. Section 53.17, subsection 2, Code 1989, is amended to read as follows:

2. The sealed carrier envelope may be mailed to the commissioner. The carrier envelope shall indicate that greater postage than ordinary first class mail may be required. The commissioner shall pay any insufficient postage due on a carrier envelope bearing ordinary first class postage and accept the ballot.

PARAGRAPH DIVIDED. In order for the ballot to be counted, the carrier envelope must be clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner not later than ~~the time established for the canvass by the board of supervisors for that~~ noon on the Monday following the election.

If the law authorizing the election specifies that the supervisors canvass the votes earlier than the Monday following the election, absentee ballots returned through the mail must be received not later than the time established for the canvass by the board of supervisors for that election. The commissioner shall contact the post office serving the commissioner's office at the latest practicable hour ~~prior to~~ before the canvass by the board of supervisors for that election, and shall arrange for absentee ballots received in that post office but not yet delivered to the commissioner's office to be brought to the commissioner's office ~~prior to~~ before the canvass for that election by the board of supervisors.

Sec. 30. Section 53.23, Code 1989, is amended by adding the following new subsection after subsection 4 and renumbering the subsequent subsection:

NEW SUBSECTION. 5. The special precinct election board shall preserve the secrecy of all absentee and special ballots. After the affidavits on the envelopes have been reviewed and the qualifications of the persons casting the ballots have been determined, those that have been accepted for counting shall be opened. The ballots shall be removed from the affidavit envelopes without being unfolded or examined, and then shall be thoroughly intermingled, after which they shall be unfolded and tabulated. If secrecy folders or envelopes are used with special paper ballots, the ballots shall be removed from the secrecy folders after the ballots have been intermingled.

Sec. 31. Section 53.24, Code 1989, is amended to read as follows:

53.24 COUNTIES USING VOTING MACHINES.

In counties which provide the ~~absentee ballot counting~~ special precinct election board with ~~a~~ voting ~~machine~~ machines, the absentee ballot envelopes shall be opened by the ~~counting~~ board and the ballots shall, without being unfolded, be thoroughly intermingled ~~in some proper manner~~, after which they shall be unfolded and, under the personal supervision of ~~all the~~ precinct election officials of each of the political parties, be registered on ~~the~~ voting ~~machine~~ machines the same as if the absent voter had been present and voted in person, except that a tally of the write-in votes may be kept in the tally list rather than on the machine. When two or more political subdivisions in the county are holding separate elections simultaneously, the commissioner may arrange the machine so that the absentee and special ballots for more than one ~~such~~ election may be recorded on the same machine.

Sec. 32. Section 62.18, Code 1989, is amended to read as follows:

62.18 JUDGMENT.

The court shall ~~pronounce judgment~~ adjudge whether the incumbent or any other person was duly elected, and ~~adjudge~~ that the person ~~so declared~~ elected ~~will be~~ is entitled to the certificate. If the court finds that the election resulted in a tie vote for any office, the tie shall be resolved pursuant to section 50.44. If the judgment ~~be~~ is against the incumbent, and the incumbent has already received the certificate, the judgment shall annul ~~it~~ the certificate. If

the court ~~find~~ finds that no person was elected, the judgment shall be that the election be set aside.

Sec. 33. Section 69.14A, subsection 2, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. 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.

b. When the board is notified, in writing, by the county officer of the officer's wish to vacate an office, the board shall publish notice of the vacancy if the board selects appointment by which to fill the vacancy. Following publication of notice of the vacancy, the board may appoint a prospective appointee, to serve as a deputy, no earlier than fourteen days before the vacancy occurs.

c. 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.

Sec. 34. Section 111A.2, Code 1989, is amended to read as follows:

111A.2 PETITION — BOARD MEMBERSHIP.

Upon a petition to the board of supervisors which meets the requirements of section 331.306, the board shall submit to the voters at the next ~~primary or~~ general election the question of whether a county conservation board shall be created as provided for in this chapter. If at the election the majority of votes favors the creation of a county conservation board, the board of supervisors within sixty days after the election shall create a county conservation board to consist of five bona fide residents of the county. The members first appointed shall hold office for the term of one, two, three, four, and five years respectively, as indicated and fixed by the board of supervisors. Thereafter, succeeding members shall be appointed for a term of five years, except that vacancies occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term. When ~~any~~ a member of the board, during the term of office, ceases to be a bona fide resident of the county, the member is disqualified as a member and the office becomes vacant. Members of the board shall be selected and appointed on the basis of their demonstrated interest in conservation matters, and shall serve without compensation, but may be paid their actual and necessary expenses incurred in the performance of their official duties. Members of the county conservation board may be removed for cause by the board of supervisors as provided in section 331.321, subsection 3, if the cause is malfeasance, nonfeasance, ~~or~~ disability, or failure to participate in board activities as set forth by the rules of the conservation board.

Sec. 35. Section 277.4, unnumbered paragraph 1, Code Supplement 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-four days, nor less than forty days ~~prior to~~ before 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. On the final date for filing nomination papers the office of the school secretary shall remain open until five p.m.

Sec. 36. Section 278.2, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

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~~ electors who voted in the last regular 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~~ those subsections.

Sec. 37. Section 279.1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The board of directors of each school corporation shall meet and organize at the first regular meeting after ~~a~~ the canvass for the regular school election at some suitable place to be designated by the secretary. Notice of the place and hour of ~~such~~ the meeting shall be given by the secretary to each member and ~~each~~ member-elect of the board.

Sec. 38. Section 280.9A, Code 1989, is amended to read as follows:

280.9A HISTORY AND GOVERNMENT REQUIRED — VOTER REGISTRATION.

1. The board of directors of each local public school district and the authorities in charge of each nonpublic school shall require that all students in grades nine through twelve complete, as a condition of graduation, instruction in American history and the governments of Iowa and the United States, including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot.

2. The board of directors of each local public school district and the authorities in charge of each nonpublic school shall submit a list of currently enrolled full-time and part-time students who have attained the age of eighteen years or will attain the age of eighteen years within six months, twice each calendar year, to the county commissioner of elections in the county or counties in which the public school district or nonpublic school is located. The list shall be submitted on September 30 and March 30 of each school year and shall list the student's name, address, and date of birth. The county commissioner of elections may use this list to send a voter registration form to the student.

Sec. 39. Section 359.8, Code Supplement 1989, is amended to read as follows:

359.8 DIVISION — EFFECT.

If the petition is signed by a majority of the ~~eligible~~ qualified electors of the township residing without the corporate limits of ~~such~~ the city, the board of supervisors shall divide the township into two townships, as petitioned; but, except for election purposes, including the appointment of precinct election ~~officers~~ officials rendered necessary by the change, 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. 40. Section 376.4, unnumbered paragraph 5, Code Supplement 1989, is amended to read as follows:

If the city clerk is not readily available during normal office hours, the city clerk shall designate other employees or officials of the city who are ordinarily available to accept nomination papers under this section. On the final date for filing nomination papers the office of the city clerk shall remain open until five p.m.

PARAGRAPH DIVIDED. The city clerk shall accept the petition for filing if on its face it appears to have the requisite number of signatures and if it is timely filed. The city clerk shall note upon each petition and affidavit accepted for filing the date and time that ~~the petition was~~ they were filed.

Sec. 41. Section 467A.5, subsection 3, Code Supplement 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. The signed petitions shall be filed with the county commissioner of elections not later than five ~~o'clock~~ p.m. on the ~~fifty-fifth~~ sixty-ninth day ~~prior to~~ before 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~~ is sufficient to elect commissioners, and ~~no~~ a primary election for the office shall not 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. 42. Section 48.19, subsection 2, if enacted in 1990 Iowa Acts, House File 2009,* is amended to read as follows:

2. If the commissioner is unable to make available to a county precinct the information required of an eligible elector who registers through special late registration procedures, on the election register of a county precinct or through the provision of a separate listing of the eligible electors who register through special late registration procedures, an eligible elector may obtain from the commissioner of registration a form of affidavit prescribed by the state commissioner of elections to serve as evidence of special late registration. If the affidavit is completed by the elector and notarized by the commissioner of registration or the commissioner's designee, the elector is deemed registered under special late registration procedures and may present the affidavit at the elector's polling place on election day as proof that the elector is registered to vote. The election officials of the elector's precinct shall accept the elector's affidavit of special late registration and shall proceed as if the elector's name were listed in the election register. The election officials shall preserve all affidavits submitted pursuant to this section and forward them to the commissioner of registration at the time the election register is returned. A registration under this section is subject to verification as provided in section 48.3.

Sec. 43. Sections 48.27 and 359.22, Code 1989, are repealed.

Sec. 44. 1990 Iowa Acts, chapter 1007, being House File 2001 of the Seventy-third General Assembly, is amended by adding the following new section:

SEC. 3. EFFECTIVE DATE.

This Act, being deemed of immediate importance, takes effect upon the enactment of 1990 Iowa Acts, House File 2329, if enacted by the Seventy-third General Assembly, and is retroactively applicable to voting booths and electronic voting systems approved by the board of examiners and furnished before the enactment of this Act.

Sec. 45. EFFECTIVE DATE.

1. Section 44 and this section of this Act, being deemed of immediate importance, take effect upon enactment.

2. All other sections of this Act take effect July 1, 1990.

Approved May 3, 1990

*House File 2009 vetoed

CHAPTER 1239

JUVENILE CARE, TREATMENT, AND CORRECTIONS

H.F. 2517

AN ACT relating to the care and treament of juveniles, youthful offenders, and other persons by establishing certain dispositional requirements concerning the state juvenile institutions and their administration, providing for financing and funding of certain facilities serving juveniles and other persons, establishing a youthful offenders program in the department of corrections, and providing effective dates.

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

Section 1. Section 135H.6, subsection 5, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

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. 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 June 1, 1989, 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. In addition, either of the following conditions must be met:

a. 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, except as provided in paragraph "b", 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 on or after January 1, 1989.

b. The department of human services shall not give approval to an application which would cause the total number of beds licensed under this chapter after June 30, 1990, which specialize in providing substance abuse treatment to children to exceed seventy beds.

Sec. 2. Section 135H.6, subsection 6, Code Supplement 1989, is amended to read as follows:

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 or of an agency which has operated a facility for three years providing psychiatric services exclusively to children or adolescents and the facility meets or exceeds requirements for licensure under section 237.3, subsection 2, paragraph "a", subparagraph (3).

Sec. 3. Section 217.8, Code 1989, is amended to read as follows:

217.8 DIVISION OF CHILD AND FAMILY SERVICES.

The administrator of the division of child and family services shall be qualified by training, experience and education in the field of welfare and social problems. The administrator ~~shall be entrusted~~ is charged with the administration of programs involving neglected, dependent and delinquent children, child welfare, aid to dependent children, and aid to disabled persons

and shall administer and be in control of ~~the Iowa juvenile home, the state training school, and~~ other related programs established for the general welfare of families, adults and children as directed by the director.

Sec. 4. Section 218.9, unnumbered paragraph 2, Code 1989, is amended by striking the paragraph.

Sec. 5. Section 220.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. There is a need to provide for early intensive intervention on behalf of juveniles which is designed to meet the juveniles' needs and prevent future antisocial and criminal behavior and there is a need in areas of the state to establish facilities providing residential housing or treatment facilities for juveniles requiring a more enhanced level of services than those services currently available in the state's existing foster care system.

Sec. 6. NEW SECTION. 220.155 RESIDENTIAL TREATMENT FACILITIES.

1. The authority may issue its bonds and notes and loan the proceeds of the bonds or notes to a nonprofit corporation for the purpose of financing the acquisition or construction of residential housing or treatment facilities serving juveniles or handicapped or disabled persons.

2. The authority may enter into a loan agreement with a nonprofit corporation for the purpose of financing the acquisition or construction of residential housing or treatment facilities serving juveniles or handicapped or disabled persons and shall provide for payment of the loan and security for the loan as the authority deems advisable.

3. In the resolution authorizing the issuance of the bonds or notes pursuant to this section, the authority may provide that the related principal and interest are limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the nonprofit corporation, and the principal or interest does not constitute an indebtedness of the authority or a charge against the authority's general credit or general fund.

4. The powers granted the authority under this section are in addition to the authority's other powers under this chapter. All other provisions of this chapter, except section 220.28, subsection 4, apply to bond or notes issued pursuant to, and powers granted to the authority under this section, except to the extent the provisions are inconsistent with this section.

Sec. 7. Section 232.52, subsection 2, paragraph e, Code 1989, is amended to read as follows:

e. An order transferring the guardianship of the child, subject to the continuing jurisdiction and custody of the court for the purposes of section 232.54, to the director of the department of human services for purposes of placement in the state training school or other facility provided that the child is at least twelve years of age and the court finds the placement to be in the best interests of the child or necessary for the protection of the public, and that the child has been found to have committed an act which is a forcible felony, as defined in section 702.11, or the court finds any three of the following conditions exist:

(1) The child is at least ~~twelve~~ fifteen years of age~~; and~~.

*The court finds such placement to be in the best interests of the child or necessary to the protection of the public. The child has committed an act which is a crime against a person and which would be an aggravated misdemeanor or a felony if the act were committed by an adult.

(3) The child has previously been found to have committed a delinquent act.

(4) The child has previously been placed in a treatment facility outside the child's home.

Sec. 8. Section 232.52, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. a. Upon receipt of an application from the director of the department of human services, the court shall enter an order to temporarily transfer a child who has been placed in the state training school pursuant to subsection 2, paragraph "e", to a facility which has been designated to be an alternative placement site for the state training school, provided the court finds that all of the following conditions exist:

(1) There is insufficient time to file a motion and hold a hearing for a substitute dispositional order under section 232.54.

*Indent (2) probably intended

(2) Immediate removal of the child from the state training school is necessary to safeguard the child's physical or emotional health.

(3) That reasonable attempts to notify the parents, guardian ad litem, and attorney for the child have been made.

b. If the court finds the conditions in paragraph "a" exist and there is insufficient time to provide notice as required under rule of juvenile procedure 4.6, the court may enter an ex parte order temporarily transferring the child to the alternative placement site.

c. Within three days of the child's transfer, the director shall file a motion for a substitute dispositional order under section 232.54 and the court shall hold a hearing concerning the motion within fourteen days of the child's transfer.

Sec. 9. Section 232.54, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6. With respect to a temporary transfer order made pursuant to section 232.52, subsection 8, if the court finds that removal of a child from the state training school is necessary to safeguard the child's physical or emotional health and is in the best interests of the child, the court shall grant the director's motion for a substitute dispositional order to place the child in a facility which has been designated to be an alternative placement site for the state training school.

Sec. 10. Section 232.102, subsection 3, Code 1989, is amended to read as follows:

3. After a dispositional hearing and upon written findings of fact based upon evidence in the record that an alternative placement set forth in subsection 1, paragraph "b" has previously been made and is not appropriate the court may enter an order transferring the guardianship of the court for the purposes of subsection 7, to the ~~commissioner~~ director of human services for the purposes of placement in the Iowa ~~Juvenile Home~~ juvenile home at Toledo.

Sec. 11. Section 232.102, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. a. Upon receipt of an application from the director of the department of human services, the court shall enter an order to temporarily transfer a child who has been placed in the Iowa juvenile home at Toledo pursuant to subsection 3, to a facility which has been designated to be an alternative placement site for the juvenile home, provided the court finds that all of the following conditions exist:

(1) There is insufficient time to file a motion and hold a hearing for a new dispositional order under section 232.103.

(2) Immediate removal of the child from the juvenile home is necessary to safeguard the child's physical or emotional health.

(3) That reasonable attempts to notify the parents, guardian ad litem, and attorney for the child have been made.

b. If the court finds the conditions in paragraph "a" exist and there is insufficient time to provide notice as required under rule of juvenile procedure 4.6, the court may enter an ex parte order temporarily transferring the child to the alternative placement site.

c. Within three days of the child's transfer, the director shall file a motion for a new dispositional order under section 232.103 and the court shall hold a hearing concerning the motion within fourteen days of the child's transfer.

Sec. 12. Section 232.103, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. With respect to a temporary transfer order made pursuant to section 232.102, subsection 3A, if the court finds that removal of a child from the Iowa juvenile home is necessary to safeguard the child's physical or emotional health and is in the best interests of the child, the court shall grant the director's motion for a new dispositional order to place the child in a facility which has been designated to be an alternative placement site for the juvenile home.

Sec. 13. Section 232.142, subsection 3, Code 1989, is amended to read as follows:

3. ~~Approved~~ A county or multicounty juvenile ~~homes~~ home approved pursuant to this section shall ~~be entitled to~~ receive financial aid from the state ~~in the amount and~~ in ~~such~~ a manner

~~as determined~~ approved by the director. Aid paid by the state shall ~~not exceed~~ be at least ten percent and not more than fifty percent of the total cost of the establishment, improvements, operation, and maintenance of ~~such a~~ the home.

Sec. 14. NEW SECTION. 237.14 ENHANCED FOSTER CARE SERVICES.

The department shall provide for enhanced foster care services by establishing supplemental per diem or performance-based contracts which include payment of costs relating to payments of principal and interest for bonds and notes issued pursuant to section 220.155 with facilities licensed under this chapter which provide special services to children who would otherwise be placed in a state juvenile institution or an out-of-state program. Before completion of the department's budget estimate as required by section 8.23, the department shall determine and include in the estimate the amount which should be appropriated for enhanced foster care services for the forthcoming fiscal year in order to provide sufficient services.

Sec. 15. Section 242.1, Code 1989, is amended to read as follows:

242.1 OFFICIAL DESIGNATION.

The training school for juvenile delinquents at Eldora and the unit for delinquent juveniles ~~at the Iowa juvenile home~~ at Toledo shall together be known as the "state training school". For the purpose of this chapter ~~the word~~ "administrator" or "director" ~~shall mean~~ means the ~~administrator of the division of child and family services~~ director of the department of human services.

Sec. 16. Section 242.1, Code 1989, as amended by this Act, is amended by striking the section and inserting in lieu thereof the following:

242.1 OFFICIAL DESIGNATION.

1. Effective January 1, 1992, a diagnosis and evaluation center and other units are established at Eldora to provide to juvenile delinquents a program which focuses upon appropriate developmental skills, treatment, placements, and rehabilitation.

2. The diagnosis and evaluation center which is used to identify appropriate treatment and placement alternatives for juveniles and any other units for juvenile delinquents which are located at Eldora and the unit for juvenile delinquents at Toledo shall together be known as the "state training school". For the purposes of this chapter "director" means the director of human services and "superintendent" means the administrator in charge of the diagnosis and evaluation center for juvenile delinquents and other units at Eldora and the unit for juvenile delinquents at Toledo.

Sec. 17. Section 242.2, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

242.2 SUPERINTENDENT — POWERS AND DUTIES.

The superintendent has charge and custody of the juveniles committed to the state training school. The superintendent shall administer the state training school and direct the staff in order to provide a positive living experience designed to prepare the juveniles for a productive future.

Sec. 18. Section 242.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

242.4 EDUCATION AND TRAINING.

The state training school shall provide a positive living experience for older juveniles who require secure custody and who live at the state training school for an extended period of time. The education and training programs provided to the juveniles shall reflect the age level and extended period of stay by focusing upon appropriate developmental skills to prepare the juveniles for productive living.

Sec. 19. Section 244.1, subsection 1, Code 1989, is amended to read as follows:

1. "Administrator" or "director" means the ~~administrator of the division of child and family services~~ director of the department of human services.

Sec. 20. Section 244.4, Code 1989, is amended to read as follows:

244.4 PROCEDURE.

The procedure for commitment to ~~said homes shall be the same as~~ the home is as provided by chapter 232.

Sec. 21. STATE JUVENILE INSTITUTIONS — POPULATION GUIDELINES.

The judicial department, in consultation with the department of human services, shall develop population guidelines to indicate the number of children which may be placed at the state training school or the Iowa juvenile home at any one time. Within the population guidelines, the judicial department shall allocate to each judicial district a number of children which may be placed in a juvenile institution from the district. The judicial department shall develop procedures to manage the number of children placed in a juvenile institution within the population guideline established for the institution. The guidelines, allocations, and procedures required by this section shall be implemented on or before January 1, 1991.

Sec. 22. DEVELOPMENT OF CHILDREN'S PROGRAMS IN COMMUNITY SETTINGS AND OTHER CONCERNS RELATING TO JUVENILE JUSTICE.

1. a. The department of human services and the supreme court, in consultation with a planning group consisting of existing providers of services, 4 members of the general assembly equally representing the house and senate and both political parties, attorneys who are experienced in representing juveniles and in juvenile law, and experts in child welfare and juvenile justice, shall develop a plan identifying the types of residential programs which should be developed, either by enhancing reimbursement of foster care services or of psychiatric medical institutions for children, to serve the children who are currently in the following placements: the Iowa juvenile home, out-of-state facilities at high cost to the state, and the state training school when the children could be served in community settings if the proper type of program were available. The recommendations of the juvenile justice advisory committee, established by the legislative council in 1989, regarding the state training school and the Iowa juvenile home shall be considered. In addition, the need to develop specific programs to serve children who are sexual abuse perpetrators, substance abusers, or have a dual diagnosis, and the regions of the states where the specific programs should be located in order to serve children in community settings, shall be identified. The department and the supreme court shall complete the plan involving the items required under this section on or before June 1, 1990.

b. Based upon the plan, the department shall request proposals to develop a total of 120 additional residential placement slots in community settings and the slots shall be available on or before October 1, 1991. The department shall work with the Iowa finance authority and service providers to finance the development of resources for these slots at the lowest possible cost. The requests for proposals shall be issued on or before July 1, 1990.

c. Notwithstanding the provisions of section 135H.6, subsection 5, psychiatric medical institution for children beds developed under this section are not subject to the limit upon the number of beds which may be provided under psychiatric medical institution for children licensure.

2. The planning group established in subsection 1 shall also develop a plan for the state juvenile justice system and related issues and shall perform other tasks when the tasks listed in subsection 1 are completed. The planning group shall conduct a review and develop recommendations regarding certain aspects of the system and perform the tasks designated in this subsection, and report to the governor and to the legislative council as recommendations are developed and tasks are performed and submit a final report no later than December 1, 1991. The plan and planning activities for the state juvenile justice system shall include but are not limited to all of the following:

a. Seeking public-private partnerships to modernize the educational and vocational programs offered at the state juvenile institutions.

b. The study group shall develop potential placement and program criteria for the state juvenile home, based upon the expectation that the home will continue to serve as a coeducational juvenile facility for 90 youth but shall consider that residential treatment program expansions may eliminate the need for placements of children found to be in need of assistance (CHINA) at the home and that the population and population needs may change.

c. Developing a plan for converting the state training school at Eldora, or parts of the facility, to a statewide diagnosis and evaluation center used to identify appropriate treatment and placement alternatives. The plan shall include provisions, including estimated costs, to establish regional secure treatment facilities for youth who require intensive treatment in this type of setting for extended periods of time. The planning group shall consider potential locations for the facilities near areas of the state in which a wide variety of support services, work and training opportunities, and educational program support are available.

Sec. 23. YOUTHFUL OFFENDERS PROGRAM.

1. Effective July 1, 1992, a youthful offenders program is established within the department of corrections to provide for the control, treatment, and rehabilitation of offenders who are 18 to 21 years of age.

2. The department of corrections shall work with a task force which shall include representatives of the supreme court, the department of human services, and the criminal and juvenile justice planning division of the department of human rights to develop a proposal to establish a youthful offenders program within adult corrections which shall be submitted to the general assembly and the governor on or before January 2, 1991. The program shall be targeted to persons who are 18 to 21 years of age and have committed a first offense and youth who turn 18 years of age while under the jurisdiction of the juvenile court by providing aftercare and extended supervision of the youth through age 21. The task force proposal shall provide a comprehensive description of the program, including characteristics of persons to be referred to the program, a survey of existing state institutions to identify facilities which may be converted to house the program, recommended sentencing criteria and options including deferral of sentence, and recommendations relating to the court's ability to place individuals directly in the program.

Sec. 24. EFFECTIVE DATES.

1. Sections 1, 2, 5, 6, 14, and 22 of this Act, being deemed of immediate importance, take effect upon enactment.

2. Section 7 of this Act takes effect October 1, 1991.

3. Section 16 of this Act takes effect January 1, 1992.

Approved May 3, 1990

CHAPTER 1240

PUBLIC RETIREMENT SYSTEMS

H.F. 2543

AN ACT relating to the administration and benefits for certain public retirement systems, and providing effective dates and for the applicability of the Act.

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

Section 1. Section 97A.4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~The board of trustees shall fix and determine by proper rules how much service in any year shall be~~ Service for fewer than six months of a year is not creditable as service. Service of

six months or more of a year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the board of trustees allow credit as service for any period of more than one month duration during which the member was absent without pay.

Sec. 2. Section 97A.5, subsection 8, Code 1989, is amended to read as follows:

8. MEDICAL BOARD. The board of trustees shall designate a medical board to be composed of three physicians who shall arrange for and pass upon the medical examinations required under the provisions of this chapter and shall report in writing to the board of trustees, its conclusions and recommendations upon all matters duly referred to it. Each report of a medical examination under section 97A.6, subsections 3 and 5, shall include the medical board's rating as to the extent of the member's physical impairment.

Sec. 3. Section 97A.6, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. Any member in service who has been a member of the retirement system ~~fifteen~~ four or more years and whose employment is terminated prior to the member's retirement, other than by death or disability, shall upon attaining retirement age, receive a service retirement allowance of ~~fifteen~~ four twenty-seconds of the retirement allowance the member would receive at retirement if the member's employment had not been terminated, and an additional one twenty-second of such retirement allowance for each additional year of service not exceeding twenty-two years of service. The amount of the retirement allowance shall be calculated in the manner provided in this paragraph using the average final compensation at the time of termination of employment.

Sec. 4. Section 97A.6, subsection 2, Code 1989, is amended to read as follows:

2. ALLOWANCE ON SERVICE RETIREMENT.

a. Upon retirement from service prior to July 1, 1990, a member shall receive a service retirement allowance which shall consist of a pension which ~~shall equal one-half~~ equals fifty percent of the member's average final compensation.

b. Upon retirement from service on or after July 1, 1990, but before July 1, 1992, a member shall receive a service retirement allowance which shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, the board of trustees shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation.

d. Commencing July 1, 1990, if the member has completed more than twenty-two years of creditable service, the service retirement allowance shall consist of a pension which equals the amount provided in paragraphs "b" and "c", plus an additional percentage as set forth below:

(1) For a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1991, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added three-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 5. Section 97A.6, subsection 6, Code 1989, is amended to read as follows:

6. RETIREMENT AFTER ACCIDENT.

a. Upon retirement for accidental disability prior to July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty-six and two-thirds percent of the member's average final compensation.

b. Upon retirement for accidental disability on or after July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation.

Sec. 6. Section 97A.6, subsection 8, paragraph a, Code 1989, is amended to read as follows:

a. Upon the receipt of proof of the death of a member in service, or a member not in service who has completed ~~fifteen~~ four or more years of service as provided in subsection 1, paragraph "b", there shall be paid to the person designated by the member to the board of trustees as the member's beneficiary if the member has had one or more years of membership service and no pension is payable under subsection 9, an amount equal to fifty percent of the compensation earned by the member during the year immediately preceding the member's death if the member is in service, or an amount equal to fifty percent of the compensation earned by the member during the member's last year of service if the member is not in service.

Sec. 7. Section 97A.6, subsection 8, paragraph b, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 97A.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to one-twelfth of forty percent of the average final compensation of the member.

Sec. 8. Section 97A.6, subsection 14, paragraph a, subparagraphs (1), (2), and (3), Code 1989, are amended to read as follows:

(1) Twenty-five percent for members receiving a service retirement allowance and for beneficiaries receiving a pension under subsection 9 of this section. However, effective July 1, 1990, for members who retired before that date, thirty percent shall be the applicable percentage for members and beneficiaries under this subparagraph.

(2) ~~Twenty~~ Twenty-five percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance. ~~However, effective July 1, 1984, for members who retired before July 1, 1979, and effective July 1, 1988, for members who retire on or after July 1, 1988, twenty-five percent shall be used for members who are receiving an ordinary disability retirement allowance.~~ However, effective July 1, 1990, for members who retired before that date, thirty percent shall be the applicable percentage for members under this subparagraph.

(3) Twelve and one-half percent for members with less than five years of membership service who are receiving an ordinary disability retirement allowance, and for beneficiaries receiving a pension under subsection 8 of this section. However, effective July 1, 1990, for members who retired before that date, fifteen percent shall be the applicable percentage for members and beneficiaries under this subparagraph.

Sec. 9. Section 97A.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 15. REMARRIAGE OF SURVIVING SPOUSE. Effective July 1, 1990, for a member who died prior to July 1, 1988, if the member's surviving spouse remarried prior to July 1, 1988, the remarriage does not make the spouse ineligible under subsection 8, paragraph "c", subparagraphs (1) and (2), to receive benefits under subsections 8, 9, 12, and 14.

Sec. 10. NEW SECTION. 97A.6A OPTIONAL RETIREMENT BENEFITS.

In lieu of the retirement benefits otherwise provided upon service retirement for members of the system and the members' beneficiaries, members may elect to receive an optional retirement benefit during the member's lifetime and have the optional retirement benefit, or a designated fraction of the optional retirement benefit, continued and paid to the member's beneficiary after the member's death and during the lifetime of the beneficiary.

The member shall make the election request in writing to the board of trustees at the time of the member's service retirement. The election is subject to the approval of the board of trustees. If the member is married, the election of an option under this section requires the written acknowledgement of the member's spouse.

A member's optional retirement benefits shall be the actuarial equivalent of the amount of the retirement benefits payable to the member and the member's beneficiaries under the service retirement provisions of this chapter. The actuarial equivalent shall be based on the mortality and interest assumptions set out in section 97A.5.

If the member dies without a beneficiary prior to receipt in benefits of an amount equal to the total amount remaining to the member's credit at the time of separation from service, the election is void.

If the member dies with a beneficiary and the beneficiary subsequently dies prior to receipt in retirement benefits by both the member and the beneficiary of an amount equal to the total amount remaining to the member's credit at the time of separation from service, the election remains valid.

For the purpose of this section, "beneficiary" means a spouse, child, or a dependent parent.

Sec. 11. Section 97A.8, subsection 1, paragraphs b, c, and f, Code 1989, are amended to read as follows:

b. On the basis of the rate of interest and of ~~such~~ the mortality, interest, and other tables ~~as shall be~~ adopted by the board of trustees, the state commissioner of insurance shall make each valuation required by this chapter and shall immediately after making such valuation, determine the "normal contribution rate". The normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the sum of the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted by the board of trustees, all reduced by the employee contribution made pursuant to ~~paragraph "f" of~~ this subsection. However, the normal rate of contribution shall not be less than seventeen percent. The normal rate of contribution shall be determined by the state commissioner of insurance after each valuation.

c. The total amount payable in each year to the pension accumulation fund shall not be less than the rate percent known as the normal contribution rate of the total compensation earnable by all members during the year~~, provided, however, that~~. However, the aggregate payment by the state shall be sufficient when combined with the amount in the fund to provide the pensions and other benefits payable out of the fund during the then current year.

The system shall develop a financial plan for making the system actuarially sound on or before June 30, 1996. The plan shall be submitted to the general assembly on or before January 1, 1991. As used in this paragraph, "actuarially sound" means that the accrued assets equal the accrued benefits.

Notwithstanding any other provision of this chapter, beginning July 1, 1996, and each fiscal year thereafter, the normal contribution rate shall be equivalent to the employer contribution rate provided under section 411.8, subsection 1, paragraph "b", for the statewide fire and police retirement system for the applicable fiscal year.

f. Except as otherwise provided in paragraph "h":

(1) An amount equal to three and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1989.

(2) An amount equal to four and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1990.

(3) An amount equal to five and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1991.

(4) An amount equal to six and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1992.

(5) An amount equal to seven and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1993.

(6) An amount equal to eight and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1994.

(7) An amount equal to nine and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1995.

(8) Notwithstanding any other provision of this chapter, beginning July 1, 1996, and each fiscal year thereafter, the member's contribution rate shall be equivalent to the member's contribution rate provided under section 411.8, subsection 1, paragraph "f", for the statewide fire and police retirement system for the applicable fiscal year.

Sec. 12. Section 97A.8, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Notwithstanding the provisions of paragraph "f", the following transition percentages apply to members' contributions as specified:

(1) For members who on July 1, 1990, have attained the age of forty-nine years or more, an amount equal to nine and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1990, and each fiscal year thereafter.

(2) For members who on July 1, 1990, have attained the age of forty-eight years but have not attained the age of forty-nine years, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and each fiscal year thereafter.

(3) For members who on July 1, 1990, have attained the age of forty-seven years but have not attained the age of forty-eight years, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1992, and each fiscal year thereafter.

(4) For members who on July 1, 1990, have attained the age of forty-six years but have not attained the age of forty-seven years, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1992, and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1993, and each fiscal year thereafter.

(5) For members who on July 1, 1990, have attained the age of forty-five years but have not attained the age of forty-six years, an amount equal to five and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1992, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1993, and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1994, and each fiscal year thereafter.

Sec. 13. Section 97A.15, subsection 2, paragraph g, Code 1989, is amended to read as follows:

g. "Member who became vested" and "vested member" mean a member who has been a member of the retirement system ~~fifteen~~ four or more years and is entitled to benefits under this chapter.

Sec. 14. NEW SECTION. 97A.16 WITHDRAWAL OF CONTRIBUTIONS.

Commencing July 1, 1990, if an active member, in service on or after that date, terminates service, other than by death or disability, the member may elect to withdraw the member's

contributions under section 97A.8, subsection 1, paragraphs "f" and "h", together with interest thereon at a rate determined by the board of trustees. If a member withdraws contributions as provided in this section, the member shall be deemed to have waived all claims for other benefits from the system for the period of membership service for which the contributions are withdrawn.

Sec. 15. Section 97B.15, Code 1989, is amended to read as follows:

97B.15 RULES.

The department may ~~make~~ adopt rules under chapter 17A and establish procedures, not inconsistent with this chapter, which are necessary or appropriate to implement this chapter and shall adopt reasonable and proper rules to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the proofs and evidence in order to establish the right to benefits under this chapter. The department may adopt rules to conform the requirements for receipt of retirement benefits under this chapter to the mandates of applicable federal statutes and regulations ~~governing age discrimination or the taxation of distributions~~.

Sec. 16. Section 97B.41, subsection 1, paragraph a, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Wages for a member of the general assembly means the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances paid to a member of the general assembly except as otherwise provided in this paragraph. Wages includes per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages also includes daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly, but does not include the portion of the daily allowance which exceeds the maximum established by law for members from Polk county.

Sec. 17. Section 97B.41, subsection 1, paragraph b, subparagraph (9), Code 1989, is amended by striking the subparagraph and inserting in lieu thereof the following:

(9) For the calendar year beginning January 1, 1989, and ending December 31, 1989, wages not in excess of twenty-six thousand dollars.

Sec. 18. Section 97B.41, subsection 1, paragraph b, Code 1989, is amended by adding the following new subparagraphs after subparagraph (9) and renumbering the subsequent subparagraphs:

NEW SUBPARAGRAPH. (10) For the calendar year beginning January 1, 1990, and ending December 31, 1990, wages not in excess of twenty-eight thousand dollars.

NEW SUBPARAGRAPH. (11) Commencing January 1, 1991, for each calendar year, the department shall increase the covered wages limitation from the previous calendar year by three thousand dollars if the annual actuarial valuation of the assets and liabilities of the retirement system indicates that the cost of the increase in covered wages can be absorbed within the employer and employee contribution rates in effect under section 97B.11. However, covered wages shall not exceed fifty-five thousand dollars for a calendar year.

If the annual actuarial valuation of the retirement system in any year indicates that the cost of the increase provided under this subparagraph and the increase in the monthly benefit formula provided in section 97B.49, subsection 5, paragraph "b", cannot be absorbed within the employer and employee contribution rates in effect under section 97B.11, the department shall reduce the increase provided in this subparagraph by an amount sufficient to pay for the increase in the benefit percent.

Sec. 19. Section 97B.41, subsection 3, paragraph b, subparagraph (1), Code 1989, is amended by striking the subparagraph and inserting in lieu thereof the following:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political

subdivisions who are in part-time positions, unless the elective official makes an application to the department to be covered under this chapter. An elective official who made an application to the department to be covered under this chapter may terminate membership under this chapter by informing the department in writing of the member's termination. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

Graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, division V, part 8.

Sec. 20. Section 97B.41, subsection 3, paragraph b, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (15) Employees appointed by the state board of regents who, at the discretion of the state board of regents, elect coverage in a retirement system qualified by the state board of regents that meets the criteria of section 97B.2.

Sec. 21. Section 97B.41, subsection 10, Code 1989, is amended to read as follows:

10. a. "Vested member" means a member who ~~terminated employment in accordance with one of the following paragraphs~~ meets one of the following requirements:

~~a.~~ (1) Prior to July 1, 1965, ~~after having~~ had attained the age of forty-eight and completed at least eight years of service.

~~b.~~ (2) Between July 1, 1965 and June 30, 1973, ~~after having~~ had completed at least eight years of service.

~~c.~~ (3) On or after July 1, 1973, ~~after having~~ has completed at least four years of service.

~~d.~~ (4) ~~After having~~ Has attained the age of fifty-five.

~~e.~~ (5) On or after July 1, 1988, an inactive member who had accumulated, as of the date of the member's last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this subsection for qualifying as a vested member on that date of termination.

b. "Active vested member" means an active member who has attained sufficient membership service to achieve vested status.

c. "Inactive vested member" means an inactive member who was a vested member at the time of termination of employment.

Sec. 22. Section 97B.41, subsection 15, Code 1989, is amended to read as follows:

15. "Years of prior service" means the total of all periods of prior service of a member. ~~In the determination of such total years of prior service any fraction of the total in excess of an integral number of years which is at least six months shall be deemed to be a complete year and any smaller fraction shall be disregarded.~~ In computing credit for prior service, service of less than a full quarter shall be rounded up to a full quarter. Where a member had prior service as a teacher, a full year of service shall be granted that member if the member had three quarters of service and a contract for employment for the following school year.

Sec. 23. Section 97B.41, subsection 21, Code 1989, is amended by striking the subsection.

Sec. 24. Section 97B.42, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision of this section, commencing July 1, 1994, a member who is employed by an area vocational school or an area community college may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, in lieu of continuing or commencing contributions to the Iowa public employees' retirement system, if the board of directors of the area vocational school or area community college has approved the alternative system pursuant to section 280A.23. However, a vested member who elects to participate in the alternative benefits

system does not have a right to withdraw funds from the member's Iowa public employees' retirement system account prior to retirement or termination of covered employment. The department shall cooperate with the boards of directors of the area vocational schools and area community colleges to facilitate the implementation of this unnumbered paragraph.

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision of this section, a person newly entering employment with an area vocational school or area community college on or after the effective date of this Act may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, in lieu of coverage under the Iowa public employees' retirement system, but only if the person is already a member of the alternative system. An election to participate in the alternative retirement benefits system is irrevocable as to the person's employment with that area vocational school or area community college and any other area vocational school or area community college in this state.

Sec. 25. Section 97B.43, unnumbered paragraph 3, Code 1989, is amended to read as follows:

Each individual who ~~as of~~ on or after July 1, 1978, was an active, vested, or retired member and who (1) made application for and received a refund of contributions made under the abolished system or (2) has on deposit with the retirement fund contributions made under the abolished system shall be entitled to credit for years of prior service in the determination of retirement allowance payments by filing a written election with the department on or after July 1, 1978, and by redepositing any withdrawn contributions under the abolished system together with interest as stated in this paragraph. Any individual who ~~as of~~ on or after July 1, 1978, is a retired member and who made application for and received a refund of contributions made under the abolished system, may, by filing a written election with the department on or after July 1, 1978, have the department retain fifty percent of the monthly increase in retiree benefits that will accrue to the individual because of prior service. If the monthly increase in retirement benefits is less than ten dollars, the department shall retain five dollars of the scheduled increase, and if the monthly increase is less than five dollars, the provisions of this paragraph shall not apply. The department shall continue to retain such funds until the withdrawn contributions, together with interest accrued to the month in which the written election is filed, have been repaid. Due notice of this provision shall be sent to all retired members ~~as of~~ on or after July 1, 1978. However, this paragraph shall not apply to any person who received a refund of any membership service contributions unless the person repaid the membership service contributions pursuant to section 97B.74; ~~provided, however, that~~ but a refund of contributions remitted for the calendar quarter ending September 30, 1953 which was based entirely upon employment which terminated prior to July 4, 1953 shall not be considered as a refund of membership service contributions. The interest to be paid into the fund shall be compounded at the rates credited to member accounts from the date of payment of the refund of contributions under the abolished system to the date the member redeposits the refunded amount. The provisions of the first paragraph of this section relating to the consideration given to credited amounts shall apply to the redeposited amounts or to amounts left on deposit. Effective July 1, 1978, the provisions of this paragraph shall apply to each individual who ~~as of~~ on or after July 1, 1978, was an active, vested, or retired member, but who was not in service on July 4, 1953. The period for filing the written election with the department and redepositing any withdrawn contributions together with interest accrued shall commence July 1, 1978. A member who is a retired member ~~as of~~ on or after July 1, 1978 may file written election with the department on or after July 1, 1978 to have the department retain fifty percent of the monthly increase as provided in this paragraph.

Sec. 26. Section 97B.48, subsection 1, Code 1989, is amended to read as follows:

1. Retirement allowances shall be paid monthly, except that an allowance of less than ~~one hundred twenty~~ two hundred forty dollars a year ~~shall~~ may, at the member's option, be paid as a lump sum in an actuarial equivalent amount. Receipt of the lump-sum payment by a member shall terminate any and all entitlement for the period of service covered of the ~~said~~ member under this chapter.

Sec. 27. Section 97B.48, subsection 3, Code 1989, is amended to read as follows:

3. If, after the first day of the month in which the member attains the age of fifty-five years and until the member's sixty-fifth birthday, a member who is retired under this chapter is in regular full-time employment, the member's retirement allowance shall be suspended for as long as the member remains in employment. However, effective January 1, ~~1989~~ 1991, employment is not full-time employment until the member receives remuneration in an amount in excess of six thousand ~~one hundred twenty~~ eight hundred forty dollars for a calendar year. Effective the first of the month in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance after return to covered employment regardless of the amount of remuneration received. Effective January 1, 1991, a retired member of any age may receive a retirement allowance after return to covered employment, regardless of the amount of remuneration received, if the covered employment consists of holding an elective office. As of the first of the month in which the member attains the age of seventy years, the member may receive a retirement allowance determined under section 97B.49, regardless of the amount of remuneration received. Upon a retirement after reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section 97B.49 or 97B.50, whichever is applicable, based upon the addition of credit for the years of membership service of the employee after reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of service.

Sec. 28. Section 97B.49, subsection 5, Code 1989, is amended to read as follows:

5. a. For each active or inactive vested member retiring on or after July 1, 1986, and before July 1, 1990, with four or more complete years of service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to fifty percent of the three-year average covered wage multiplied by a fraction of years of service.

b. For each active or inactive vested member retiring on or after July 1, 1990, with four or more complete years of service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to fifty-two percent of the three-year average covered wage multiplied by a fraction of years of service.

Commencing July 1, 1991, the department shall increase the percentage multiplier of the three-year average covered wage by an additional two percent each July 1 until reaching sixty percent of the three-year average covered wage if the annual actuarial valuation of the retirement system indicates for that year that the cost of this increase in the percentage of the three-year average covered wage used in computing retirement benefits can be absorbed within the employer and employee contribution rates in effect under section 97B.11.

If the annual actuarial valuation of the retirement system in any year indicates that the full cost of the increase provided under this paragraph cannot be absorbed within the employer and employee contribution rates in effect under section 97B.11, the department shall reduce the increase to a level which the department determines can be so absorbed.

c. For the purposes of this subsection, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service and the number of years of prior service divided by thirty years.

d. If benefits under this subsection commence on an early retirement date, the amount of benefit shall be reduced in accordance with section 97B.50.

Sec. 29. Section 97B.49, subsection 13, paragraphs a and b, Code 1989, are amended to read as follows:

a. A member who retired from the system between January 1, 1976, and June 30, 1982, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1988~~ 1990 and the November ~~1989~~ 1991 monthly benefit payments a retirement dividend equal to ~~eighty~~ one hundred forty percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

b. Each member who retired from the system between July 4, 1953, and December 31, 1975, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1988~~ 1990 and the November ~~1989~~ 1991 monthly benefit payments a retirement dividend equal to one hundred ~~twenty~~ eighty percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

Sec. 30. Section 97B.49, subsection 13, paragraph c, Code 1989, is amended to read as follows:

c. Notwithstanding the determination of the amount of a retirement dividend under paragraph "a", ~~or~~ "b", or "d", a retirement dividend shall not be less than twenty-five dollars.

Sec. 31. Section 97B.49, subsection 13, Code 1989, is amended by adding the following new paragraph after paragraph c and relettering the subsequent paragraphs:

NEW PARAGRAPH. d. A member who retired from the system between July 1, 1982, and June 30, 1986, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1990 and the November 1991 monthly benefit payments a retirement dividend equal to twenty-four percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

Sec. 32. Section 97B.49, subsection 15, Code 1989, is amended to read as follows:

15. In lieu of the monthly benefit computed under subsections 1 and 3 as applicable, or subsection 5, ~~for~~:

a. For each active or inactive vested member retiring on or after July 1, 1988, and before July 1, 1990, who is at least fifty-five years of age and has completed at least thirty years of membership service and prior service, and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety-two, a monthly benefit shall be computed which is equal to one-twelfth of fifty percent of the three-year average covered wage of the member.

b. For each active or inactive vested member retiring on or after July 1, 1990, who is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety-two, a monthly benefit shall be computed which is equal to one-twelfth of the same percentage of the three-year average covered wage of the member as is provided in subsection 5.

Sec. 33. Section 97B.49, subsection 16, paragraphs a, b, and c, Code 1989, are amended to read as follows:

16. a. Notwithstanding other provisions of this chapter, ~~a~~:

(1) A member who is or has been employed in a protection occupation who retires on or after July 1, 1988, and before July 1, 1990, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-five years of membership service in a protection occupation, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a member who has been employed in a protection occupation, with benefits payable during the member's lifetime.

(2) A member who is or has been employed in a protection occupation who retires on or after July 1, 1990, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-five years of membership service in a protection occupation, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of fifty-two percent of the member's three-year average covered wage as a member who has been employed in a protection occupation, with benefits payable during the member's lifetime.

(3) Commencing July 1, 1991, the department shall increase the percentage multiplier of the three-year average covered wage by an additional two percent each July 1 until reaching sixty percent of the three-year average covered wage.

b. Notwithstanding other provisions of this chapter, ~~a~~:

(1) A member who retires from employment as a county sheriff or deputy sheriff who retires on or after July 1, 1988, and before July 1, 1990, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-two years of membership service, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a member, with benefits payable during the member's lifetime.

(2) A member who retires from employment as a county sheriff or deputy sheriff who retires on or after July 1, 1990, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-two years of membership service, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of the same percentage of the member's three-year average covered wage as is provided in paragraph "a", with benefits payable during the member's lifetime.

(3) The years of membership service required under this paragraph shall include membership service as a sheriff or deputy sheriff and membership service under employment in a protection occupation included in paragraph "d", subparagraph (2).

(4) For the purposes of this subsection, sheriff means a county sheriff as defined in section 39.17 and deputy sheriff means a deputy sheriff appointed pursuant to section 341.1 prior to July 1, 1981, or section 331.903 on or after July 1, 1981.

c. A member covered under this subsection who retires on or after July 1, 1988, and before July 1, 1990, and has not completed the twenty-five years of membership service required under paragraph "a", or twenty-two years of membership service required under paragraph "b", is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a member employed in a protection occupation, or as a sheriff or deputy sheriff, multiplied by a fraction of years of service.

A member covered under this subsection who retires on or after July 1, 1990, and has not completed the twenty-five years of membership service required under paragraph "a", or twenty-two years of membership service required under paragraph "b", is eligible to receive a monthly retirement allowance equal to one-twelfth of the same percentage of the member's three-year average covered wage as is provided in paragraph "a", multiplied by a fraction of years of service.

PARAGRAPH DIVIDED. For the purpose of this subsection, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service for a member retiring in a protection occupation, divided by twenty-five years, or the sum of the years of membership service for a member retiring as a sheriff or deputy sheriff divided by twenty-two years.

Sec. 34. Section 97B.49, subsection 16, paragraph d, subparagraph (3), Code 1989, is amended to read as follows:

(3) A correctional officer or correctional supervisor employed by the Iowa department of corrections, ~~in an applicable job classification~~ and any other employee of that department whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety, and security within a correctional facility. ~~The department of corrections and the department of personnel shall jointly determine the applicable merit system job classifications of correctional officers.~~

Sec. 35. Section 97B.49, subsection 16, paragraph d, Code 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) An employee of the state department of transportation who is designated as a "peace officer" by resolution under section 321.477, but only if the employee retires on or after July 1, 1990. For purposes of this subparagraph, service as a traffic weight officer employed by the highway commission prior to the creation of the state department of transportation or as a peace officer employed by the Iowa state commerce commission prior to the creation of the state department of transportation shall be included in computing the employee's years of membership service.

Sec. 36. Section 97B.49, subsection 16, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. For the fiscal year commencing July 1, 1990, and each succeeding fiscal year, the state department of transportation shall pay to the department of personnel, from funds appropriated to the state department of transportation from the road use tax fund and the primary road fund, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under paragraph "d", subparagraph (7).

Sec. 37. Section 97B.50, subsection 2, Code 1989, is amended to read as follows:

2. a. A member who retires from the system due to disability and commences receiving disability benefits pursuant to the United States Social Security Act (42 U.S.C.), as amended to July 1, 1978, who is eligible for early retirement, but has not reached the normal retirement date, shall receive full benefits under section 97B.49 and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. This section takes effect July 1, 1987 for a member meeting the requirements of this ~~subsection~~ paragraph who retired from the system at any time between July 4, 1953 and June 30, 1987.

Effective July 1, 1990, for members terminating on or after July 4, 1953, a member who terminates covered employment due to disability and commences receiving disability benefits pursuant to the United States Social Security Act (42 U.S.C.), who has not attained the age of fifty-five years, is eligible to receive benefits under section 97B.49, reduced by twenty-five hundredths of one percent for each month that the retirement date precedes the first day of the month in which the member attains the age of fifty-five. However, the benefits shall be suspended during any period in which the member returns to covered employment. Eligible members are entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month after July 1, 1990, in which written notice was submitted to the department.

b. A member who retires from the system due to disability and commences receiving disability benefits pursuant to the United States Railroad Retirement Act (45 U.S.C. § 231 et seq.) who is eligible for early retirement but has not reached the normal retirement date, shall receive full benefits under section 97B.49 and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time since July 4, 1953. However, eligible members are entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month after July 1, 1990, in which written notice was submitted to the department.

Effective July 1, 1990, for members terminating on or after July 4, 1953, a member who terminates covered employment due to disability and commences receiving disability benefits pursuant to the United States Railroad Retirement Act (45 U.S.C. § 231 et seq.), who has not attained the age of fifty-five years, is eligible to receive benefits under section 97B.49, reduced by twenty-five hundredths of one percent for each month that the retirement date precedes the first day of the month in which the member attains the age of fifty-five. However, the benefits shall be suspended during any period in which the member returns to covered employment. Eligible members are entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month after July 1, 1990, in which written notice was submitted to the department.

Sec. 38. Section 97B.52, subsection 3, Code 1989, is amended to read as follows:

3. a. Other than as provided ~~above~~ in subsections 1 and 2 of this section, or section 97B.51, all rights to any benefits under the retirement system ~~will~~ shall cease upon the death of a member.

b. If a death benefit is due and payable, interest shall continue to accumulate through the month preceding the month in which payment is made to the designated beneficiary, heirs

at law, or to the estate unless the payment of the death benefit is delayed because of a dispute between alleged heirs, in which case the benefit due and payable shall be placed in a noninterest bearing escrow account until the beneficiary is determined in accordance with this section.

Sec. 39. NEW SECTION. 97B.53A DUTY OF DEPARTMENT.

Effective July 1, 1991, upon a member's termination of covered employment prior to the member's retirement, the department shall send the member by first class mail, to the member's last known mailing address, a notice setting forth the balance and status of the member's account and an explanation of the courses of action available to the member under this chapter.

Sec. 40. Section 97B.73, Code 1989, is amended to read as follows:

97B.73 MEMBERS FROM OTHER PUBLIC SYSTEMS.

A vested or retired member who was a ~~member of a public retirement system~~ in public employment in another state ~~but was not vested or retired under that system may~~ or in the federal government, or who was a member of another public retirement system in this state, including but not limited to the teachers insurance annuity association-college retirement equities fund, but who was not retired under that system, upon submitting verification of membership and service in the other public retirement system to the department, including proof that the member has no further claim upon a retirement benefit from that other public system, may make employer and employee contributions to the system for the period of service in the other public retirement system and receive credit for membership service in this system equivalent to the number of years of service in the other public retirement system. The ~~contributions paid by the vested or retired member for service in the other public retirement system shall be equal to the accumulated contributions as defined in section 97B.41, subsection 12, by the member for that period of service and the employer contribution for that period of service that would have been contributed by the vested or retired member and the employer plus interest on the contributions that would have accrued if the member had been a member of this system earning the same wages earned under the other system for the period from the date of service of the member in the other public retirement system to the date of payment of the contributions by the member equal to two percent plus the interest dividend rate applicable for each year~~ contribution payable shall be based upon the member's covered wages for the most recent full calendar year at the applicable rates in effect for that calendar year under sections 97B.11 and 97B.49 and multiplied by the member's years of service in other public employment.

This section is applicable to a vested or retired member who was a member of a public retirement system established in sections 294.8, 294.9, and 294.10 but was not ~~vested or~~ retired under that system.

A member vested under another public system must waive, on a form provided by the Iowa public employees' retirement system, all rights to a retirement benefit under that other public system before receiving credit in this system for those years of service in the other public system.

Effective July 1, 1988, a member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice was submitted to the department.

Sec. 41. Section 97B.74, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

~~An~~ Effective January 1, 1991, an active, vested, or retired member who ~~at any time between July 4, 1953 and July 1, 1973~~ was a member of the system at any time on or after July 4, 1953, ~~but who did not meet the requirements to be a vested member for that period of membership service,~~ and who received a refund of the member's contributions for that period of membership service, may elect in writing to the department to make contributions to the system for

that period of membership service for which a refund of contributions was made. The contributions repaid by the member for such service shall be equal to the accumulated contributions, as defined in section 97B.41, subsection 12, received by the member for that period of membership service plus interest on the accumulated contributions for the period from the date of receipt by the member to the date of repayment equal to two percent plus the interest dividend rate applicable for each year compounded annually.

~~The provisions of this section are only available to a member if that member's total years of membership and prior service, with the addition of service for that period of membership service for which contributions are repaid, equals or exceeds fifteen years.~~ An active member must have at least one quarter's reportable wages on file and have membership service, including that period of membership service for which a refund of contributions was made, sufficient to give the member vested status.

Sec. 42. Section 97B.80, Code 1989, is amended to read as follows:

97B.80 VETERAN'S CREDIT.

~~An active member in service on July 1, 1988, who at any time served on active duty in the armed forces of the United States, upon submitting verification of the dates of the active duty service in the armed forces to the department, may make employer and employee contributions to the system based upon the member's covered wages for the calendar year beginning January 1, 1987, at the rates in effect under section 97B.11 on January 1, 1987, for the period of time of the active duty service, not to exceed four years, and receive credit for membership service and prior service for the period of time for which the contributions are made.~~ Effective July 1, 1990, a vested or retired member with reportable wages in the most recent calendar year, who at any time served on active duty in the armed forces of the United States, upon submitting verification of the dates of the active duty service, may make employer and employee contributions to the system based upon the member's covered wages for the most recent full calendar year at the applicable rates in effect for that year under sections 97B.11 and 97B.49, for the period of time of the active duty service, in one-year increments but not to exceed four years, and receive credit for membership service and prior service for the period of time for which the contributions are made. Verification of active duty service and payment of contributions shall be made to the department. However, a member is not eligible to make contributions under this section if the member is receiving or is eligible to receive retirement pay from the United States government for active duty in the armed forces.

Sec. 43. NEW SECTION. 97D.1 GUIDING GOALS FOR FUTURE CHANGES IN PUBLIC RETIREMENT SYSTEMS – SOCIAL SECURITY – PORTABILITY.

1. The general assembly declares that legislative proposals for changes in specific public retirement systems should be considered within the context of all public retirement systems within the state, with emphasis on equity and equality among the systems. The following list of guiding goals shall apply to the consideration of proposed changes:

a. Select those benefit enhancement options which most successfully deliver the greatest good to the greatest number of employees.

b. Choose those options which best correct existing inequities between and among the various retirement groups in the state.

c. Determine those options which most ably serve the twin objectives of attracting and retaining quality employees.

d. Avoid enacting further incentives toward earlier retirement with full benefits.

e. Avoid further splintering of benefits by disproportionate enhancement of benefits for one group beyond those available to another.

2. The public retirement systems committee established by section 97B.76 shall periodically weigh the advantages and disadvantages of establishing participation in the federal social security system for the members of public retirement systems operating under chapters 97A and 411 and the impact of such a change on total contributions and benefits.

3. The public retirement systems committee established by section 97B.76 shall consider proposals to achieve greater portability of pension benefits between the various public retirement systems in the state. Special attention should be given to the actuarial cost of transfers of value from one system to another.

Sec. 44. NEW SECTION. 97D.2 ANALYSIS OF COST OF PROPOSED CHANGES.

When the public retirement systems committee established by section 97B.76 or a standing committee of the senate or house of representatives recommends a proposal for a change in a public retirement system within this state, the committee shall require the development of actuarial information concerning the costs of the proposed change. If the proposal affects police and fire retirement under chapter 411, the committee shall arrange for the services of an actuarial consultant to assist in developing the information.

Sec. 45. NEW SECTION. 97D.3 NEWLY HIRED PEACE OFFICERS, POLICE OFFICERS, AND FIRE FIGHTERS — REFERENDUM.

1. As soon as possible after the effective date of this section, the department of personnel, in cooperation with the board of trustees of the public safety peace officers' retirement system and the board of trustees for the statewide fire and police retirement system created in section 411.36, shall submit to the members of retirement systems under chapters 97A and 411 in a referendum the question of requiring federal social security coverage for all persons newly hired as peace officers, as defined in section 97A.1, police officers, and fire fighters. The referendum shall be conducted before January 1, 1991. The referendum procedures shall comply with the requirements of federal law and regulations. If there is a favorable vote of a majority of the persons eligible to vote in the referendum, subsection 2 applies.

2. Upon a favorable vote in the referendum and notwithstanding sections 97A.3 and 411.3, all persons newly hired as peace officers, as defined in section 97A.1, police officers, and fire fighters after July 1, 1991, shall be members of the Iowa public employees' retirement system under chapter 97B, rather than members of retirement systems under chapters 97A and 411. Such members shall have federal social security coverage in addition to coverage under the Iowa public employees' retirement system and shall have the same benefits as county sheriffs and deputy sheriffs under section 97B.49, subsection 16, paragraph "b".

Sec. 46. Section 280A.23, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 15. Commencing July 1, 1994, provide for an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, for persons employed by the area vocational school or area community college who are members of the Iowa public employees' retirement system on July 1, 1994, or who are new employees, and who elect coverage under the alternative retirement benefits system pursuant to section 97B.42, in lieu of continuing or commencing contributions to the Iowa public employees' retirement system. The system for employee and employer contributions under the alternative system shall be substantially the same as provided by the state board of regents under the teachers insurance annuity association-college retirement equities fund, and the employer's contribution shall not exceed the employer's contribution rate established for employees of the state board of regents who are under that system.

NEW SUBSECTION. 16. Provide for an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, for persons newly employed after the effective date of this Act who are already members of the alternative system and who elect coverage under that system pursuant to section 97B.42, in lieu of coverage under the Iowa public employees' retirement system. The system for employee and employer contributions under the alternative system shall be substantially the same as provided by the state board of regents under the teachers insurance annuity association-college retirement equities fund, and the employer's contribution rate shall not exceed the employer's contribution rate established for employees of the state board of regents who are under that system.

Sec. 47. Section 410.6, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Upon the adoption of any increase in pension benefits effective subsequent to the date of a member's retirement, the amount payable to each member as regular pension shall be increased by an amount equal to ~~fifty~~ sixty percent of any increase in the pension benefits for the rank at which the member retired.

Sec. 48. Section 411.1, subsections 1, 4, 5, 14, 16, 17, and 18, Code 1989, are amended to read as follows:

1. "Retirement system" or "system" ~~shall mean either~~ means the statewide fire ~~or the~~ and police retirement system established by this chapter for the fire fighters and police officers of the ~~said~~ cities ~~as defined~~ described in section 411.2, its board of trustees, and its appointed representatives.

4. "Member" ~~shall mean~~ means a member of ~~either~~ the ~~police or fire~~ retirement ~~systems~~ system as defined by section 411.3.

5. "Board of ~~fire~~ trustees" ~~and "board of police trustees" shall mean~~ means the ~~boards~~ board ~~provided in section 411.5~~ created by section 411.36 to ~~administer~~ direct the establishment and administration of the ~~fire~~ retirement system ~~and the police retirement system respectively~~.

14. "Pensions" ~~shall mean~~ means annual payments for life derived from appropriations provided by the ~~said~~ participating cities and the state and from contributions of the members which are deposited in the ~~pension accumulation~~ fire and police retirement fund. All pensions shall be paid in equal monthly installments.

16. "Pension reserve" ~~shall mean~~ means the present value of all payments to be made on account of any pension, or benefit in lieu of a pension, granted under the provisions of this chapter, upon the basis of ~~such~~ mortality tables ~~as shall be~~ adopted by the ~~boards of trustees~~ system, and interest computed at ~~rates~~ the rate ~~adopted~~ established by the ~~boards upon the recommendation of the~~ actuary.

17. "Actuarial equivalent" ~~shall mean~~ means a benefit of equal value, when computed upon the basis of mortality tables adopted by the ~~boards of trustees~~ system, and interest computed at ~~rates~~ the rate ~~adopted~~ established by the ~~boards upon the recommendation of the~~ actuary.

18. "City" or "cities" ~~shall mean~~ means any city or cities ~~in which fire or police retirement systems are established~~ participating in the statewide fire and police retirement system as required by this chapter.

Sec. 49. Section 411.2, Code 1989, is amended to read as follows:

411.2 ~~NAME AND DATE OF ESTABLISHMENT~~ PARTICIPATION IN RETIREMENT SYSTEM.

1. ~~In any~~ Except as provided in subsections 2 through 5, each city in which the fire fighters or police officers are ~~or shall be~~ appointed under the civil service law of this state, ~~there are hereby created and established two separate retirement or pension systems~~ shall participate in the retirement system established by this chapter for the purpose of providing retirement allowances only for fire fighters or police officers, or both, of ~~said~~ the cities who ~~shall be~~ are so appointed after the date ~~this chapter takes effect~~ the city comes under the retirement system, or benefits to their dependents. ~~Each such system shall be under the management of a board of trustees hereinafter described, and shall be known as the "fire retirement system of ..... (name of city)", and the "police retirement system of ..... (name of city)", and by such names all of their business shall be transacted, all funds invested, and all cash and securities and other property held. The retirement systems so created shall begin operation as of the first day of the month in which said systems are there established by this chapter.~~

2. A city whose population was under eight thousand prior to the results of the federal census conducted in 1990 is not required to come under the retirement system established by this chapter upon attaining a population of eight thousand or more.

3. A city which did not have a paid fire department on the effective date of this Act is not required to come under the retirement system established by this chapter upon establishing a paid fire department.

4. A city which did not have a paid police department on the effective date of this Act is not required to come under the retirement system established by this chapter upon establishing a paid police department.

5. If a city's fire fighters or police officers, or both, are appointed under the civil service law of this state but the city is not operating a city fire or police retirement system, or both, under this chapter on the effective date of this Act, the city is not required to come under the statewide fire and police retirement system established by this chapter.

Sec. 50. Section 411.3, subsection 1, Code 1989, is amended to read as follows:

1. All persons who become police officers or fire fighters after the date the city is required to come under the retirement ~~systems are established by this chapter~~ system, shall become members ~~thereof~~ of the retirement system as a condition of their employment, except that a police chief or a fire chief who would not complete twenty-two years of service under this chapter by the time the chief attains fifty-five years of age shall, upon written request to the ~~board of trustees~~ system, be exempt from this chapter. Notwithstanding section 97B.41, a police chief or fire chief who is exempt from this chapter is exempt from chapter 97B. Members of the system established in this chapter shall not be required to make contributions under any other pension or retirement system of a city, county, or the state of Iowa, anything to the contrary notwithstanding.

Sec. 51. Section 411.4, Code 1989, is amended to read as follows:

411.4 SERVICE CREDITABLE.

~~The board of trustees shall fix and determine by proper rules and regulations how much service in any year shall be~~ Service for fewer than six months of a year is not creditable as service. Service of six months or more of a year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the ~~board of trustees~~ system allow credit as service for any period of more than one month duration during which the member was absent without pay.

The ~~board of trustees~~ system shall credit as service for a member of the system a previous period of service for which the member had withdrawn the member's accumulated contributions, as defined in section 411.21.

Sec. 52. Section 411.5, Code 1989, is amended to read as follows:

411.5 ADMINISTRATION.

1. ~~BOARDS~~ BOARD. The general ~~administration and the~~ responsibility for the establishment and proper operation of the retirement ~~systems and for making effective the provisions of this chapter are hereby~~ system is vested in a the board of ~~fire~~ trustees ~~to administer the system relating to fire fighters and a board of police trustees to administer the system relating to police officers~~ created by section 411.36. ~~The said boards shall be constituted as follows:~~ The system shall be administered under the direction of the board.

~~a. The chief officer of the fire department, the city treasurer, two fire fighters elected by secret ballot by the members of the department who are entitled to participate in a fire retirement system established by law, and three citizens who do not hold another public office, who shall be appointed by the mayor with the approval of the city council, shall serve as the members of the board of trustees of the fire retirement system.~~

~~b. The chief officer of the police department, the city treasurer, two police officers elected by secret ballot by the members of the department who are entitled to participate in a police retirement system established by law, and three citizens who do not hold another public office, who shall be appointed by the mayor with the approval of the city council, shall serve as the members of the board of trustees of the police retirement system.~~

~~c. The three citizens appointed by the mayor shall serve on both of the boards.~~

~~d. Upon the taking effect of this chapter, such members of each said department in said cities shall elect by secret ballot two active members of each such department to serve as members of said respective boards; one of whom shall serve until the first Monday in April of the second year, and one until the first Monday in April of the fourth year. Thereafter each such~~

~~department shall, every second year, on such date and in such manner as shall be prescribed by said board of trustees, elect by ballot one such member to serve for a term of four years.~~

~~c. Beginning July 1, 1986, upon the taking effect of this chapter, the mayor, with the approval of the city council, shall appoint three citizens who do not hold any other public office, to serve as members of the boards of trustees; one of whom shall serve until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April of the fourth year. Thereafter, appointments shall be made for four-year terms.~~

~~f. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.~~

~~2. VOTING. Each trustee shall be entitled to one vote on each board. Four concurring votes shall be necessary for a decision by the trustees at any meeting of either board.~~

~~3~~ 2. COMPENSATION. The trustees, other than the secretary, shall serve ~~as such~~ without compensation, but they shall be reimbursed from the ~~expense~~ fire and police retirement fund for all necessary expenses which they may incur through service on the board.

~~4~~ 3. RULES. Subject to the limitations of this chapter, ~~each~~ the board of trustees shall~~, from time to time, establish~~ adopt rules ~~and regulations~~ for the establishment and administration of ~~funds~~ the system and the fire and police retirement fund created by this chapter, and for the transaction of its business.

~~5~~ 4. ORGANIZATION — EMPLOYEES. ~~Each~~ The board of trustees shall elect from its membership a chairperson, and shall, by majority vote of its members, appoint a secretary~~,~~ who may, but need not, be~~,~~ one of its members. ~~It~~ The system shall engage such actuarial and other services as ~~shall be~~ are required to transact the business of the retirement system. The compensation of all persons engaged by ~~each board of trustees~~ the system and all other expenses of ~~each~~ the board of trustees necessary for the operation of the retirement system~~,~~ shall be paid at such rates and in such amounts as ~~each~~ the board of trustees ~~shall approve~~ approves.

~~6~~ 5. DATA. ~~Each board of trustees~~ The system shall keep in convenient form such data as ~~shall be~~ is necessary for actuarial valuation of the ~~various funds of the retirement system~~ fire and police retirement fund and for checking the experience of the retirement system.

~~7~~ 6. RECORDS — REPORTS. ~~Each~~ The board of trustees shall keep a record of all its proceedings, which record shall be open to public inspection. It shall ~~annually make a~~ submit an annual report to the governor, the general assembly, and the city council ~~showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities~~ of each participating city concerning the financial condition of the retirement system, its current and future liabilities, and the actuarial valuation of the system.

~~8~~ 7. LEGAL ~~ADVISER~~ ADVISOR. The ~~city attorney or solicitor of a city shall serve as the legal adviser of the board of trustees at the request of the board or the board of trustees~~ system may employ or retain an attorney ~~on a per diem basis~~ to serve as the system's legal advisor and to represent the ~~board of trustees when, in the opinion of the board of trustees, there is a conflict of interest between the board of trustees and the city council~~ system. The costs of an attorney employed or retained by the ~~board of trustees~~ system shall be paid from the ~~expense~~ fire and police retirement fund created in section 411.8.

~~9~~ 8. MEDICAL BOARD. The ~~board of fire trustees and the board of police trustees jointly~~ system shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this chapter, except that for examinations required because of disability three physicians from the University of Iowa hospitals and clinics who shall pass upon the medical examinations required for disability retirements, and shall report to the system in writing ~~to each board of trustees, respectively,~~ its conclusions and recommendations upon all matters ~~duly~~ referred to it. Each report of a medical examination under section 411.6, subsections 3 and 5, shall include the medical board's rating as to the extent of the member's physical impairment.

~~10~~ 9. DUTIES OF ACTUARY. The actuary shall be the technical ~~adviser~~ advisor of the ~~board of trustees~~ system on matters regarding the operation of the ~~funds created by the provisions of this chapter~~ fire and police retirement fund and shall perform such other duties as are required in connection ~~therewith~~ with the operation of the system.

~~11. TABLES — RATES. Immediately after the establishment of each retirement system, the~~ The actuary shall make such investigation of anticipated interest earnings and of the mortality, service, and compensation experience of the members of the system as the actuary ~~shall recommend~~ recommends ~~and the board of trustees shall authorize~~, and on the basis of ~~such~~ the investigation the ~~actuary~~ system shall ~~recommend for adoption by the board of trustees~~ adopt such tables and such rates as are required in subsection ~~12 of this section~~ 11. ~~The board of trustees shall adopt the rate of interest and tables, and certify rates of contribution to be used by the system.~~

~~12~~ 10. ACTUARIAL INVESTIGATION — TABLES — RATES. ~~In the year 1938, and at~~ At least once in each five-year period ~~thereafter~~, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and the interest and other earnings on the moneys and other assets of the retirement system, and shall make a valuation of the assets and liabilities of the ~~funds of the system~~ fire and police retirement fund, and ~~taking into account~~ on the basis of the results of ~~such~~ the investigation and valuation, the ~~board of trustees~~ system shall do all of the following:

a. Adopt for the retirement system such interest rate, mortality and other tables as ~~shall be~~ are deemed necessary;.

b. Certify the rates of contribution payable by the ~~said~~ cities in accordance with section 411.8 ~~of this chapter~~.

c. Certify the rates of contributions payable by the members in accordance with section 411.8.

~~13~~ 11. VALUATION. On the basis of ~~such~~ the rate of interest and ~~such~~ tables ~~as the boards of trustees shall adopt~~ adopted, the actuary shall make an annual valuation of the assets and liabilities ~~of the funds~~ of the fire and police retirement ~~systems~~ fund created by this chapter.

~~14. COMMISSIONER OF INSURANCE. Within five days following its submission to the city council, each board of trustees shall transmit to the commissioner of insurance a copy of the report submitted to the city council and the amount of contributions deposited in the pension accumulation fund by the city. The commissioner of insurance shall review the report and the adequacy of the contribution of the city. The commissioner of insurance shall inform the city council of each city in which the contribution of a city is deemed to be inadequate.~~

Sec. 53. Section 411.6, subsection 1, unnumbered paragraph 1 and paragraph a, Code 1989, are amended to read as follows:

SERVICE RETIREMENT BENEFIT. Retirement of a member on a service retirement allowance shall be made by ~~each board of trustees~~ the system as follows:

a. Any member in service may retire upon written application to the ~~board of police or fire trustees as the case may be~~ system, setting forth at what time, not less than thirty nor more than ninety days subsequent to the execution and filing of the application, the member desires to be retired. However, the member at the time specified for retirement shall have attained the age of fifty-five and shall have served twenty-two years or more, and notwithstanding that, during the period of notification, the member may have separated from the service.

Sec. 54. Section 411.6, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. Any member in service who has been a member of the retirement system ~~fifteen~~ four or more years and whose employment is terminated prior to the member's retirement, other than by death or disability, shall upon attaining retirement age, receive a service retirement allowance of ~~fifteen~~ four twenty-seconds of the retirement allowance the member would receive at retirement if the member's employment had not been terminated, and an additional one twenty-second of such retirement allowance for each additional year of service not exceeding twenty-two years of service. The amount of the retirement allowance shall be calculated in the manner provided in this paragraph using the average final compensation at the time of termination of employment.

Sec. 55. Section 411.6, subsection 2, Code 1989, are* amended to read as follows:

2. ALLOWANCE ON SERVICE RETIREMENT.

a. Upon retirement from service, prior to July 1, 1990, a member shall receive a service retirement allowance which shall consist of a pension given by the city which ~~shall equal one-half~~ equals fifty percent of the member's average final compensation.

b. Upon retirement from service on or after July 1, 1990, but before July 1, 1992, a member shall receive a service retirement allowance which shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, the system shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation.

d. Commencing July 1, 1990, if the member has completed more than twenty-two years of creditable service, the service retirement allowance shall consist of a pension which equals the amount provided in paragraphs "b" and "c", plus an additional percentage as set forth below:

(1) For a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1991, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added three-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 56. Section 411.6, subsection 3, Code 1989, is amended to read as follows:

3. ORDINARY DISABILITY RETIREMENT BENEFIT. Upon ~~the~~ application, to the system, of a member in service or of the chief of the police or fire departments, respectively, any member shall be retired by the ~~respective board of trustees~~ system, not less than thirty and not more than ninety days next following the date of filing ~~such~~ the application, on an ordinary disability retirement allowance, ~~provided, that~~ if the medical board after a medical examination of ~~such~~ the member ~~shall certify~~ certifies that ~~said~~ the member is mentally or physically incapacitated for further performance of duty, that ~~such~~ the incapacity is likely to be permanent, and that ~~such~~ the member should be retired.

Sec. 57. Section 411.6, subsection 5, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

ACCIDENTAL DISABILITY BENEFIT. Upon application, to the system, of a member in service or of the chief of the police or fire departments, respectively, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the ~~respective board of trustees~~ system, ~~provided, that~~ if the medical board ~~shall certify~~ certifies that ~~such~~ the member is mentally or physically incapacitated for further performance of duty, that ~~such~~ the incapacity is likely to be permanent, and that ~~such~~ the member should be retired.

~~Should~~ If a member in service or the chief of the police or fire departments ~~become~~ becomes incapacitated for duty as a natural or proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time or place or while acting, pursuant to order, outside the city by which the member is regularly employed, the member ~~shall~~, upon being found to be temporarily incapacitated following ~~an~~ a medical examination ~~by the board of trustees, be~~ as directed by the system, is entitled to receive the member's

*According to enrolled Act

full pay and allowances from the city's general fund until re-examined ~~by the board~~ as directed by the system and found to be fully recovered or permanently disabled.

Sec. 58. Section 411.6, subsection 6, Code 1989, is amended to read as follows:

6. RETIREMENT AFTER ACCIDENT.

a. Upon retirement for accidental disability prior to July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty-six and two-thirds percent of the member's average final compensation.

b. Upon retirement for accidental disability on or after July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation.

Sec. 59. Section 411.6, subsection 7, unnumbered paragraph 1, Code 1989, is amended to read as follows:

RE-EXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY. Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the ~~respective board of trustees~~ system may, and upon the member's application shall, require any disability beneficiary who has not yet attained age fifty-five to undergo a medical examination at a place designated by the medical board. ~~Such~~ The examination shall be made by the medical board or in special cases, by an additional physician or physicians designated by such board. ~~Should~~ If any disability beneficiary who has not attained the age of fifty-five ~~refuse~~ refuses to submit to ~~such~~ the medical examination, the member's allowance may be discontinued until withdrawal of such refusal, and ~~should~~ if the refusal ~~continue~~ continues for one year all rights in and to the member's pension may be revoked by the ~~respective board of trustees~~ system.

Sec. 60. Section 411.6, subsection 7, paragraph a, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A beneficiary retired under this paragraph, in order to be eligible for continued receipt of retirement benefits, shall no later than May 15 of each year submit to the ~~board of trustees~~ system a copy of the beneficiary's federal individual income tax return for the preceding year.

Sec. 61. Section 411.6, subsection 8, paragraph a, Code 1989, is amended to read as follows:

a. Upon the receipt of proof of the death of a member in service, or a member not in service who has completed ~~fifteen~~ four or more years of service as provided in subsection 1, paragraph "b", there shall be paid to the person designated by the member to the ~~board of trustees~~ system as the member's beneficiary if the member has had one or more years of membership service and no pension is payable under subsection 9, an amount equal to fifty percent of the compensation earnable by the member during the year immediately preceding the member's death if the member is in service, or an amount equal to fifty percent of the compensation earned by the member during the member's last year of service if the member is not in service.

Sec. 62. Section 411.6, subsection 8, paragraph b, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 411.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to one-twelfth of forty percent of the average final compensation of the member.

Sec. 63. Section 411.6, subsection 8, paragraph c, Code 1989, is amended to read as follows:

c. The pension under paragraph "b" may be selected only by the following beneficiaries:

(1) The spouse.

(2) If there is no spouse, or if the spouse dies and there is a child of a member, then the guardian of the member's child or children, divided as the ~~board of trustees~~ system determines, to continue as a joint and survivor pension until every child of the member dies or attains the age of eighteen, or twenty-two if applicable.

(3) If there is no surviving spouse or child, then the member's dependent father or mother, or both, as the ~~board of trustees~~ system determines, to continue until remarriage or death.

Sec. 64. Section 411.6, subsection 9, unnumbered paragraph 1, Code 1989, is amended to read as follows:

ACCIDENTAL DEATH BENEFIT. If, upon the receipt of evidence and proof from the chief of the police or fire department that the death of a member in service ~~or the chief of police or fire departments~~ was the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, the ~~board of trustees shall decide~~ system decides that death was so caused in the performance of duty there shall be paid, in lieu of the ordinary death benefit provided in subsection 8 ~~of this section~~, to the member's estate or to such person having an insurable interest in the member's life as the member ~~shall have~~ has nominated by written designation duly executed and filed with the ~~respective board of trustees~~ system the benefits set forth in paragraphs "a" and "b" of this subsection:

Sec. 65. Section 411.6, subsection 12, paragraph a, subparagraphs (1), (2), and (3), Code 1989, are amended to read as follows:

(1) Twenty-five percent for members receiving a service retirement allowance and for beneficiaries receiving a pension under subsection 9 of this section. However, effective July 1, 1990, for members who retired before that date, thirty percent shall be the applicable percentage for members and beneficiaries under this subparagraph.

(2) ~~Twenty~~ Twenty-five percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance. ~~However, effective July 1, 1984, for members who retired before July 1, 1979, and effective July 1, 1988, for members who retire on or after July 1, 1988, twenty-five percent shall be used for members who are receiving an ordinary disability allowance.~~ However, effective July 1, 1990, for members who retired before that date, thirty percent shall be the applicable percentage for members under this subparagraph.

(3) Twelve and one-half percent for members with less than five years of membership service who are receiving an ordinary disability retirement allowance, and for beneficiaries receiving a pension under subsection 8 of this section. However, effective July 1, 1990, for members who retired before that date, fifteen percent shall be the applicable percentage for members and beneficiaries under this subparagraph.

Sec. 66. Section 411.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. REMARRIAGE OF SURVIVING SPOUSE. Effective July 1, 1990, for a member who died prior to July 1, 1988, if the member's surviving spouse remarried prior to July 1, 1988, the remarriage does not make the spouse ineligible under subsection 8, paragraph "c", subparagraphs (1) and (2), to receive benefits under subsections 8, 9, 11, and 12.

Sec. 67. NEW SECTION. 411.6A OPTIONAL RETIREMENT BENEFITS.

In lieu of the retirement benefits otherwise provided upon service retirement for members of the system and the members' beneficiaries, members may elect to receive an optional retirement benefit during the member's lifetime and have the optional retirement benefit, or a designated fraction of the optional retirement benefit, continued and paid to the member's beneficiary after the member's death and during the lifetime of the beneficiary.

The member shall make the election request in writing to the board of trustees at the time of the member's service retirement. The election is subject to the approval of the board of trustees. If the member is married, the election of an option under this section requires the written acknowledgement of the member's spouse.

A member's optional retirement benefits shall be the actuarial equivalent of the amount of the retirement benefits payable to the member and the member's beneficiaries under the service retirement provisions of this chapter. The actuarial equivalent shall be based on the mortality and interest assumptions set out in section 411.5.

If the member dies without a beneficiary prior to receipt in benefits of an amount equal to the total amount remaining to the member's credit at the time of separation from service, the election is void.

If the member dies with a beneficiary and the beneficiary subsequently dies prior to receipt in retirement benefits by both the member and the beneficiary of an amount equal to the total amount remaining to the member's credit at the time of separation from service, the election remains valid.

For the purpose of this section, "beneficiary" means a spouse, child, or a dependent parent.

Sec. 68. Section 411.7, Code 1989, is amended to read as follows:

411.7 MANAGEMENT OF FUNDS.

1. The ~~respective boards~~ board of trustees ~~shall be~~ is the ~~trustees~~ trustee of the ~~several funds~~ fire and police retirement fund created ~~by this chapter as provided~~ in section 411.8 and shall ~~have full power to invest and reinvest such funds~~ annually establish an investment policy to govern the investment and reinvestment of the moneys in the fund, subject to the terms, conditions, limitations and restrictions imposed by subsection 2 ~~of this section, and subject~~. Subject to like terms, conditions, limitations, and restrictions ~~said trustees shall have~~ the system has full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments in which ~~any of~~ the ~~funds created herein shall have~~ fund has been invested, as well as of the proceeds of ~~said~~ the investments and any moneys belonging to ~~said funds~~ the fund.

2. The ~~city treasurer may~~ secretary of the board of trustees shall invest, ~~at the direction of~~ in accordance with the investment policy established by the ~~respective boards~~ board of trustees, ~~a~~ the portion of the ~~funds~~ fund established in section 411.8 which in the judgment of the ~~respective boards are~~ board is not needed for current payment of benefits under this chapter in investments authorized in section 97B.7, subsection 2, paragraph "b", for moneys in the Iowa public employees' retirement fund.

~~The board of trustees may negotiate a joint agreement under chapter 28E with another board of trustees, a utility board, a city council, or all of these, that provides for the joint investment of moneys under the control of the boards of trustees, the utility board, and the city council. The investment of the moneys is subject to this section and section 452.10 and to the limitations stated in the joint agreement.~~

3. The ~~treasurer of the said cities shall be~~ secretary of the board of trustees is the custodian of the ~~several funds~~ fire and police retirement fund. All payments from ~~said funds~~ the fund shall be made by the ~~treasurer~~ secretary only upon vouchers signed by two persons designated by the ~~respective~~ board of trustees. ~~A duly attested copy of the resolution of the respective board of trustees designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer as the treasurer's authority for making payments upon such vouchers. No voucher shall be drawn unless it shall previously have been allowed by resolution of the respective board of trustees.~~ The system may select master custodian banks to provide custody of the assets of the retirement system.

~~4. For the purpose of meeting disbursements for pensions, annuities, and other payments, there may be kept available cash not exceeding ten percent of the total amount in the several funds of the retirement system on deposit in one or more banks or trust companies in said cities, organized under the laws of the state of Iowa, or of the United States, provided, that the amount on deposit in any one bank or trust company shall not exceed twenty-five percent of the paid-up capital and surplus of such bank or trust company.~~

~~5~~ 4. ~~No trustee and no~~ A member or employee of ~~either~~ the board of trustees shall not have any direct interest in the gains or profits of any investment made by the ~~respective boards~~ board of trustees, other than as a member of the system. ~~No~~ A trustee shall not receive any pay or emolument for the trustee's services except as secretary. ~~No trustee~~ A member or employee of ~~either~~ the board of trustees shall not directly or indirectly for the trustee or employee or as an agent in any manner use the assets of the retirement system except to make ~~such~~ current and necessary payments as ~~are~~ authorized by the board of trustees, nor shall

any trustee or employee of the ~~boards~~ system become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the ~~respective board of trustees~~ system.

Sec. 69. Section 411.8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

All the assets of ~~each~~ the retirement system created and established by this chapter shall be credited ~~according to the purpose for which they are held to one of three funds, namely, the pension accumulation fund, the pension reserve fund, and the expense fund~~ to the fire and police retirement fund, which is hereby created. As used in this section, "fund" means the fire and police retirement fund.

Sec. 70. Section 411.8, subsection 1, unnumbered paragraph 1 and paragraph a, Code 1989, are amended to read as follows:

~~PENSION ACCUMULATION FUND. The pension accumulation fund shall be the fund in which shall be accumulated all~~ All moneys for the payment of all pensions and other benefits payable from contributions made by the ~~said~~ participating cities, the state, and the members ~~and from which shall be paid the lump sum death~~ shall be accumulated in the fund. The refunds and benefits for all members ~~payable from the said contributions~~ and beneficiaries shall be payable from the fund. Contributions to and payments from the ~~pension accumulation~~ fund shall be as follows:

a. On account of each member there shall be paid annually into the ~~pension accumulation~~ fund by the ~~said~~ participating cities an amount equal to a certain percentage of the earnable compensation of the member to be known as the "normal contribution". The rate percent of such contribution shall be fixed on the basis of the liabilities of the retirement system as shown by annual actuarial valuations.

Sec. 71. Section 411.8, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. On the basis of the rate of interest and of ~~such~~ the mortality, interest and other tables ~~as shall be~~ adopted by the ~~boards of trustees~~ system, the actuary engaged by the ~~said boards~~ system to make each valuation required by this chapter, shall immediately after making such valuation, determine the "normal contribution rate". ~~The~~ Except as otherwise provided in this lettered paragraph, the normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted ~~by the boards of trustees~~, all reduced by the employee contribution made pursuant to paragraph "f" of this subsection. However, the normal rate of contribution shall not be less than seventeen percent.

Beginning July 1, 1996, and each fiscal year thereafter, the normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted, multiplied by six-tenths, or seventeen percent, whichever is greater.

PARAGRAPH DIVIDED. The normal rate of contribution shall be determined by the actuary after each valuation.

Sec. 72. Section 411.8, subsection 1, paragraphs c, d, and e, Code 1989, are amended to read as follows:

c. The total amount payable in each year to the ~~pension accumulation~~ fund shall be not less than the rate percent known as the normal contribution rate of the total compensation earnable by all members during the year, ~~provided, however, that~~ but the aggregate payment by the ~~said~~ participating cities ~~shall~~ must be sufficient when combined with the amount in the fund to provide the pensions and other benefits payable out of the fund during the then current year.

d. All lump-sum death benefits on account of death in active service payable from contributions of the said cities shall be paid from the ~~pension accumulation~~ fund.

~~c. Upon the retirement or death of a member an amount equal to the pension reserve on any pension payable to the member or on account of the member's death shall be transferred from the pension accumulation fund to the pension reserve fund.~~

Sec. 73. Section 411.8, subsection 1, paragraph f, Code 1989, is amended to read as follows:

f. Except as otherwise provided in paragraph "h":

(1) An amount equal to three and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ fund for the fiscal year beginning July 1, 1989.

(2) An amount equal to four and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal year beginning July 1, 1990.

(3) An amount equal to five and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal year beginning July 1, 1991.

(4) An amount equal to six and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal year beginning July 1, 1992.

(5) An amount equal to seven and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal year beginning July 1, 1993.

(6) An amount equal to eight and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal year beginning July 1, 1994.

(7) An amount equal to nine and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal year beginning July 1, 1995.

(8) Beginning July 1, 1996, and each fiscal year thereafter, the member's contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted, multiplied by four-tenths, or nine and one-tenth percent, whichever is greater. However, the system shall increase this percentage for its members as necessary to cover any increase in cost to the system resulting from statutory changes which are enacted by any session of the general assembly meeting after January 1, 1991, if the increase cannot be absorbed within the contribution rates otherwise established pursuant to this paragraph, but subject to a maximum employee contribution rate of eleven and three-tenths percent. After the employee contribution reaches the maximum rate specified in this subparagraph, sixty percent of the additional cost of such statutory changes shall be paid by employers under paragraph "c" and forty percent of the additional cost shall be paid by employees under this paragraph.

Beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the fund from the earnable compensation of the member.

The total amount to be contributed by the member shall be determined by the actuary after each valuation.

Sec. 74. Section 411.8, subsection 1, paragraph g, Code 1989, is amended to read as follows:

g. ~~Each board of trustees~~ The system shall certify to the superintendent of public safety as defined in this chapter and the superintendent of public safety as defined in this chapter shall cause to be deducted from the earnable compensation of each member the contribution

required under ~~paragraph "f" of~~ this subsection and shall forward the contributions to the ~~board of trustees~~ system for recording and for deposit in the ~~pension accumulation~~ fund.

The deductions provided for under this ~~subsection~~ paragraph shall be made notwithstanding that the minimum compensation provided by law for any member is reduced. Every member is deemed to consent to the deductions made under this ~~section~~ paragraph.

Sec. 75. Section 411.8, subsection 1, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Notwithstanding the provisions of paragraph "f", the following transition percentages apply to members' contributions as specified:

(1) For members who on July 1, 1990, have attained the age of forty-nine years or more, an amount equal to nine and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal year beginning July 1, 1990, and each subsequent fiscal year until the fiscal year beginning July 1, 1996, when paragraph "f", subparagraph (8), applies.

(2) For members who on July 1, 1990, have attained the age of forty-eight years but have not attained the age of forty-nine years, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and each subsequent fiscal year thereafter until the fiscal year beginning July 1, 1996, when paragraph "f", subparagraph (8), applies.

(3) For members who on July 1, 1990, have attained the age of forty-seven years but have not attained the age of forty-eight years, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1992, and each subsequent fiscal year until the fiscal year beginning July 1, 1996, when paragraph "f", subparagraph (8), applies.

(4) For members who on July 1, 1990, have attained the age of forty-six years but have not attained the age of forty-seven years, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1992, and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1993, and each subsequent fiscal year until the fiscal year beginning July 1, 1996, when paragraph "f", subparagraph (8), applies.

(5) For members who on July 1, 1990, have attained the age of forty-five years but have not attained the age of forty-six years, an amount equal to five and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1992, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1993, and an amount equal to nine and one-tenth percent shall be paid for the fiscal years beginning July 1, 1994, and July 1, 1995. Beginning July 1, 1996, paragraph "f", subparagraph (8), applies.

Sec. 76. Section 411.8, subsection 2, Code 1989, is amended by striking the subsection.

Sec. 77. Section 411.8, subsection 3, Code 1989, is amended to read as follows:

3. ~~EXPENSE FUND. The expense fund shall be the fund to which shall be credited all money provided by the said cities to pay the administration expenses of the retirement system and from which shall be paid all the expenses necessary in connection with the administration and operation of the system.~~ Annually the ~~boards~~ board of trustees shall ~~estimate~~ budget the amount of money necessary ~~to be paid into the expense fund~~ during the ensuing year to provide for the expense of operation of the retirement system. The operating expenses shall be financed from the income derived from the system's investments. Investment management expenses shall be charged directly to the investment income of the system.

Sec. 78. Section 411.11, Code 1989, is amended to read as follows:

411.11 CONTRIBUTIONS BY THE CITY.

On or before January 1 of each year the ~~respective boards of trustees~~ system shall certify to the superintendent of public safety of each participating city the amounts which will become due and payable during the year next following to the ~~pension accumulation~~ fire and police retirement fund ~~and the expense fund~~. The amounts so certified shall be included by the superintendent of public safety in the annual budget estimate. The amounts so certified shall be appropriated by the respective cities and transferred to the retirement system for the ensuing year. The cities shall annually levy a tax sufficient in amount to cover the appropriations.

~~However, the amounts due and payable for a retirement system during its first year, or portion of a year, of operation shall be determined using the rates of contribution adopted by the board of trustees.~~

Sec. 79. Section 411.12, Code 1989, is amended to read as follows:

411.12 GUARANTY.

The creation and maintenance of moneys in the ~~pension accumulation~~ fire and police retirement fund ~~and the maintenance of pension reserves~~ as provided for the payment of all pensions and other benefits granted under the provisions of this chapter and all expenses in connection with the administration and operation of the retirement ~~systems~~ system are hereby made direct liability obligations of the ~~said~~ cities participating in the retirement system.

Sec. 80. Section 411.13, Code Supplement 1989, is amended to read as follows:

411.13 EXEMPTION FROM 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 this chapter, and the moneys in the ~~various funds~~ fire and police retirement fund created under this chapter, are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except as in this chapter specifically provided.

Sec. 81. Section 411.14, Code 1989, is amended to read as follows:

411.14 PROTECTION AGAINST FRAUD.

~~Any~~ A person who ~~shall~~ knowingly ~~make any~~ makes a false statement, or ~~shall falsify~~ falsifies or ~~permit~~ permits to be falsified any record or records of ~~such~~ the retirement system in ~~any~~ an attempt to defraud ~~such~~ the system as a result of such act, ~~shall be~~ is guilty of a fraudulent practice. ~~Should~~ If any change or ~~errors~~ error in records ~~result~~ results in ~~any~~ a member or beneficiary receiving from the retirement system more or less than the member or beneficiary would have been entitled to receive had the records been correct, the ~~respective board of trustees~~ system shall correct ~~such~~ the error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which ~~such~~ the member or beneficiary was correctly entitled, shall be paid.

Sec. 82. Section 411.20, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

411.20 STATE APPROPRIATION.

There is appropriated from the general fund of the state for each fiscal year an amount necessary to be distributed to the statewide fire and police retirement system, or to the cities participating in the system, to finance the cost of benefits provided in this chapter by amendments of the Acts of the Sixty-sixth General Assembly, chapter 1089. The method of distribution shall be determined by the board of trustees based on information provided by the actuary of the statewide retirement system.

Moneys appropriated by the state shall not be used to reduce the normal rate of contribution of any city below seventeen percent.

Sec. 83. Section 411.21, subsection 2, paragraph g, Code 1989, is amended to read as follows:

g. "Member who became vested" and "vested member" mean a member who has been a member of the retirement system ~~fifteen~~ four or more years and is entitled to benefits under this chapter.

Sec. 84. NEW SECTION. 411.23 WITHDRAWAL OF CONTRIBUTIONS.

Commencing July 1, 1990, if an active member, in service on or after that date, terminates service, other than by death or disability, the member may elect to withdraw the member's contributions under section 411.8, subsection 1, paragraphs "f" and "h", together with interest thereon at a rate determined by the board of trustees. If a member withdraws contributions as provided in this section, the member shall be deemed to have waived all claims for other benefits from the system for the period of membership service for which the contributions are withdrawn.

Sec. 85. NEW SECTION. 411.35 STATEWIDE SYSTEM ESTABLISHED – CITY SYSTEMS TERMINATED.

1. Effective January 1, 1992, a single statewide fire and police retirement system is established to replace the individual city fire retirement systems and police retirement systems operating under this chapter prior to that date. Each city fire retirement system and police retirement system operating under this chapter prior to January 1, 1992, shall participate in the statewide system.

2. Effective January 1, 1992, each city fire retirement system and police retirement system operating under this chapter prior to that date is terminated, and all membership, benefit rights, and financial obligations under the terminating systems shall be assumed by the statewide fire and police retirement system.

Sec. 86. NEW SECTION. 411.36 BOARD OF TRUSTEES FOR STATEWIDE SYSTEM.

1. A board of trustees for the statewide fire and police retirement system is created. The board shall consist of thirteen members, including nine voting members and four nonvoting members. The voting members shall be as follows:

a. Two fire fighters from different participating cities, one of whom is an active member of the retirement system and one of whom is a retired member. The fire fighters shall be appointed by the governing body of the Iowa association of professional fire fighters.

b. Two police officers from different participating cities, one of whom is an active member of the retirement system and one of whom is a retired member. The police officers shall be appointed by the governing body of the Iowa state police association.

c. The city treasurers of four participating cities, one of whom is from a city having a population of less than forty thousand, and three of whom are from cities having a population of forty thousand or more. The city treasurers shall be appointed by the governing body of the league of Iowa municipalities.

d. One citizen who does not hold another public office. The citizen shall be appointed by the other members of the board.

The nonvoting members of the board shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

2. Except as otherwise provided for the initial appointments, the voting members shall be appointed for four-year terms, and the nonvoting members shall be appointed for two-year terms. Terms begin on May 1 in the year of appointment and expire on April 30 in the year of expiration.

3. Vacancies shall be filled in the same manner as original appointments. A vacancy shall be filled for the unexpired term.

4. The board shall elect a chairperson from among its own members.

Sec. 87. NEW SECTION. 411.37 BOARD RESPONSIBLE FOR TRANSITION.

1. The board of trustees for the statewide system is responsible for effecting the transition from the city fire and police retirement systems to the statewide fire and police retirement system. The board shall adopt a transition plan and other appropriate transition documents it deems necessary to accomplish the transition in accordance with the requirements of this chapter. The city fire and police retirement systems shall comply with orders of the board issued pursuant to the transition plan or other transition documents.

2. The board shall include in the transition plan or other transition documents, provisions to facilitate continuity under sections 411.20, 411.21, and 411.30 and a recommendation for an equitable process for determining earnable compensation changes when calculating adjustments to pensions under section 411.6, subsection 12, to be submitted to the general assembly meeting in 1991.

3. For the fiscal year beginning July 1, 1990, ten percent of the amount appropriated for distribution to cities as provided in section 411.20 shall be made available to the board of trustees for the statewide system to cover the administrative costs of the transition. The amount distributed to each city shall be reduced accordingly. The moneys remaining unexpended at the end of the fiscal year shall be credited to the cities in the same proportion as the reduction.

Sec. 88. NEW SECTION. 411.38 OBLIGATIONS OF PARTICIPATING CITIES.

Upon the establishment of the statewide system, each city participating in the statewide fire and police retirement system shall do all of the following:

1. Pay to the statewide system the normal contribution rate provided pursuant to section 411.8.

2. Transfer from each terminated city fire or police retirement system to the statewide system amounts sufficient to cover the accrued liabilities of that terminated system as determined by the actuary of the statewide system.

3. Contribute additional amounts necessary to ensure sufficient financial support for the statewide fire and police retirement system, as determined by the board of trustees based on information provided by the actuary of the statewide system.

It is the intent of the general assembly that a terminated city fire or police retirement system shall not subsidize any portion of any other system's unfunded liabilities in connection with the transition to the statewide system.

Sec. 89. INITIAL STATEWIDE BOARD FOR STATEWIDE SYSTEM.

1. All members of the initial board of trustees for the statewide fire and police retirement system, except the nonvoting members, shall be appointed from the boards of trustees of the participating fire and police retirement systems.

2. The terms of the initial appointees shall be as follows:

a. One fire fighter shall be appointed for a term of four years and one for a term of two years.

b. One police officer shall be appointed for a term of three years and one for a term of one year.

c. One city treasurer shall be appointed for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year.

d. The citizen member shall be appointed for a term of four years.

e. The state representatives and state senators shall each be appointed for a term of two years.

3. Notwithstanding section 411.36, subsection 2, the term of each original appointee commences on the date of appointment and expires on April 30 in the year of expiration.

4. As soon as possible after the effective date of this section, the director of the legislative service bureau shall call a preliminary meeting of the eight board members appointed as provided in section 411.36, subsection 1, paragraphs "a", "b", and "c" for the purpose of appointing the remaining board member and setting a date for the first meeting of the full board. The preliminary meeting shall be held before July 1, 1990. The director of the legislative service bureau shall preside at the preliminary meeting and also at the first meeting of the full board until the board elects a chairperson from among its own members.

5. The initial board members are entitled to expenses incurred in the performance of their duties during the transition period.

6. The initial board may engage actuarial and other services as necessary for transition purposes.

Sec. 90. REPEALS.

Sections 411.18 and 411.19, Code 1989, are repealed.

Sec. 91. STUDY.

The legislative council shall employ an actuarial consultant to study possible courses of action with respect to the retirement systems for public safety peace officers, police officers, and fire fighters covered under chapters 97A and 411.

The study of possible courses of action shall include:

1. Extending the Iowa public employees' retirement system and the federal social security system to peace officers, police officers, and fire fighters, with the same benefits as county sheriffs and deputy sheriffs under section 97B.49, subsection 16, paragraph "b".

2. Establishing a system for rating the degree of disability under the retirement systems established by chapters 97A and 411.

3. Determining methods of enhancing benefits for current retirees and their survivors and determining equity among state and local systems, both as to contribution rates and benefit formulas.

4. Revising the system of benefits for members, spouses, and other beneficiaries so that members would choose from among five benefit options similar to those available under the Iowa public employees' retirement system.

The study shall consider each of the possible courses of action with respect to (a) persons currently under the retirement systems established by chapters 97A and 411, and (b) persons newly hired as peace officers, police officers, and fire fighters.

The study shall also extend to consideration of changes in provisions governing coverage of temporary employees under the Iowa public employees' retirement system, including the issue of whether coverage under the proposed changes should be mandatory or optional for the employee.

The study shall be conducted in accordance with the guiding goals and principles set forth in section 97D.1.

The legislative service bureau shall coordinate the study, in consultation with the legislative fiscal bureau and the public employees' retirement system division of the department of personnel.

The study shall be completed and a report submitted to the general assembly not later than December 1, 1990.

Sec. 92. STUDY OF DEFINED CONTRIBUTION PLAN.

1. The Iowa public employees' retirement system shall conduct a study of the feasibility of initiating an optional, supplemental defined contribution retirement plan which would be available to all members in addition to their basic coverage under the existing system. Under the proposed plan, employees electing to participate would be eligible to contribute up to five percent of their total salary per year at their option and this would accumulate interest at the rate credited to members' accounts under basic Iowa public employees' retirement system coverage, less management expenses and administrative costs. The funds in the employee's account would be available to the employee either upon termination of public employment or at retirement.

2. The Iowa public employees' retirement system shall provide a preliminary report concerning the study on or after November 1, 1990, and a final report on or after November 1, 1991. The reports shall be transmitted to the chief clerk of the house of representatives and the secretary of the senate for distribution to the general assembly.

Sec. 93. TRANSFER OF SECTION.
The Code editor shall transfer section 97B.76 to chapter 97D, created by this Act.

Sec. 94. APPLICABILITY – EFFECTIVE DATE.
1. Sections 3, 6, 13, 54, 61, and 83 of this Act apply to members of the Iowa department of public safety peace officers' retirement, accident, and disability system and members of police and fire retirement systems who are in active service on or after the effective date of this Act.
2. Section 22 of this Act is applicable to computations of years of prior service made on or after the effective date of this Act.
3. Sections 1, 48 through 53, 56, 57, 59, 60, 63, 64, 68 through 72, 74, 76 through 82, and 90 of this Act take effect January 1, 1992.
4. Section 16 of this Act takes effect January 14, 1991.

Sec. 95. IMMEDIATE EFFECTIVENESS.
Sections 85 through 89 and this section, being deemed of immediate importance, take effect upon enactment.

Approved May 3, 1990

CHAPTER 1241

SEXUAL ABUSE, SEXUAL ASSAULT, AND SEXUAL HARASSMENT – PROCEDURES
H.F. 2268

AN ACT relating to discovery and the statute of limitations in a civil action involving sexual abuse, sexual assault, or sexual harassment and providing for the Act's applicability.

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

Section 1. Section 668.15, Code Supplement 1989, is amended to read as follows:
668.15 DAMAGES RESULTING FROM SEXUAL ABUSE – EVIDENCE.
1. In a civil action alleging conduct which constitutes sexual abuse, as defined in section 709.1, sexual assault, or sexual harassment, a party seeking discovery of information concerning the plaintiff's sexual conduct with persons other than the person who committed the alleged act of sexual abuse, as defined in section 709.1, sexual assault, or sexual harassment, must establish specific facts showing good cause for that discovery, and that the information sought is relevant to the subject matter of the action and reasonably calculated to lead to the discovery of admissible evidence.
2. In an action against a person accused of sexual abuse, as defined in section 709.1, sexual assault, or sexual harassment, by an alleged victim of the sexual abuse, sexual assault, or sexual harassment, for damages arising from an injury resulting from the ~~act of sexual abuse~~ alleged conduct, evidence concerning the past sexual behavior of the alleged victim is not admissible.

Sec. 2. NEW SECTION. 614.8A DAMAGES FOR CHILD SEXUAL ABUSE – TIME LIMITATION.
An action for damages for injury suffered as a result of sexual abuse which occurred when the injured person was a child, but not discovered until after the injured person is of the age of majority, shall be brought within four years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the sexual abuse.

Sec. 3.
This Act is applicable to all actions filed on or after the effective date of the Act.

Approved May 6, 1990

CHAPTER 1242

COMMUNITY ACTION AGENCIES COMMISSION

H.F. 2235

AN ACT relating to community action agencies by providing for an annual report and establishing membership requirements for community action agency boards.

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

Section 1. Section 601K.91, Code 1989, is amended by adding the following new subsection 1, and renumbering subsequent subsections:
NEW SUBSECTION. 1. "Commission" means the commission on community action agencies.

Sec. 2. Section 601K.92, Code 1989, is amended to read as follows:
601K.92 ~~DIRECTOR~~ ADMINISTRATOR DUTIES.
The administrator shall:
1. Administer the division.
2. Implement programs required in the division.
~~3. Adopt rules pursuant to chapter 17A to administer the division.~~
~~4~~ 3. Issue an annual report to the governor and general assembly ~~on January 15 of each year~~ regarding the community action programs conducted within the state.

Sec. 3. NEW SECTION. 601K.92A COMMISSION ESTABLISHED.
1. The commission on community action agencies is created, composed of nine members appointed by the governor, subject to confirmation by the Senate. The membership of the commission shall reflect the composition of local community action agency boards as follows:
a. One-third of the members shall be elected officials.
b. One-third of the members shall be representatives of business, industry, labor, religious, welfare, and educational organizations, or other major interest groups.
c. One-third of the members shall be persons who, according to federal guidelines, have incomes at or below poverty level.
2. Commission members shall serve three-year terms which shall begin and end pursuant to section 69.19. Vacancies on the commission shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed. Members of the commission shall receive actual expenses for their services. Members may also be eligible to receive compensation as provided in section 7E.6. The membership of the commission shall also comply with the political party affiliation and gender balance requirements of sections 69.16 and 69.16A.
3. The commission shall select from its membership a chairperson and other officers as it deems necessary. A majority of the members of the commission shall constitute a quorum.

Sec. 4. NEW SECTION. 601K.92B DUTIES OF THE COMMISSION.
The commission shall:
1. Meet at least quarterly to review the progress of programs of the division.
2. Adopt rules pursuant to chapter 17A as it deems necessary for the commission and division, including rules concerning programs and policies for all bureaus of the division.

3. Supervise the collection of data relative to the scope of services provided by the community action agencies.

4. Recommend legislation to the governor and the general assembly designed to improve the status of low-income persons in the state.

Sec. 5. Section 601K.94, subsection 1, paragraphs a, b, and c, Code 1989, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. One-third of the members of the board shall be elected public officials currently holding office or their representatives. However, if the number of elected officials available and willing to serve is less than one-third of the membership of the board, the membership of the board consisting of appointive public officials may be counted as fulfilling the requirement that one-third of the members of the board be elected public officials.

b. At least one-third of the members of the board shall be chosen in accordance with procedures established by the community action agency to assure representation of the poor in an area served by the agency.

c. The remainder of the members of the board shall be members of business, industry, labor, religious, welfare, education, or other major groups or interests in the community.

Sec. 6. Section 601K.100, Code 1989, is repealed.

Sec. 7.

The provisions of 1990 Iowa Acts, House File 2294,* creating the affordable heating program advisory council, are repealed July 1, 1992.

Approved May 6, 1990

CHAPTER 1243

COMMERCIAL CLEANING OF PRIVATE SEWAGE DISPOSAL FACILITIES

H.F. 2115

AN ACT regulating the commercial cleaning of private sewage disposal facilities, by providing for the adoption of standards and the issuance of licenses, providing license fees, providing a civil penalty, and providing effective and applicability dates.

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

Section 1. Section 455B.172, subsection 5, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The department shall by rule adopt standards for the commercial cleaning of private sewage disposal facilities, including but not limited to septic tanks and pits used to collect waste in livestock confinement structures, and for the disposal of waste from the facilities. The standards shall not be in conflict with the state building code. A person shall not commercially clean such facilities or dispose of waste from such facilities unless the person has been issued a license by the department. The department shall be exclusively responsible for adopting the standards and issuing licenses. However, county boards of health shall enforce the standards and licensing requirements established by the department. Application for the license shall be made in the manner provided by the department. Licenses expire one year from the date of issue unless revoked and may be renewed in the manner provided by the department. The license or license renewal fee is twenty-five dollars. A person violating this section or the rules adopted pursuant to this section, is subject to a civil penalty of not more than twenty-five dollars. Each day that a violation continues constitutes a separate offense. However, the total civil penalty shall not exceed five hundred

*Chapter 1246 herein

dollars per year. The penalty shall be assessed for a violation occurring ten days following written notice of the violation delivered to the person by the department or a county board of health. Moneys collected by the department or a county board of health from the imposition of civil penalties shall be deposited in the general fund of the state.

Sec. 2. DATES OF APPLICABILITY.

1. This Act takes effect March 1, 1991.

2. A person issued a license to clean private sewage disposal facilities and dispose of waste from the facilities by a county board of health before March 1, 1991, is not required to obtain a license from the department of natural resources under section 455B.172, until the license issued by the county board of health expires or until March 1, 1992, whichever occurs first.

Approved May 6, 1990

CHAPTER 1244

SENATORIAL ELECTIONS AFTER REDISTRICTING

S.F. 2372

AN ACT relating to the 1991 redistricting process for the election of senators in conformity with Article III, section 6 of the Constitution of the State of Iowa.

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

Section 1. Section 42.4, subsection 8, Code 1989, is amended to read as follows:

8. Each bill embodying a plan drawn under this section shall include provisions for election of senators to the general assemblies which take office in the years ending in three and five, which shall be in conformity with article III, section 6 of the Constitution of the State of Iowa. With respect to any plan drawn for consideration in the year ~~1981~~ 1991, those provisions shall be substantially as follows:

a. Each ~~odd-numbered~~ even-numbered senatorial district shall elect a senator in ~~1982~~ 1992 for a four-year term commencing in January~~,~~ ~~1983~~ 1993. If an incumbent senator who was elected to a four-year term which commenced in January~~,~~ ~~1981~~ 1991, or was subsequently elected to fill a vacancy in such a term, is residing in an ~~odd-numbered~~ even-numbered senatorial district on ~~April 2,~~ ~~1982~~ March 13, 1992, that senator's term of office shall be terminated on January 1, ~~1983~~ 1993.

b. Each ~~even-numbered~~ odd-numbered senatorial district shall elect a senator in ~~1984~~ 1994 for a four-year term commencing in January~~,~~ ~~1985~~ 1995.

(1) If one and only one incumbent state senator is residing in an ~~even-numbered~~ odd-numbered senatorial district on ~~April 2, 1982~~ March 13, 1992, and that senator ~~was elected to a four-year term which commenced in January, 1981 or was subsequently elected to fill a vacancy in such a term~~ meets all of the following requirements, the senator shall represent the district in the senate for the ~~Seventieth~~ Seventy-fifth General Assembly~~.~~:

(a) The senator was elected to a four-year term which commenced in January 1991 or was subsequently elected to fill a vacancy in such a term.

(b) The senatorial district in the plan which includes the place of residence of the state senator on the date of the senator's last election to the senate is the same as the odd-numbered senatorial district in which the senator resides on March 13, 1992, or is contiguous to such odd-numbered senatorial district. Areas which meet only at the points of adjoining corners are not contiguous.

(2) Each ~~even-numbered~~ odd-numbered senatorial district to which subparagraph (1) of this paragraph is not applicable shall elect a senator in ~~1982~~ 1992 for a two-year term commencing in January, ~~1983~~ 1993.

Approved May 6, 1990

CHAPTER 1245

REAL PROPERTY MORTGAGORS' RIGHTS

S.F. 390

AN ACT relating to the transfer of agricultural land, by restricting the time land can be held by financial and insurance institutions, providing for valuation of land, the opportunity to repurchase land, for redemption, and providing effective dates and dates of applicability.

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

Section 1. Section 524.910, subsection 2, Code 1989, is amended to read as follows:

2. Real property purchased by a state bank at sales upon foreclosure of mortgages or deeds of trust owned by it, or acquired upon judgments or decrees obtained or rendered for debts due it, or real property conveyed to it in satisfaction of debts previously contracted in the course of its business, or real property obtained by it through redemption as a junior mortgagee or judgment creditor, shall be sold or otherwise disposed of by the state bank within five years after title is vested in the state bank, unless the time is extended by the superintendent. Agricultural land held by a state bank pursuant to this subsection shall be valued on the books of the bank at a value determined by obtaining the per acre average of the valuations for the current year and the four previous years for agricultural land in the county in which the agricultural land is located as published by Iowa state university of science and technology. If an appraisal conducted by an independent real estate appraiser is available for the current year, the five-year county average shall be adjusted by either adding or subtracting from the five-year average the percentage by which the particular farm's current appraised value exceeds or is less than the current year's county average value. To the extent permitted by federal law, national banks may value agricultural land on the same basis as state banks. ~~Before the state bank sells or otherwise disposes of agricultural land held pursuant to this subsection, the state bank shall first offer the prior owner the opportunity to repurchase the agricultural land on the terms the state bank proposes to sell or dispose of the agricultural land.~~

Sec. 2. Section 654.16, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

654.16 SEPARATE REDEMPTION OF HOMESTEAD.

If a sheriff's sale is ordered on agricultural land used for farming, as defined in section 175.2, the mortgagor may, by a date set by the court but not later than ten days before the sale, designate to the court the portion of the land which the mortgagor claims as a homestead. The homestead may be any contiguous portion of forty acres or less of the real estate subject to the sheriff's sale. The homestead shall contain the residence of the mortgagor and shall be as compact as practicable.

If a homestead is designated, the court shall determine the fair market value of the designated homestead before the sheriff's sale. The court may consult with the county appraisers appointed pursuant to section 450.24, or with one or more independent appraisers, to determine the fair market value of the designated homestead.

The mortgagor may redeem the designated homestead by tendering the lesser of either any amount separately bid for the designated homestead at the sheriff's sale pursuant to procedures set forth in chapter 628, or the fair market value, as determined pursuant to this section, of the designated homestead at any time within one year from the date of the sheriff's sale, pursuant to the procedures set forth in chapter 628.

Sec. 3. NEW SECTION. 654.16A RIGHT OF FIRST REFUSAL FOLLOWING RECORDING OF SHERIFF'S DEED TO AGRICULTURAL LAND.

1. Not later than the time a sheriff's deed to agricultural land used for farming, as defined in section 175.2, is recorded, the grantee recording the sheriff's deed shall notify the mortgagor of the mortgagor's right of first refusal. The grantee shall record the sheriff's deed within one year and sixty days from the date of the sheriff's sale. A copy of this section, titled "Notice of Right of First Refusal" is sufficient notice.

2. If, after a sheriff's deed is recorded, the grantee proposes to sell or otherwise dispose of the agricultural land, in a transaction other than a public auction, the grantee shall first offer the mortgagor the opportunity to repurchase the agricultural land on the same terms and at the same price that the grantee proposes to sell or dispose of the agricultural land. If the grantee seeks to sell or otherwise dispose of the agricultural land by public auction, the mortgagor must be given sixty days' notice of all of the following:

a. The date, time, place, and procedures of the auction sale.

b. Any minimum terms or limitations imposed upon the auction.

3. The grantee is not required to offer the mortgagor financing for the purchase of the agricultural land.

4. The mortgagor has ten business days after being given notice of the terms and price of the proposed sale or disposition, other than a public auction, in which to exercise the right to repurchase the agricultural land by submitting a binding offer to the grantee on the same terms as the proposed sale or other disposition, with closing to occur within thirty days after the offer unless otherwise agreed by the grantee. After the expiration of either the period for offer or the period for closing, without submission of an offer or a closing occurring, the grantee may sell or otherwise dispose of the agricultural land to any other person on the terms upon which it was offered to the mortgagor.

5. Notice of the mortgagor's right of first refusal, a proposed sale, auction, or other disposition, or the submission of a binding offer by the mortgagor, is considered given on the date that notice or offer is personally served on the other party or on the date that notice or offer is mailed to the other party's last known address by registered or certified mail, return receipt requested. The right of first refusal provided in this section is not assignable, but may be exercised by the mortgagor's successor in interest, receiver, personal representative, executor, or heir only in case of bankruptcy, receivership, or death of the mortgagor.

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

Sec. 5. Section 524.910, Code 1989, as amended by this Act, applies to all foreclosure actions filed on or after March 30, 1990, and as applied to a prior owner's opportunity to repurchase agricultural land is retroactive to all foreclosure actions for which a sheriff's sale has not been held on March 30, 1990.

Sec. 6. Section 654.16, Code 1989, as amended by this Act, applies to all foreclosure actions filed on or after the effective date of this Act, and is retroactive to all foreclosure actions for which a sheriff's sale has not been held on the effective date of this Act.

Sec. 7.

Section 654.16A applies to all foreclosure actions filed on or after the effective date of this Act, and is retroactive to all foreclosure actions for which a sheriff's sale has not been held on the effective date of this Act.

Approved May 6, 1990

CHAPTER 1246

AFFORDABLE HEATING PROGRAM

H.F. 2294

AN ACT relating to the establishment of an Iowa affordable heating program.

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

Section 1. NEW SECTION. 601K.103 IOWA AFFORDABLE HEATING PROGRAM ESTABLISHED.

1. The division shall establish an Iowa affordable heating program for the purpose of assisting low-income persons in paying for primary heating fuel costs.

2. In order to be eligible for participation in the Iowa affordable heating program, an applicant must meet all of the following requirements:

a. Meet the income guidelines established pursuant to the federal low-income home energy assistance program, with income at or below one hundred percent of the federal poverty income guidelines established by the office of management and budget. The division may adjust the income threshold by rule as necessitated by budgetary restrictions.

b. Participate in annual level payment plans for both gas and electric services if such plans are available to the participant. The division shall develop an alternative plan for participants whose energy providers do not provide such plans.

c. Participate in the weatherization assistance program, if eligible.

d. Have insufficient finances, as determined by rule, which prohibit the payment of the entire cost of the heating of the applicant's home.

e. Submit to the administering agency within thirty days of application for participation in the program third-party verification of all of the following:

(1) The gross income of all of the members of the applicant's household in accordance with the rules adopted for the low-income home energy assistance program.

(2) The applicant's unreimbursed medical expenses for the time period corresponding to that used for the income calculation with proof of personal responsibility for these expenses.

f. Participate in counseling, provided by the administering agency, regarding energy efficiency.

3. In determination of the amount of the affordable heating payment for which the participant is eligible, the following formula shall be used:

a. An annual adjusted income amount shall be calculated.

(1) To be eligible, an applicant must also participate in the low-income home energy assistance program. A participant's income shall be determined as the amount verified on a low-income home energy assistance program application.

(2) A participant's adjusted income shall be determined by subtracting from the verified income, the actual costs incurred for each of the following:

(a) Annual rental or mortgage payments, real estate taxes, and real estate insurance payments not to exceed a maximum established by division rule based on the statewide low-income housing cost average.

(b) Annual unreimbursed medical expenses, not to exceed two hundred dollars.

(c) Annual child support and alimony payments.

(d) The annual costs of water, basic local telephone, and nonheating electric services as defined by division rule.

b. A predicted heating cost shall be calculated.

(1) When applicable, the predicted heating costs shall be the annual total calculated under section 601K.103, subsection 2, paragraph "b", for level payment plans.

(2) Where subsection 3, paragraph "b", subparagraph (1) does not apply, the predicted heating cost shall be based upon, but is not limited to, primary heating fuel usage incurred during the twelve-month period immediately preceding application, first adjusted for weather and then adjusted for rate changes occurring during the twelve-month period immediately preceding application.

c. Following the calculation of the participant's adjusted income and predicted heating cost, the participant's adjusted heating cost shall be calculated by:

(1) Adding the predicted heating cost figure to any scheduled repayment of an arrearage which has been negotiated between the participant and the primary heating fuel provider. The arrearage shall not exceed three hundred dollars annually. Any remaining arrearage shall be considered in subsequent years.

(2) Subtracting from the figure determined under subparagraph "b" the federal low-income home energy assistance program grants for which the participant is eligible.

d. The division shall promulgate rules to establish a standard percentage not to exceed twenty-five percent of household heating costs to adjusted income, taking into consideration household family size. For each participant, the administering agency shall determine the percentage of adjusted heating cost to adjusted income. If the participant's percentage exceeds the standard percentage, an affordable heating payment shall be made as prescribed by rule. The payment shall be made to the participant's primary heating fuel provider and credited to the participant's heating account for the year in which the participant is eligible.

(1) When offered by the primary heating fuel provider, the provider shall calculate or recalculate the participant's annual level payment plan after all forms of assistance are credited. A monthly level payment shall be established. However, each level payment shall not be less than a monthly minimum as established by division rule.

(2) Reconciliation shall occur as prescribed in the rules of the Iowa utilities board or, at a minimum, annually, for unregulated heating fuel providers.

4. A participant in the Iowa affordable heating program who maintains the monthly level payment shall be protected from disconnection of service by the participant's primary heating fuel provider.

5. The administrator shall adopt rules pursuant to chapter 17A which establish the criteria under which a participant in the Iowa affordable heating program would be determined ineligible for continued participation in the program. The criteria shall include but are not limited to a requirement that the participant maintains the monthly level payment in order to maintain eligibility in the program.

6.* An affordable heating program advisory council is created to provide guidance in the development and administration of the affordable heating program.

a. The department coordinator of the department of human rights shall appoint nine members to the council. The appointed members shall include all of the following:

(1) A representative of the investor-owned utility industry.

(2) A representative of the municipal utility industry.

(3) A representative of the rural electric cooperative industry.

(4) A representative of dealers of deliverable fuels.

(5) A representative of the association of community action agencies.

(6) The chairperson of the Iowa utilities board or the chairperson's designee.

(7) Three representatives of consumer or advocacy agencies.

b. Advisory council members shall serve without compensation, but shall be reimbursed for actual expenses from funds appropriated to the division.

c. The advisory council shall elect a chairperson and such other officers as it deems necessary, on an annual basis.

d. Advisory council members shall serve one-year terms beginning July 1 of each year.

e. A majority of the members of the advisory council is a quorum, and a majority of the quorum may act in any manner within the jurisdiction of the advisory council.

f. The advisory council shall maintain minutes which shall include a record of voting on each recommendation made or considered by the council.

Sec. 2. FUNDING CONTINGENCY.

Implementation of this Act by the division is contingent upon the availability of funding including the funding of administrative costs.

Approved May 6, 1990

*See chapter 1242, section 7 herein

CHAPTER 1247

BUDGETARY AND FINANCIAL PROCEDURES OF STATE AGENCIES

S.F. 2427

AN ACT codifying certain regulatory and budgetary requirements relating to the duties and powers of state agencies and state budget procedures and providing an effective date.

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

Section 1. NEW SECTION. 8.36A FULL-TIME EQUIVALENT POSITION.

For purposes of making appropriations and financial reports and as used in appropriations statutes, "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. 2. NEW SECTION. 10A.107 REPAYMENT RECEIPTS.

The department 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.

Sec. 3. NEW SECTION. 11.21A REPAYMENT OF AUDIT EXPENSES BY STATE DEPARTMENTS AND AGENCIES.

The auditor of state shall be reimbursed by a department or agency for performing examinations of the following state departments or agencies, or funds received by a department or agency:

1. Department of commerce.
2. Department of human services.
3. State department of transportation.
4. Iowa department of public health.
5. State board of regents.
6. Department of agriculture and land stewardship.
7. Department of economic development.
8. Department of education.
9. Department of employment services.
10. Department of natural resources.
11. Offices of the clerks of the district court of the judicial department.
12. The Iowa public employees' retirement system.
13. Federal financial assistance, as defined in Pub. L. No. 98-502, received by all other departments.

Sec. 4. Section 218.56, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of human services shall mail vendor warrants for the department of corrections.

Sec. 5. Section 232A.1, Code 1989, is amended to read as follows:

232A.1 DEFINITION.

For purposes of this chapter, "~~agency~~ department" means the ~~criminal and juvenile justice planning agency established in chapter 80C~~ judicial department.

Sec. 6. Section 232A.2, Code 1989, is amended to read as follows:

232A.2 PROGRAM CREATED.

A juvenile victim restitution program is created which shall be funded through moneys appropriated by the general assembly to the ~~agency~~ department. The primary purpose of the program is to provide funds to compensate victims for losses due to the delinquent acts of juveniles.

Upon completion of a district's plan, the ~~agency~~ department shall provide funds in conformance with the procedures and policies of the state. The ~~agency~~ department shall reclaim any portion of an initial allocation to a judicial district that is unencumbered on December 31 of any year. The ~~agency~~ department shall immediately reallocate the reclaimed funds to those judicial districts from which funds were not reclaimed in the manner provided in this section for the original allocation. Any portion of an amount allocated that remains unencumbered on June 30 of any year shall revert to the general fund of the state.

Sec. 7. Section 232A.3, Code 1989, is amended to read as follows:

232A.3 REPORTS REQUIRED.

Each judicial district shall submit a report of the progress and financial status of its juvenile victim restitution program to the ~~agency~~ department on a quarterly basis. The ~~agency~~ department shall prepare and submit annually a report on the progress and financial status of the programs to the general assembly no later than March 15, ~~1984, and again every year thereafter~~.

Sec. 8. Section 232A.4, Code 1989, is amended to read as follows:

232A.4 RESTITUTION FOR DELINQUENT ACTS.

If a judge of a juvenile court finds that a juvenile has committed a delinquent act and requires the juvenile to compensate the victim of that act for losses due to the delinquent act of the juvenile, the juvenile shall make such restitution according to a schedule established by the judge from funds earned by the juvenile pursuant to employment engaged in by the juvenile at the time of disposition. If a juvenile enters into an informal adjustment agreement pursuant to section 232.29 to make such restitution, the juvenile shall make such restitution according to a schedule which shall be a part of the informal adjustment agreement. The restitution shall be made under the direction of a ~~probation~~ juvenile court officer working under the direction of the juvenile court. In those counties where the county maintains an office to provide juvenile victim restitution services, the ~~probation~~ juvenile court officer may use that office's services. If the juvenile is not employed, the juvenile's ~~probation~~ juvenile court officer shall make a reasonable effort to find private or other public employment for the juvenile. However, if the juvenile offender does not have employment at the time of disposition and private or other public employment is not obtained despite the efforts of the juvenile's ~~probation~~ juvenile court officer, the judge may direct the juvenile offender to perform work pursuant to section 232.52, subsection 2, paragraph "a", and arrange for compensation of the juvenile in the manner provided for under the program established pursuant to this chapter.

Sec. 9. NEW SECTION. 246.320 INSTITUTIONAL APPROPRIATIONS AND EXPENDITURES.

1. The department of corrections shall not revise the allocations to the correctional institutions under the control of the department from the amounts allocated to the institutions, 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 revisions are based.

2. 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 furnish performance measure data designed to enable comparison of this data with historical expenditure information, and shall assist the legislative fiscal bureau in developing information to be used in legislative oversight of all programs operated by the department.

Sec. 10. Section 475A.6, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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. 11. Section 476.10, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The utilities division 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 the division or any underpayment shall be paid by the division.

Sec. 12. Section 505.7, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of commerce shall transfer sixty percent of insurance revenues received for a fiscal year and derived from sources other than insurer examinations to the general fund of the state and the remaining forty percent of such revenues shall be transferred to the insurance revolving fund.

Sec. 13. Section 505.7, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The insurance division 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 the division or any underpayment shall be paid by the division.

NEW UNNUMBERED PARAGRAPH. 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. 14. Section 524.207, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The banking division 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 the division or any underpayment shall be paid by the division.

NEW UNNUMBERED PARAGRAPH. 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. Section 533.67, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The credit union division 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 the division or any underpayment shall be paid by the division.

NEW UNNUMBERED PARAGRAPH. 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. 16. Section 534.408, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 8. ADMINISTRATIVE SERVICES COST. The savings and loan association division 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 the division or any underpayment shall be paid by the division.

NEW SUBSECTION. 9. ADDITIONAL FUNDS FOR EXAMINATIONS. The savings and loan association 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 association 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. 17. Section 546.9, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The alcoholic beverages division 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, 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 the division or any underpayment shall be paid by the division.

Sec. 18. Section 546.10, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The professional licensing and regulation division 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, 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 the division or any underpayment shall be paid by the division.

Sec. 19. NEW SECTION. 602.7203 JUVENILE VICTIM RESTITUTION.

The department shall administer the juvenile victim restitution program created in chapter 232A.

Sec. 20. Section 905.8, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The department of corrections shall not revise the allocations to the district departments of correctional services from the amounts allocated to the district departments, 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 revisions are based.

NEW UNNUMBERED PARAGRAPH. The department of corrections shall report to the legislative fiscal bureau on a quarterly basis the current expenditures of the department's various allocations to the district departments of correctional services with a comparison of actual to budgeted expenditures.

NEW UNNUMBERED PARAGRAPH. 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.

NEW UNNUMBERED PARAGRAPH. The department of corrections shall furnish performance measure data designed to enable comparison of this data with historical expenditure information, and shall assist the legislative fiscal bureau in developing information to be used in legislative oversight of all district department programs operated by the department.

Sec. 21. NEW SECTION. 907A.3 REPORT TO LEGISLATIVE FISCAL BUREAU.

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.

Sec. 22.

Section 12 of this Act takes effect July 1, 1991.

Approved May 6, 1990

CHAPTER 1248

CHILD DAY CARE REGULATION AND FINANCING

H.F. 2546

AN ACT relating to child day care and the state child and dependent care tax credit, making an appropriation, and providing a retroactive applicability date.

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

DIVISION I

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

NEW SUBPARAGRAPH. (7) To an employee or agent of the department of human services regarding a person who is providing child day care if the person is not registered or licensed to operate a child day care facility.

Sec. 2. Section 237A.20, Code 1989, is amended to read as follows:

237A.20 INJUNCTION.

A person who establishes, conducts, manages, or operates a center without a license or a group day care home without a certificate of registration may be restrained by temporary or permanent injunction. A person who has been convicted of a crime against a person or a person with a record of founded child abuse may be restrained by temporary or permanent injunction from providing unregistered, registered, or licensed child day care. The action may be instituted by the state, a political subdivision of the state, or an interested person.

Sec. 3. Section 692.2, subsection 1, paragraph c, Code Supplement 1989, is amended to read as follows:

c. The department of human services for the purposes of section 232.71, subsection 16, section 237.8, subsection 2, section 237A.5, section 237A.20, and section 600.8, subsections 1 and 2.

DIVISION II

Sec. 4. NEW SECTION. 237A.26 STATEWIDE RESOURCE AND REFERRAL SERVICES.

1. The department shall administer a statewide grant program for child day care resource and referral services. Grants shall only be awarded to community-based nonprofit incorporated agencies and public agencies. Grants shall be awarded to facilitate the establishment of regional resource and referral agencies throughout the state, based upon the distribution of the child population in the state.

2. The department shall provide oversight of and annually evaluate an agency which is awarded a grant to provide resource and referral services to a region.

3. The department shall provide technical assistance to child day care facilities in meeting their insurance coverage needs at a reasonable cost.

4. In consultation with resource and referral agencies, the department shall provide opportunities to child day care facilities for group purchasing of equipment and supplies.

5. An agency which receives a grant to provide resource and referral services shall be encouraged to perform both of the following functions:

a. Organize assistance to family and group day care homes in a three tier approach which concentrates efforts on new providers, moderately experienced providers, and highly experienced providers as three distinct groups.

b. Operate in partnership with both public and private interests and coordinate resource and referral services with existing community services.

6. An agency, to be eligible to receive a grant to provide resource and referral services, must match the grant with financial resources equal to at least twenty-five percent of the amount of the grant. The financial resources may include a private donation, an in-kind contribution, or a public funding source other than a separate state grant for child care service improvement.

7. An agency, to be eligible to receive a grant to provide resource and referral services, must have a board of directors if the agency is an incorporated nonprofit agency or must have an advisory board if the agency is a public agency, to oversee the provision of resource and referral services. The board shall include providers, consumers, and other persons interested in the provision or delivery of child day care services.

8. An agency which receives a child care resource and referral grant may provide all of the following services:

a. Assist families in selecting quality child care. The agency must provide referrals to registered and licensed child day care facilities and may provide referrals to unregistered providers.

b. Assist child day care providers in adopting appropriate program and business practices to provide quality child care services.

c. Provide information to the public regarding the availability of child day care services in the communities within the agency's region.

d. Actively encourage the development of new and expansion of existing child day care facilities in response to identified community needs.

e. Provide specialized services to employers, including the provision of resource and referral services to employee groups identified by the employer and the provision of technical assistance to develop employer-supported child day care programs operated on or near the work site.

f. Refer eligible child day care facilities to the federal child care food programs.

g. Loan toys, other equipment, and resource materials to child day care facilities.

h. Inform child day care facilities regarding technical assistance available from the department in obtaining insurance coverage at a reasonable cost.

i. Assist the department in providing child day care facilities with opportunities for group purchasing of equipment and supplies.

j. Administer funding designated within the grant to provide a substitute caregiver program for registered family and group day care homes.

Sec. 5. CHILD DAY CARE INSURANCE ASSISTANCE.

Pursuant to the requirements of section 237A.26 relating to providing technical assistance to child day care facilities in meeting their insurance needs, the department of human services shall examine the feasibility of establishing a pool with private insurers as a means of providing reasonably priced umbrella insurance coverage of child day care facilities. If establishing a pool is deemed to be feasible, the insurance division of the department of commerce shall assist the department of human services in establishing the pool. If a proposal for an insurance pool is developed, 120 days prior to proposing administrative rules for a pool, the department of human services shall submit a report to the legislative council providing a rationale as to the need to establish the pool.

Sec. 6. RESOURCE AND REFERRAL PROGRAMS, OTHER CHILD 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, 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 grants to public agencies and private nonprofit organizations which provide child day care resource and referral programs:

..... $ 500,000

As a condition, qualification, and limitation of the funds appropriated in this section, a task force is established which shall include representatives of all of the following entities: the department of human services, the child development coordinating council, the department of education, the area education agencies, the cooperative extension service of Iowa state university of science and technology, the state day care advisory committee, and child day care resource and referral agencies. The task force shall develop, and provide for dissemination of, a manual or materials to assist local school districts and communities in conducting a needs assessment for child day care services and in developing a community support structure for meeting needs identified by the assessment.

2. For grants to fund costs relating to child day care start-up, fire safety, and equipment:

..... $ 760,000

The funds appropriated in this subsection shall be allocated and administered as provided in sections 237A.13 through 237A.18. However, $50,000 shall be used for start-up grants to child day care facilities located in rural counties with a population of less than 20,000 or in cities with a population of less than 5,000. A child day care program established by a school pursuant to section 279.49 may receive a grant. The order of priority for granting funds appropriated in this subsection is as follows: start-up; fire safety; and equipment. If available, the funds appropriated in this subsection shall be matched with federal funds. The department shall adopt rules to implement this subsection, including a provision that the maximum amount granted to a grantee is $10,000.

Sec. 7. RECEIPT OF FEDERAL FUNDS.

When unanticipated federal moneys are received which may be used for the purposes of child day care resource and referral programs or child day care start-up grants, the federal moneys shall be used before state moneys appropriated for these purposes are further expended and the federal moneys received shall be considered to be in addition to the amounts of the state appropriations.

DIVISION III

Sec. 8. CHILD DEVELOPMENT EDUCATION ASSESSMENT.

The department of human services shall assess the adequacy of the supply of persons in the state educated in child development and early childhood education who are qualified to provide quality child day care services in the state. The college aid commission shall use the assessment to propose a loan repayment program to assist persons who provide child day care services to attain relevant education objectives. The loan repayment program proposal must

consider making repayable loans available to persons obtaining associate and bachelor degrees in child development or early childhood education. The department shall report its findings, including the commission's loan repayment program proposal, to the general assembly on or before December 1, 1990.

DIVISION IV

Sec. 9. Section 422.12, subsection 2, Code Supplement 1989, is amended by striking the subsection.

Sec. 10. NEW SECTION. 422.12C CHILD AND DEPENDENT CARE CREDIT – REFUND.

1. The taxes imposed under this division, less credits allowed under sections 422.10 through 422.12B shall be reduced by a child and dependent care credit equal to the following percentages of the federal child and dependent care credit provided in section 21 of the Internal Revenue Code:

a. For a taxpayer with an adjusted gross income of less than ten thousand dollars, seventy-five percent.

b. For a taxpayer with an adjusted gross income of ten thousand dollars or more but less than twenty thousand dollars, sixty-five percent.

c. For a taxpayer with an adjusted gross income of twenty thousand dollars or more but less than twenty-five thousand dollars, fifty-five percent.

d. For a taxpayer with an adjusted gross income of twenty-five thousand dollars or more but less than thirty-five thousand dollars, fifty percent.

e. For a taxpayer with an adjusted gross income of thirty-five thousand dollars or more but less than forty thousand dollars, forty percent.

f. For a taxpayer with an adjusted gross income of forty thousand dollars or more but less than forty-five thousand dollars, thirty percent.

g. For a taxpayer with an adjusted gross income of forty-five thousand dollars or more but less than fifty thousand dollars, twenty percent.

h. For a taxpayer with an adjusted gross income of fifty thousand dollars or more, ten percent.

2. Any credit in excess of the tax liability shall be refunded. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

3. Married taxpayers who have filed joint federal returns electing to file separate returns or to file separately on a combined return form must determine the child and dependent care credit under subsection 1 based upon their combined adjusted gross income and allocate the total credit amount to each spouse in the proportion that each spouse's respective adjusted gross income bears to the total combined adjusted gross income.

Sec. 11. Section 422.16, subsection 1, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Every withholding agent and every employer as defined in this chapter and further defined in the Internal Revenue Code, with respect to income tax collected at source, making payment of wages to a nonresident employee working in Iowa, or to a resident employee, shall deduct and withhold from the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on the wages, to be prescribed by the department. Every employee or other person shall declare to the employer or withholding agent the number of the employee's or other person's personal exemptions and dependency exemptions or credits to be used in applying the tables and schedules or percentage rates. However, no greater number of personal or dependency exemptions or credits may be declared by the employee or other person than the number to which the employee or other person is entitled except as allowed under section 3402(m)(1) of the Internal Revenue Code and as allowed for the child and dependent care credit provided in section 422.12C. The claiming of exemptions or credits in excess of entitlement is a serious misdemeanor.

Sec. 12. 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 section of this Act relating to grants for child day care start-up, fire safety, and equipment. The rules shall be effective immediately upon filing, unless a later date is specified in the rules. The rules shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 13. Section 422.21, unnumbered paragraph 5, Code Supplement 1989, is amended to read as follows:

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

Sec. 14. RETROACTIVE APPLICABILITY.

Sections 9 and 10 of this Act apply retroactively to tax years beginning on or after January 1, 1990.

Approved May 6, 1990

CHAPTER 1249

BOARD OF EDUCATIONAL EXAMINERS' POWERS AND DUTIES

H.F. 2440

AN ACT relating to the duties of the board of educational examiners, providing for alternative routes to licensing, and defining which persons are teachers for purposes of educational excellence programs.

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

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

NEW SUBPARAGRAPH. (7) To the board of educational examiners created under chapter 260 for purposes of determining whether a practitioner's license should be denied or revoked.

Sec. 2. Section 256.7, subsection 13, Code Supplement 1989, is amended by striking the subsection.

Sec. 3. Section 256.7, subsection 15, Code Supplement 1989, is amended by striking the subsection.

Sec. 4. Section 260.1, subsection 4, Code Supplement 1989, is amended to read as follows:

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, or area education agencies.

Sec. 5. Section 260.2, subsection 13, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

13. Adopt rules to provide for nontraditional preparation options for licensing persons who hold a bachelor's degree from an accredited college or university, who do not meet other requirements for licensure.

Sec. 6. Section 260.2, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Adopt rules which permit the board to deny a license to or revoke a license of a person upon the board's finding by a preponderance of evidence that either the person has been convicted of a crime or that there has been a founded report of child abuse against the person. Rules adopted shall provide that in determining whether a person should be denied a license or that a practitioner's license should be revoked, the board shall consider the nature and seriousness of the founded abuse or crime in relation to the position sought, the time elapsed since the founded abuse or crime was committed, the degree of rehabilitation which has taken place since the incidence of founded abuse or the commission of the crime, the likelihood that the person will commit the same abuse or crime again, and the number of founded abuses committed or criminal convictions by the person involved.

Sec. 7. Section 260.5, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board of educational examiners shall set the salary of the executive director within the range established for the position by the general assembly.

Sec. 8. NEW SECTION. 260.9A ADMINISTRATIVE LICENSES.

The board of educational examiners shall adopt rules relating to professional development programs for individuals licensed or certificated as administrators of schools after July 1, 1985. Successful completion of a professional development program is required every five years before the license is renewed by the board.

Sec. 9. NEW SECTION. 260.14 APPOINTMENT OF ADMINISTRATIVE LAW JUDGES.

The board shall maintain a list of qualified persons who are experienced in the educational system of this state to serve as administrative law judges when a hearing is requested under section 279.24. When requested under section 279.24, the board shall submit a list of five qualified administrative law judges to the parties. The parties shall select one of the five qualified persons to conduct the hearing as provided in section 279.24. The hearing shall be held pursuant to the provisions of chapter 17A relating to contested cases. The full costs of the hearing shall be shared equally by the parties.

Sec. 10. NEW SECTION. 260.27 STUDENT TEACHING.

If the rules adopted by the board of educational examiners for issuance of any type or class of license require an applicant to complete work in student teaching, an accredited college or university located within the state of Iowa and states conterminous with Iowa may offer a program or programs of teacher education approved by the director of the department of education or the appropriate authority in states conterminous with Iowa by entering into a written contract with any accredited school district or private school, under terms and conditions as agreed upon by the contracting parties. Students actually teaching in a school district under the terms of such a contract are entitled to the same protection, under section 613A.8, as is afforded by that section to officers and employees of the school district, during the time they are so assigned.

Sec. 11. Section 260.31, Code Supplement 1989, is amended to read as follows:

260.31 COACHING AUTHORIZATION.

1. The minimum requirements for the board to award a coaching ~~license~~ authorization to an applicant are:

a. Successful completion of one semester credit hour or ten contact hours in a course relating to knowledge and understanding of the structure and function of the human body in relation to physical activity.

b. Successful completion of one semester credit hour or ten contact hours in a course relating to knowledge and understanding of human growth and development of children and youth in relation to physical activity.

c. Successful completion of two semester credit hours or twenty contact hours in a course relating to knowledge and understanding of the prevention and care of athletic injuries and medical and safety problems relating to physical activity.

d. Successful completion of one semester credit hour or ten contact hours relating to knowledge and understanding of the techniques and theory of coaching interscholastic athletics.

2. The board of educational examiners shall adopt rules under chapter 17A for coaching ~~licenses~~ authorizations including, but not limited to, approval of courses, validity and expiration, fees, and suspension and revocation of ~~licenses~~ authorizations. The state board of education shall work with institutions of higher education, private colleges and universities, merged area schools, and area education agencies to ensure that the courses required under subsection 1 are offered throughout the state at convenient times and at a reasonable cost.

Sec. 12. Section 260.34, Code Supplement 1989, is amended to read as follows:

260.34 ELEMENTARY LICENSES.

The board of educational examiners in conjunction with the child development coordinating council, or other similar agency, shall develop appropriate 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. Except as otherwise provided in section 256.11, subsection 1, rules adopted shall establish early childhood and early elementary licensing 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.

Sec. 13. Section 279.24, Code 1989, is amended to read as follows:

279.24 CONTRACT WITH ADMINISTRATORS — AUTOMATIC CONTINUATION OR TERMINATION.

An administrator's contract shall remain in force and effect for the period stated in the contract. The contract shall be automatically continued in force and effect for one year beyond the end of its term, except as modified or terminated by mutual agreement of the board of directors and the administrator, or until terminated as hereinafter provided.

An administrator may file a written resignation with the secretary of the school board on or before May 1 of each year or the date specified by the school board for return of the contract, whichever date occurs first.

Administrators employed in a school district for less than two consecutive years are probationary administrators. However, a school board may waive the probationary period for any administrator who has previously served a probationary period in another school district and the school board may extend the probationary period for an additional year with the consent of the administrator. If a school board determines that it should terminate a probationary administrator's contract, the school board shall notify the administrator not later than March 31 that the contract will not be renewed beyond the current year. The notice shall be in writing by letter, personally delivered, or mailed by certified mail. The notification shall be complete when received by the administrator. Within ten days after receiving the notice, the administrator may request a private conference with the school board to discuss the reasons for termination. The school board's decision to terminate a probationary administrator's contract shall be final unless the termination was based upon an alleged violation of a constitutionally guaranteed right of the administrator.

The school board may, by majority vote of the membership of the school board, cause the contract of an administrator to be terminated. If the school board determines that it should consider the termination of a nonprobationary administrator's contract, the following procedure shall apply:

On or before March 31, the administrator shall be notified in writing by a letter personally delivered or mailed by certified mail that the school board has voted to consider termination of the contract. The notification shall be complete when received by the administrator.

The notice shall state the specific reasons to be used by the school board for considering termination which for all administrators except superintendents shall be for just cause.

Within five days after receipt of the written notice that the school board has voted to consider termination of the contract, the administrator may request in writing to the secretary of the school board that the notification be forwarded to the ~~professional teaching practices commission~~ board of educational examiners along with a request that the ~~professional teaching practices commission~~ board of educational examiners submit a list of five qualified administrative law judges to the parties. Within three days from receipt of the list the parties shall select an administrative law judge by alternately removing a name from the list until only one name remains. The person whose name remains shall be the administrative law judge. The parties shall determine by lot which party shall remove the first name from the list. The hearing shall be held no sooner than ten days and not later than thirty days following the administrator's request unless the parties otherwise agree. If the administrator does not request a hearing, the school board, not later than April 15, may determine the continuance or discontinuance of the contract. ~~Board~~ School board action shall be by majority roll call vote entered on the minutes of the meeting. Notice of school board action shall be personally delivered or mailed to the administrator.

The administrative law judge selected shall notify the secretary of the school board and the administrator in writing concerning the date, time, and location of the hearing. The school board may be represented by a legal representative, if any, and the administrator shall appear and may be represented by counsel or by representative, if any. A transcript or recording shall be made of the proceedings at the hearing. A school board member or administrator is not liable for any damage to an administrator or school board member if a statement made at the hearing is determined to be erroneous as long as the statement was made in good faith.

The administrative law judge shall, within ten days following the date of the hearing, make a proposed decision as to whether or not the administrator should be dismissed, and shall give a copy of the proposed decision to the administrator and the school board. Findings of fact shall be prepared by the administrative law judge. The proposed decision of the administrative law judge shall become the final decision of the school board unless within ten days after the filing of the decision the administrator files a written notice of appeal with the school board, or the school board on its own motion determines to review the decision.

If the administrator appeals to the school board, or if the school board determines on its own motion to review the proposed decision of the administrative law judge, a private hearing shall be held before the school board within five days after the petition for review, or motion for review, has been made or at such other time as the parties agree. The private hearing is not subject to chapter 21. The school board may hear the case de novo upon the record as submitted before the administrative law judge. In cases where there is an appeal from a proposed decision or where a proposed decision is reviewed on motion of the school board, an opportunity shall be afforded to each party to file exceptions, present briefs and present oral arguments to the school board which is to render the final decision. The secretary of the school board shall give the administrator written notice of the time, place, and date of the hearing. The school board shall meet within five days after the hearing to determine the question of continuance or discontinuance of the contract. The school board shall make findings of fact which shall be based solely on the evidence in the record and on matters officially noticed in the record.

The decision of the school board shall be in writing and shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts ~~and~~ supporting the findings. Each conclusion of law shall be supported by cited authority or by reasoned opinion.

When the school board has reached a decision, opinion, or conclusion, it shall convene in open meeting and by roll call vote determine the continuance or discontinuance of the administrator's contract. The record of the private conference and findings of fact and exceptions shall be exempt from the provisions of chapter 22. The secretary of the school board shall immediately personally deliver or mail notice of the school board's action to the administrator.

The administrator may within thirty days after notification by the school board of discontinuance of the contract appeal to the district court of the county in which the administrative office of the school district is located.

The court may affirm the ~~board~~ school board's action. The court shall reverse, modify, or grant any other appropriate relief from the ~~board~~ school board's action, equitable or legal, and including declaratory relief, if substantial rights of the administrator have been prejudiced because the ~~board~~ school board's action is any of the following:

1. In violation of constitutional or statutory provisions.
2. In excess of the statutory authority of the school board.
3. In violation of school board policy or rule.
4. Made upon unlawful procedure.
5. Affected by other error of law.
6. Unsupported by a preponderance of the evidence in the record made before the school board when that record is reviewed as a whole.
7. Unreasonable, arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

Sec. 14. Section 284.1, article III, subsections 1 and 5, Code 1989, are amended to read as follows:

1. The designated state official of a party state may make one or more contracts on behalf of that state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this article only with states in which the official finds that there are programs of education, ~~certification~~ licensure standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in the official's state.

5. The ~~certification~~ license or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any ~~certificate~~ license or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a ~~certificate~~ license or other qualifying document initially granted or approved in the receiving state.

Sec. 15. Section 284.2, Code 1989, is amended to read as follows:

284.2 DESIGNATED STATE OFFICIAL.

The designated state official for this state, within the meaning of article II, paragraph 2, of the interstate agreement on qualification of educational personnel as set forth in section 284.1, shall be the executive director of the ~~department of education~~ board of educational examiners. The executive director shall enter into contracts pursuant to article III of the agreement only with the approval of the specific text thereof by the ~~state~~ board of ~~education~~ educational examiners.

Sec. 16. Section 284.3, Code 1989, is amended to read as follows:

284.3 CONTRACTS ON FILE.

True copies of all contracts made on behalf of this state pursuant to the interstate agreement on qualification of educational personnel shall be kept on file ~~in~~ by the ~~department of education~~ board of educational examiners and in the office of the secretary of state. The ~~department of education~~ board of educational examiners shall publish all such contracts in convenient form. The board of educational examiners may adopt rules pursuant to this chapter.

Sec. 17. Section 294A.2, subsection 3, Code Supplement 1989, is 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 state board of education or the completion of staff development activities licensed by the board of educational examiners, except for programs developed by practitioner preparation institutions and area education agencies, for renewal of licenses issued under chapter 260.

Sec. 18. Section 294A.2, subsection 5, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

Effective July 1, 1988, "teacher" includes ~~an~~ a licensed 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 a practitioner preparation program in which the licensed teacher is enrolled in ~~a graduate~~ any practitioner preparation program.

Sec. 19. Section 692.2, subsection 1, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The board of educational examiners for the purpose of carrying out duties imposed under section 260.2, subsection 14.

Approved May 6, 1990

CHAPTER 1250

FINANCIAL MEASURES RELATING TO PROPERTY TAXES

H.F. 2554

AN ACT relating to county tax and services provisions by appropriating funds for state assistance to counties for mental health services, by modifying the homestead tax credit, the mobile home tax reduction for the elderly and disabled, the property tax credit and rent reimbursement for the elderly and disabled, by increasing the amount of credit and reimbursement, creating a family farm tax credit, and providing a penalty, and effective and applicability dates.

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

Section 1. Section 135D.22, subsection 2, Code Supplement 1989, is amended to read as follows:

2. a. If the owner of the mobile home is an Iowa resident, was totally disabled, as defined in section 425.17, subsection 6 on or before December 31 of the base year, is a surviving spouse having attained the age of fifty-five years on or before December 31, 1988 or has attained the age of sixty-five years on or before December 31 of the base year and has an income when included with that of a spouse which is less than ~~five~~ six thousand dollars per year, ~~no~~ the annual tax shall not be imposed on the mobile home. If the income is ~~five~~ six thousand dollars or more but less than ~~twelve~~ fourteen thousand dollars, the annual tax shall be computed as follows:

If the Household Income is:	Annual Tax Per Square Foot:
~~$ 5,000 — 5,999.99~~	~~3.0 cents~~
$ 6,000 — 6,999.99	~~6.0~~ 3.0 cents
7,000 — 7,999.99	~~9.0~~ 6.0
8,000 — 9,999.99	~~12.0~~ 10.0
10,000 — 11,999.99	~~15.0~~ 13.0
12,000 — 13,999.99	15.0

b. If the owner of the mobile home is an Iowa resident, has attained the age of eighteen years on or before December 31 of the base year but has not attained the age or disability status described in paragraph "a", and has an income when included with that of a spouse which is less than fourteen thousand dollars, the annual tax shall be computed as follows:

If the Household Income is:	Annual Tax Per Square Foot:
$ 0 — 5,999.99	10.0 cents
6,000 — 6,999.99	11.6
7,000 — 7,999.99	13.0
8,000 — 9,999.99	15.0
10,000 — 11,999.99	16.7
12,000 — 13,999.99	17.6

For purposes of this subsection "income" means income as defined in section 425.17, subsection 1, and "base year" means the calendar year preceding the year in which the claim for a reduced rate of tax is filed. The mobile home reduced rate of tax shall only be allowed on the mobile home in which the claimant is residing at the time in which the claim for a reduced rate of tax is filed.

Sec. 2. NEW SECTION. Section 331.438 MENTAL HEALTH SERVICES EXPENDITURES FROZEN.

In the event the Seventy-fourth General Assembly does not enact legislation to implement a funding formula for state participation in funding of mental health, mental retardation, and developmental disabilities services which takes effect in the fiscal year beginning July 1, 1992, the mental health, mental retardation, and developmental disabilities services expenditures of counties shall be frozen in the amount the counties expended for those services in the fiscal year beginning July 1, 1991. The expenses in excess of the frozen amount shall be paid for by the state in a timely manner that is not disruptive to persons providing or receiving services.

Sec. 3. Section 333A.3, subsection 3, Code 1989, is amended to read as follows:

3. The committee shall select its own officers and meet at the call of the director of the department of management or at the request of a majority of the board.*

Sec. 4. Section 384.15, subsection 2, Code 1989, is amended to read as follows:

2. Select its officers and meet at the call of the director of the department of management or ~~upon an appeal of the director's decision~~ at the request of a majority of the board.*

Sec. 5. Section 425.11, subsection 2, Code Supplement 1989, is amended to read as follows:

2. The word "owner" shall mean the person who holds the fee simple title to the homestead, and in addition shall mean the person occupying as a surviving spouse or the person occupying under a contract of purchase which contract has been recorded in the office of the county recorder of the county in which the property is located, or the person occupying the homestead under devise or by operation of the inheritance laws where the whole interest passes or where the divided interest is shared only by persons related or formerly related to each other by blood, marriage or adoption, or the person occupying the homestead is a shareholder of a family farm corporation that owns the property, or the person occupying the homestead under a deed which conveys a divided interest where the divided interest is shared only by persons related or formerly related to each other by blood, marriage or adoption or where the person occupying the homestead holds a life estate with the reversion interest held by a nonprofit corporation organized under chapter 504A, provided that the holder of the life estate is liable for and pays property tax on the homestead or where the person occupying the homestead holds an interest in a horizontal property regime under chapter 499B, regardless of whether the underlying land committed to the horizontal property regime is in fee or as a leasehold interest, provided that the holder of the interest in the horizontal property regime is liable for and pays property tax on the homestead. For the purpose of this chapter the word "owner" shall be

*"Committee" probably intended

construed to mean a bona fide owner and not one for the purpose only of availing the person of the benefits of this chapter. In order to qualify for the homestead tax credit, evidence of ownership shall be on file in the office of the clerk of the district court or recorded in the office of the county recorder at the time the owner files with the assessor a verified statement of the homestead claimed by the owner as provided in section 425.2.

Sec. 6. Section 425.17, subsections 5 and 9, Code Supplement 1989, are amended to read as follows:

5. "Claimant" means ~~a~~ either one of the following:

a. A person filing a claim for credit or reimbursement under this division who has attained the age of sixty-five years on or before December 31 of the base year or who is a surviving spouse having attained the age of fifty-five years on or before December 31, 1988, or who is totally disabled and was totally disabled on or before December 31 of the base year, and was domiciled in this state during the entire base year and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate.

b. A person filing a claim for credit or reimbursement under this division who has attained the age of eighteen years on or before December 31 of the base year but has not attained the age or disability status described in paragraph "a", and was domiciled in this state during the entire base year and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate and was not claimed as a dependent on any other person's tax return for the base year.

"Claimant" under paragraph "a" or "b" includes a vendee in possession under a contract for deed and may include one or more joint tenants or tenants in common. In the case of a claim for rent constituting property taxes paid, the claimant shall have rented the property during any part of the base year. If a homestead is occupied by two or more persons, and more than one person is able to qualify as a claimant, the persons may determine among them who will be the claimant. If they are unable to agree, the matter shall be referred to the director of revenue and finance not later than October 31 of each year and the director's decision is final.

9. "Property taxes due" means property taxes including any special assessments, but exclusive of delinquent interest and charges for services, due on a claimant's homestead in this state, but includes only property taxes for which the claimant is liable and which will actually be paid by the claimant. However, if the claimant is a person whose property taxes have been suspended under sections 427.8 and 427.9, "property taxes due" means property taxes including any special assessments, but exclusive of delinquent interest and charges for services, due on a claimant's homestead in this state, but includes only property taxes for which the claimant is liable and which would have to be paid by the claimant if the payment of the taxes has not been suspended pursuant to sections 427.8 and 427.9. "Property taxes due" shall be computed with no deduction for any credit under this division or for any homestead credit allowed under section 425.1. Each claim shall be based upon the taxes due during the fiscal year next following the base year. If a homestead is owned by two or more persons as joint tenants or tenants in common, and one or more persons are not members of claimant's household, "property taxes due" is that part of property taxes due on the homestead which equals the ownership percentage of the claimant and the claimant's household. The county treasurer shall include with the tax receipt a statement that if the owner of the property is ~~sixty-five~~ eighteen years of age or over ~~or is totally disabled, or is a surviving spouse who was fifty-five years of age on or before December 31, 1988~~, the person may be eligible for the credit allowed under this division. If a homestead is an integral part of a farm, the claimant may use the total property taxes due for the larger unit. If a homestead is an integral part of a multidwelling or multipurpose building the property taxes due for the purpose of this subsection shall be prorated to reflect the portion which the value of the property that the household occupies as its homestead is to the value of the entire structure. For purposes of this subsection, "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

Sec. 7. Section 425.15, Code 1989, is amended to read as follows:

425.15 DISABLED VETERAN TAX CREDIT.

If the owner of ~~the~~ a homestead, allowed a credit under this chapter, is a veteran of any of the military forces of the United States, who acquired the homestead under ~~the provisions of the United States Code, title 38, chapter 21, sections 801 and 802~~ 38 U.S.C. § 21.801, 21.802, the credit allowed on the homestead from the homestead credit fund shall be the entire amount of the tax levied on the homestead. The credit allowed shall be continued to the estate of ~~the~~ a veteran who is deceased or the surviving spouse and any child, as defined in section 234.1, who are the beneficiaries of ~~the~~ a deceased veteran, so long as the surviving spouse remains unmarried. This section is not applicable to the holder of title to any homestead whose annual income, together with that of the titleholder's spouse, if any, for the last preceding twelve-month income tax accounting period exceeds ~~ten~~ twenty-five thousand dollars. For the purpose of this section "income" means taxable income for federal income tax purposes plus income from securities of state and other political subdivisions exempt from federal income tax. ~~Any~~ A veteran or a beneficiary of ~~the~~ a veteran who elects to secure the credit provided in this section is not eligible for any other real property tax exemption provided by law for veterans of military service. If ~~the~~ a veteran acquires a different homestead, the credit allowed under ~~the provisions of~~ this section may be claimed on a the new homestead unless the veteran fails to meet the other requirements of this section.

Sec. 8. Section 425.23, subsection 1, Code 1989, is amended to read as follows:

1. a. The tentative credit or reimbursement for a claimant described in section 425.17, subsection 5, paragraph "a" shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
$ 0 — ~~4,999.99~~ 5,999.99	100%
~~5,000 — 5,999.99~~ 6,000 — 6,999.99	85
~~6,000 — 6,999.99~~ 7,000 — 7,999.99	70
~~7,000 — 7,999.99~~ 8,000 — 9,999.99	~~55~~ 50
~~8,000 — 9,999.99~~ 10,000 — 11,999.99	~~40~~ 35
~~10,000 — 11,999.99~~ 12,000 — 13,999.99	25

b. The tentative credit or reimbursement for a claimant described in section 425.17, subsection 5, paragraph "b", shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
$ 0 — 5,999.99	50%
6,000 — 6,999.99	42
7,000 — 7,999.99	35
8,000 — 9,999.99	25
10,000 — 11,999.99	17
12,000 — 13,999.99	12

Sec. 9. Section 425.23, subsection 3, paragraph a, Code 1989, is amended to read as follows:

a. ~~Any~~ A person who is eligible to file a claim for credit for property taxes due and who has a household income of ~~five~~ six thousand dollars or less and who has a special assessment levied against the homestead may file a claim with the county treasurer that the claimant had

a household income of ~~five~~ six thousand dollars or less and that a special assessment is presently levied against the homestead. The department shall provide to the respective county treasurers ~~such~~ the forms ~~as are~~ necessary for the administration of this subsection. The claim shall be filed not later than September 30 of each year. Upon the filing of the claim, ~~no~~ a penalty or interest for late payment shall not accrue against the amount of the special assessment due and payable. The claim filed by the claimant ~~shall constitute~~ constitutes a claim for credit of an amount equal to the actual amount due and payable upon the special assessment payable during the fiscal year against the homestead of the claimant or an amount equal to the annual payment of the special assessment levied against the homestead of the claimant and payable in annual installments through the period of years provided by the governing body of the city, whichever is less. However, where the claimant is an individual described in section 425.17, subsection 5, paragraph "b", the claim filed constitutes a claim for credit of an amount equal to one-half of the actual amount due and payable during the fiscal year or equal to one-half of the annual payment, whichever is less. The department of revenue and finance shall, upon the filing of the claim with the department by the county treasurer, pay that amount of the special assessment during the current fiscal year to the county treasurer. The county treasurer shall submit the claims to the director of revenue and finance not later than October 15 of each year. The director of revenue and finance shall certify the amount of reimbursement due each county for special assessment credits allowed under this subsection. The amount of reimbursement due each county shall be paid by the director of revenue and finance on October 20 of each year, drawn upon warrants payable to the respective county treasurer. There is appropriated annually from the general fund of the state to the department of revenue and finance an amount sufficient to carry out the provisions of this subsection. The county treasurer shall credit any moneys received from the department against the amount of the special assessment due and payable on the homestead of the claimant.

Sec. 10. NEW SECTION. 425A.1 FAMILY FARM TAX CREDIT FUND.

The family farm tax credit fund is created in the office of the treasurer of state. There is appropriated to the fund from funds in the general fund not otherwise appropriated the sum of ten million dollars. Any balance in the fund on June 30 shall revert to the general fund.

Sec. 11. NEW SECTION. 425A.2 DEFINITIONS.

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

1. "Agricultural land" means land in tracts of ten acres or more excluding any buildings or other structures located on the land, and not laid off into lots of less than ten acres or divided by streets and alleys into parcels of less than ten acres, lying within a school corporation and in good faith used for agricultural or horticultural purposes. Any land in tracts laid off or platted into lots of less than ten acres belonging to and a part of other lands of more than ten acres and in good faith used for agricultural or horticultural purposes is entitled to the benefits of this chapter.

2. "Owner" means any of the following:

a. An individual who holds the fee simple title to the agricultural land.

b. An individual who owns the agricultural land under a contract of purchase which has been recorded in the office of the county recorder of the county in which the agricultural land is located.

c. An individual who owns the agricultural land under devise or by operation of the inheritance laws, where the whole interest passes or where the divided interest is shared only by individuals related or formerly related to each other by blood, marriage, or adoption.

d. An individual who owns the agricultural land under a deed which conveys a divided interest, where the divided interest is shared only by individuals related or formerly related to each other by blood, marriage, or adoption.

e. A partnership where all partners are related or formerly related to each other by blood, marriage, or adoption.

f. A family farm corporation or authorized farm corporation, as both are defined in section 172C.1, which owns the agricultural land.

3. "Actively engaged in farming" means satisfying all of the following conditions:

a. The person receives or has the right to receive all of the crop production from more than one-half of the tract.

b. The person materially participated in the production of the crops, as defined in section 469(h), except paragraphs (3) and (4), of the Internal Revenue Code, as defined in section 422.3 and regulations adopted for the applicable paragraphs of that section.

However, a person performing activities in the capacity of a lessor, whether under a cash or crop share lease, is not actively engaged in farming on the area of the tract covered by the lease.

4. "Eligible tract" or "eligible tract of agricultural land" means an area of agricultural land which is described on the property tax list as subject to property taxes and which meets the requirements of section 425A.3, subsection 2.

5. "Crop" or "crop production" includes pastureland.

Sec. 12. NEW SECTION. 425A.3 WHERE CREDIT GIVEN.

1. The family farm tax credit fund shall be apportioned each year in the manner provided in this chapter so as to give a credit against the tax on each eligible tract of agricultural land within the several school districts of the state in which the levy for the general school fund exceeds five dollars and forty cents per thousand dollars of assessed value. The amount of the credit on each eligible tract of agricultural land shall be the amount the tax levied for the general school fund exceeds the amount of tax which would be levied on each eligible tract of agricultural land were the levy for the general school fund five dollars and forty cents per thousand dollars of assessed value for the previous year. However, in the case of a deficiency in the family farm tax credit fund to pay the credits in full, the credit on each eligible tract of agricultural land in the state shall be proportionate and applied as provided in this chapter.

2. A tract of agricultural land is eligible for the amount of credit computed under subsection 1 if the following persons were actively engaged in farming during the fiscal year preceding the fiscal year in which the auditor computes the amount of credit under section 425A.5 for which the tract would be eligible, owned the tract on June 30 of that preceding fiscal year, and have filed an application for the credit as provided in section 425A.4:

a. The owner, owner's spouse, owner's child or stepchild, or the spouse of the owner's child or stepchild.

b. If the owner is a partnership, a partner or the partner's spouse.

c. If the owner is a family farm corporation, a family member who is a shareholder of the family farm corporation or the shareholder's spouse.

d. If the owner is an authorized farm corporation, a shareholder who owns at least fifty-one percent of the stock of the authorized farm corporation or the shareholder's spouse.

3. The county board of supervisors shall determine the eligibility of each tract for which an application is received. If the person designated in subsection 2, paragraph "a", "b", "c", or "d" was, during the fiscal year specified in subsection 2, actively engaged in farming on more than one-half of the tract or if the tract was subject to a federal program pertaining to agricultural land and the person was in general control of the tract, the county board shall approve the application if all other requirements for eligibility in this chapter have been met.

Sec. 13. NEW SECTION. 425A.4 CLAIM FOR CREDIT.

1. The family farm tax credit allowed on agricultural land under section 425A.3, subsection 1, shall only be granted upon tracts of agricultural land on which the persons designated in section 425A.3, subsection 2, paragraphs "a", "b", "c", and "d" were actively engaged in farming, and for which the persons have filed an application for the credit for each tract. To apply for the credit, the person shall each year on or before October 1 deliver to the county assessor, on forms furnished by the assessor, a verified statement and designation of the tracts of agricultural land for which the credit is claimed. The auditor shall return the statement and designation on October 15 of each year to the county board of supervisors with a recommendation

for allowance or disallowance. However, the deadline for filing claims in the 1990 calendar year shall be December 1, 1990, and the assessor shall return the statements and designations to the county board of supervisors on December 15, 1990.

2. The county board of supervisors in each county shall examine all claims delivered to county assessors, and shall either allow or disallow the claims, and if disallowed shall send notice of disallowance by certified mail to the claimant at the claimant's last known address. The claimant may appeal the decision of the board to the district court in which the tract for which the credit is claimed is situated by giving written notice of the appeal to the county assessor within twenty days from the date of the mailing of the notice of the decision of the board of supervisors.

Sec. 14. NEW SECTION. 425A.5 COMPUTATION BY AUDITOR — APPEAL.

The family farm tax credit allowed each year shall be computed as follows: On or before June 1, the county auditor shall list by school districts all tracts of agricultural land which are entitled to credit, the taxable value for the previous year, the budget from each school district for the previous year, and the tax rate determined for the general fund of the school district in the manner prescribed in section 444.3 for the previous year, and if the tax rate is in excess of five dollars and forty cents per thousand dollars of assessed value, the auditor shall multiply the tax levy which is in excess of five dollars and forty cents per thousand dollars of assessed value by the total taxable value of the agricultural land entitled to credit in the school district, and on or before June 1, certify the total amount of credit and the total number of acres entitled to the credit to the department of revenue and finance.

Sec. 15. NEW SECTION. 425A.6 WARRANTS DRAWN BY DIRECTOR.

After receiving from the county auditors the certifications provided for in section 425A.5, and during the following fiscal year, the director of revenue and finance shall draw warrants on the family farm tax credit fund created in section 425A.1, payable to the county treasurers in the amount certified by the county auditors of the respective counties and mail the warrants to the county auditors on August 15 of each year taking into consideration the relative budget and cash position of the state resources. However, if the family farm tax credit fund is insufficient to pay in full the total of the amounts certified to the director of revenue and finance, the director shall prorate the fund to the county treasurers and shall notify the county auditors of the pro rata percentage on or before August 1.

Sec. 16. NEW SECTION. 425A.7 APPORTIONMENT BY AUDITOR.

Upon receiving the pro rata percentage from the director of revenue and finance, the county auditor shall determine the amount to be credited to each tract of agricultural land, and shall enter upon tax lists as a credit against the tax levied on each tract of agricultural land on which there has been made an allowance of credit before delivering the tax lists to the county treasurer. Upon receipt of the director's warrant by the county auditor, the auditor shall deliver the warrant to the county treasurer for apportionment. The county treasurer shall show on each tax receipt the amount of tax credit for each tract of agricultural land. In case of change of ownership the credit shall follow the title.

Sec. 17. NEW SECTION. 425A.8 FALSE CLAIM — PENALTY.

A person making a false claim or affidavit with fraudulent intent to obtain the credit under section 425A.3, subsection 2, is guilty of a fraudulent practice and the claim shall be disallowed in full. If the credit has been paid, the amount of the credit plus a penalty equal to twenty-five percent of the amount of credit plus interest, at the rate in effect under section 421.7, from the time of payment shall be collected by the county treasurer in the same manner as other property taxes, penalty, and interest are collected and when collected shall be paid to the director of revenue and finance.

Sec. 18. SPECIAL MENTAL HEALTH SERVICES FUND.

There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the special mental health services fund:

..... $ 10,500,000

1. A special mental health services fund to reimburse counties for expenditures for mental health, mental retardation, and developmental disabilities services in accordance with this section is established in the office of the treasurer of state. The fund is established to reduce the growth of county expenditures for mental health services.

2. In order to be reimbursed from the special mental health services fund, a county shall document its expenditures for mental health, mental retardation, and developmental disabilities services.

3. The general assembly recognizes the importance of providing appropriate services to persons with disabilities in a community setting and in particular encourages counties to make services from the following categories available to persons with chronic mental illness who have legal settlement within the county:

a. Case management in accordance with standards adopted by the mental health and mental retardation commission.

b. Community-based services intended to prevent institutional placement of persons with chronic mental illness.

c. Support services to assist a person with chronic mental illness in remaining in the community which may include but are not limited to medical support, crisis and emergency intervention, and efforts to improve the person's community living skills.

4. A county's documentation of expenditures shall be submitted in October 1990, with the county's annual application for a share of the general allocation of the state community mental health and mental retardation services fund pursuant to section 225C.10. A county which provides its documentation is entitled to receive the moneys in the special mental health services fund multiplied by a factor equal to the county's proportionate share of the total state population.

5. As soon after July 1, 1991, as reasonably possible, the administrator shall certify to the director of revenue and finance the amount to which a county is entitled from the special mental health services fund and the director of revenue and finance shall issue warrants in the amounts certified, drawn upon the fund in favor of the respective counties.

6. Nothing in this section 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 section shall be construed, is intended, or shall imply a claim of entitlement to any programs or services specified in section 225C.28.

Sec. 19. COUNTY CHART OF ACCOUNTS.

The department of management, the mental health and mental retardation commission, and the county finance committee shall cooperate in revising the county chart of accounts to structure an accounting system that will provide for the consistent and accurate accounting of expenditures for mental health, mental retardation, and developmental disabilities services and indicate the settings in which the services are provided. The revisions in the chart of accounts applicable to the fiscal year beginning July 1, 1991, shall be completed on or before November 1, 1990.

Sec. 20. INTERIM STUDY COMMITTEE REQUESTED.

The legislative council is requested to establish an interim study committee to develop a funding formula for state participation in funding of mental health, mental retardation, and developmental disabilities services for fiscal years beginning on or after July 1, 1992. The committee shall develop a funding formula that ties responsibility for funding the services to administrative control and oversight of the services and that ensures financial incentives in the formula are directed toward providing care and services to persons in communities and community settings and that appropriate services are available to all persons across the state. In its deliberations, the committee may also consider development of a fair and equitable funding formula for the bill of rights contained in chapter 225C. The committee shall submit to the general assembly on January 2, 1991, a report containing its proposal for a funding formula.

Sec. 21.
Sections 1, 6, 8, and 9 of this Act are effective January 1, 1991, for mobile home tax claims and property tax credit claims filed on or after that date. Section 8 of this Act is applicable to rent reimbursement claims filed on or after January 1, 1992. Section 6 of this Act is also applicable to rent reimbursement claims filed on or after January 1, 1992.

Sec. 22.
Sections 10 through 17 are effective January 1, 1991, for family farm tax credits allowed for property taxes payable in fiscal years beginning on or after July 1, 1991.

Sec. 23.
Section 5 of this Act is effective January 1, 1991, for homestead tax credits allowed for property taxes payable in fiscal years beginning on or after July 1, 1991.

Sec. 24.
Section 18 of this Act takes effect July 1, 1991.

Sec. 25.
Section 7 of this Act is applicable for assessment years beginning on or after July 1, 1991.

Approved May 6, 1990

CHAPTER 1251

JUVENILE AND ADULT OFFENDERS AND OFFENSES, INCLUDING RELATED TAX PROVISIONS

S.F. 2413

AN ACT relating to certain specific crimes and the disposition of offenders by providing for payment of sexual abuse medical examinations, providing for workers' compensation coverage and the liability of certain persons performing community service, providing for notification of the parents of persons under age eighteen discovered to be in possession of alcohol or drugs, providing for a term of confinement for distribution of illegal drugs within one thousand feet of a public park, providing for the reporting and identification of certain precursor drugs, providing for the disposition of certain juvenile offenders, establishing institutional reading room requirements, providing for the diversion of certain offenders to treatment facilities, providing that certain persons serving mandatory minimum sentences serve a portion of their sentence on work release, establishing a penalty for certain persons who cause a serious injury to another while operating a motor vehicle, providing for certain offenders to serve their sentence on consecutive days, providing for posttreatment services as a condition of probation, establishing a tax on marijuana and controlled substances, providing an expansion of the business deduction for businesses employing individuals on parole, probation, work release, or convicted of a felony, establishing penalties for participation in criminal gang activity, providing for the nonbailability of certain offenders, providing requirements for presentence investigations, providing for early release of offenders participating in certain treatment or for certain property offenders, making certain changes relating to conditions of parole and work release, authorizing parole and probation officers to discharge certain offenders, making certain changes relating to the victim reparation program, establishing a pilot project for the chemical testing of persons arrested for felony offenses, and providing penalties.

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

Section 1. Section 13.31, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Administer payment for sexual abuse medical examinations pursuant to section 709.10.

Sec. 2. Section 25A.2, subsection 3, Code Supplement 1989, is amended to read as follows:

3. "Employee of the state" includes any one or more officers, agents, or employees of the state or any state agency, including members of the general assembly, and persons acting on behalf of the state or any state agency in any official capacity, temporarily or permanently in the service of the state of Iowa, whether with or without compensation but does not include a contractor doing business with the state. Professional personnel, including physicians, osteopathic physicians and surgeons, osteopathic physicians, optometrists and dentists, who render services to patients and inmates of state institutions under the jurisdiction of the department of human services or the Iowa department of corrections are to be considered employees of the state, whether the personnel are employed on a full-time basis or render services on a part-time basis on a fee schedule or other arrangement. Criminal defendants while performing unpaid community service ordered by the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 246.703, are to be considered employees of the state.

Sec. 3. Section 85.59, unnumbered paragraphs 2, 4, and 5, Code 1989, is amended to read as follows:

For purposes of this section, "inmate" includes a person who is performing unpaid community service under ~~sections 907.13 and 910.2~~ the direction of the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 246.703, or who is performing a work assignment of value to the state or to the public under chapter 232.

If an inmate is permanently incapacitated by injury in the performance of the inmate's work in connection with the maintenance of the institution or in an industry maintained in the institution, while on detail to perform services on a public works project, or is permanently or temporarily incapacitated in connection with the performance of unpaid community service under ~~sections 907.13 and 910.2~~ the direction of the district court, board of parole, or judicial district department of correctional services, or in connection with the provision of services pursuant to a chapter 28E agreement entered into pursuant to section 246.703, or who is performing a work assignment of value to the state or to the public under chapter 232, that inmate shall be awarded only the benefits provided in section 85.27 and section 85.34, subsections 2 and 3. The weekly rate for such permanent disability is equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the department of employment services under section 96.19, subsection 42, and in effect at the time of the injury.

Weekly compensation benefits under this section may be determined prior to the inmate's release from the institution, but payment of benefits to an inmate shall commence as of the time of the inmate's release from the institution either upon parole or final discharge. However, if the inmate is awarded benefits for an injury incurred in connection with the performance of unpaid community service under ~~sections 907.13 and 910.2~~ the direction of the district court, board of parole, or judicial district department of correctional services, or in connection with the provision of services pursuant to a chapter 28E agreement entered into pursuant to section 246.703, or who is performing a work assignment of value to the state or to the public under chapter 232, weekly compensation benefits under this section shall be determined and paid as in other workers' compensation cases.

Sec. 4. NEW SECTION. 123.47B PARENTAL NOTIFICATION — PERSONS UNDER EIGHTEEN YEARS OF AGE.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of alcoholic liquor, wine, or beer in violation of section 123.47 and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial

parent or legal guardian of such possession, whether or not the person is arrested or a citation is issued pursuant to section 805.16, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 5. NEW SECTION. 204.401A DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully distributes a substance or 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 another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, may, at the judge's discretion, be sentenced up to an additional term of confinement of five years.

Sec. 6. Section 204.406, subsection 1, paragraph a, Code Supplement 1989, is amended to read as follows:

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, or in or on the real property comprising a public park, the person shall serve a minimum term of confinement of ten years.

Sec. 7. Section 204.406, subsection 2, paragraph a, Code Supplement 1989, is amended to read as follows:

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, or in or on the real property comprising a public park, the person shall serve a minimum term of confinement of ten years.

Sec. 8. NEW SECTION. 204.415 PARENTAL NOTIFICATION — PERSONS UNDER EIGHTEEN YEARS OF AGE.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of a controlled substance, counterfeit substance, or simulated controlled substance in violation of this chapter, and if the person is not referred to juvenile court the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 9. NEW SECTION. 204.416 EXCEPTION TO NONBAILABLE OFFENSE.

Notwithstanding section 811.1, the court, in its discretion, may admit a person convicted of a violation of section 204.401, subsection 1 or 2, or of a violation of section 204.406, to bail if the prosecuting attorney in the action and the defendant's counsel jointly petition the court to admit the person to bail.

Sec. 10. NEW SECTION. 204B.1 DEFINITIONS.

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

1. "Board" means the board of pharmacy examiners.
2. "Controlled substance" means a controlled substance as defined in section 204.101.
3. "Practitioner" means a practitioner as defined in section 155A.3.
4. "Precursor substance" means a substance which may be used as a precursor in the illegal production of a controlled substance and is specified under section 204B.2.
5. "Recipient" means a person in this state who purchases, transfers, or otherwise receives a precursor substance.
6. "Vendor" means a person who manufactures, wholesales, retails, or otherwise sells, transfers, or furnishes in this state a precursor substance.

Sec. 11. NEW SECTION. 204B.2 REPORTING REQUIRED.

1. Effective July 1, 1990, a report to the board shall be submitted in accordance with this chapter by a manufacturer, retailer, or other person who sells, transfers, or otherwise furnishes to any person in this state any of the following substances:
a. Anthranilic acid and its salts.
b. Benzyl Cyanide.
c. Ephedrine, its salts, optical isomers, and salts of optical isomers.
d. Ergonovine and its salts.
e. Ergotamine and its salts.
f. 3,4 - methylenedioxyphenyl-2-propanone.
g. N-acetylanthranilic acid and its salts.
h. Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.
i. Phenylacetic acid and its salts.
j. Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.
k. Piperidine and its salts.
l. Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.
2. The board shall administer the regulatory provisions of this chapter and may, by rule adopted pursuant to chapter 17A, add a substance to or remove a substance from the list in subsection 1. In determining whether to add or remove a substance from the list, the board shall consider the following:
a. The likelihood that the substance may be used as a precursor in the illegal production of a controlled substance.
b. The availability of the substance.
c. The appropriateness of including the substance under this chapter or under chapter 204.
d. The extent and nature of legitimate uses for the substance.
3. On or before November 1 of each year, the board shall inform the general assembly of any substances added, deleted, or changed in the list contained in section 204B.2 and shall provide an explanation of any addition, deletion, or change.

Sec. 12. NEW SECTION. 204B.3 IDENTIFICATION REQUIRED.

1. Before selling, transferring, or otherwise furnishing any substance specified in section 204B.2 to a person in this state, a vendor shall require proper identification from the purchaser.
2. For the purposes of this section, in the case of a face-to-face purchase, "proper identification" means all of the following:
a. A motor vehicle operator's license containing the purchaser's photograph and residential or mailing address, other than a post office box number, or any other official state-issued identification containing this information.
b. The motor vehicle license number of the vehicle owned or operated by the purchaser.
c. A letter of authorization from the person who is making the purchase. The letter shall include the person's business license number and business address, a description as to how the substance will be used, and the purchaser's signature. The vendor shall affix the vendor's signature as a witness to the signature and identification of the purchaser.
3. The board shall provide by rule for the form of proper identification required for purchases which are not face to face.

4. A person who violates this section or rules adopted pursuant to this section commits a simple misdemeanor.

Sec. 13. NEW SECTION. 204B.4 VENDOR REPORTING.

1. At least twenty-one days prior to the delivery of a precursor substance to a recipient, the vendor shall submit a report of the transaction to the board. The report must contain the identification information specified under section 204B.3. However, if regular, repeated transactions of a particular precursor substance occur between the vendor and the recipient, the board may authorize the vendor to report the transactions monthly if either of the following conditions exists:

a. A pattern of regular supply of the precursor substance exists between the vendor and the recipient.

b. The recipient has established a record of lawfully using the precursor substance.

2. A vendor who does not submit a report pursuant to this section commits a serious misdemeanor.

Sec. 14. NEW SECTION. 204B.5 RECEIPT OF SUBSTANCE FROM OUTSIDE THE STATE – PENALTY.

1. A vendor, recipient, or other person required to report pursuant to this chapter who receives a precursor substance from a source outside the state shall submit a report to the board pursuant to rules adopted by the board.

2. A person who does not submit a report required under this section commits a serious misdemeanor.

Sec. 15. NEW SECTION. 204B.6 EXCEPTIONS.

The requirements of sections 204B.2 through 204B.5 do not apply to any of the following:

1. A licensed pharmacist or other person authorized under chapter 155A to sell or furnish a precursor substance upon the prescription of a practitioner.

2. A practitioner who administers or furnishes a precursor substance to a patient.

3. A vendor who holds a permit issued by the board and who sells, transfers, or otherwise furnishes a precursor substance to a practitioner or a pharmacy as defined in section 155A.3.

4. A sale, transfer, furnishing, or receipt of a drug containing ephedrine, phenylpropanolamine, or pseudoephedrine or of a cosmetic containing a precursor substance if the drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription in accordance with chapter 203B.

Sec. 16. NEW SECTION. 204B.7 REPORTING FORM.

1. The board shall adopt rules prescribing a common form for the filing of reports required under this chapter. The rules shall provide that the information which must be submitted shall include but is not limited to all of the following:

a. The name of the precursor substance.

b. The quantity of the precursor substance sold, transferred, or furnished.

c. The date the precursor substance was sold, transferred, or furnished.

d. The name and address of the recipient.

e. The name and address of the vendor.

2. Reports authorized under subsection 1 may be computer-generated and submitted monthly in accordance with rules adopted by the board.

Sec. 17. NEW SECTION. 204B.8 MISSING QUANTITY – REPORTING.

A person who is required to report to the board pursuant to this chapter or a person listed as an exception under section 204B.6 shall report to the board either of the following occurrences within seven days of knowledge of the loss or occurrence:

1. Loss or theft of a precursor substance.

2. A difference between the amount of a precursor substance shipped and the amount of a precursor substance received. If applicable, the report shall include the name of the person who transported the precursor substance and the date of shipment.

Sec. 18. NEW SECTION. 204B.9 SALE, TRANSFER, FURNISHING, OR RECEIPT FOR UNLAWFUL PURPOSE — PENALTY.

1. A person who sells, transfers, or otherwise furnishes a precursor substance with knowledge or the intent that the recipient will use the precursor substance to unlawfully manufacture a controlled substance commits a class "C" felony.

2. A person who receives a precursor substance with intent to use the substance unlawfully to manufacture a controlled substance commits a class "C" felony.

Sec. 19. NEW SECTION. 204B.10 FALSE STATEMENT — PENALTY.

A person who knowingly makes a false statement in connection with any report or record required to be made under this chapter commits an aggravated misdemeanor.

Sec. 20. NEW SECTION. 204B.11 PERMIT REQUIREMENTS — PENALTY.

1. A vendor or a recipient who receives a precursor substance from a source outside the state shall obtain a permit for the transaction from the board. However, a permit is not required of a vendor of a drug containing ephedrine, phenylpropanolamine, or pseudoephedrine or of a cosmetic that contains a precursor substance if the drug or cosmetic is lawfully sold, transferred, or furnished either over the counter without a prescription in accordance with chapter 203B or with a prescription pursuant to chapter 155A.

2. An application for a permit shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any precursor substance sold, transferred, or otherwise furnished or received.

3. The board may grant a permit on a form adopted by rule. A permit shall be effective for not more than one year from the date of issuance.

4. An applicant shall pay, at the time of filing an application, a permit fee determined by the board.

5. A permit granted under this chapter may be annually renewed on a date to be determined by the board pursuant to rule, upon the filing of a renewal application and the payment of a permit renewal fee.

6. Permit fees charged by the board shall not exceed the costs incurred by the board in administering this chapter.

7. Selling, transferring, or otherwise furnishing, or receiving a precursor substance without a permit obtained pursuant to this section is a serious misdemeanor.

Sec. 21. NEW SECTION. 204B.12 PERMIT — REFUSAL, SUSPENSION, OR REVOCATION.

The board shall refuse, suspend, or revoke a permit upon finding that any of the following conditions exist:

1. The permit was obtained through fraud, misrepresentation, or deceit.

2. The permittee has violated or has permitted any employee of the permittee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated this chapter, a rule adopted pursuant to this chapter, or any other rule of the board.

Sec. 22. Section 232.2, subsection 6, paragraph d, Code Supplement 1989, is amended to read as follows:

d. Who has been, or is imminently likely to be, sexually abused by the child's parent, guardian, custodian or other member of the household in which the child resides.

Sec. 23. Section 232.8, subsection 1, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Violations by a child of provisions of chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, and violations by a child of county or municipal curfew or traffic ordinances, ~~and violations by a child of section 123.47,~~ are excluded from the jurisdiction of the juvenile court and shall be prosecuted

as simple misdemeanors as provided by law. ~~The court may advise appropriate juvenile authorities and may refer violations of section 123.47 to the juvenile court when there is reason to believe the child regularly abuses alcohol and may be in need of treatment. The court shall notify the parents or legal guardians of a child who appears before it for a violation of section 123.47.~~ A child convicted of a violation excluded from the jurisdiction of the juvenile court under this unnumbered paragraph shall be sentenced pursuant to section 805.8, where applicable, and pursuant to section 903.1, subsection 3, for all other violations.

Sec. 24. Section 232.8, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In a proceeding concerning a child who is alleged to have committed a second delinquent act or a second violation excluded from the jurisdiction of the juvenile court, the court or the juvenile court shall determine whether there is reason to believe that the child regularly abuses alcohol or other controlled substance and may be in need of treatment. If the court so determines, the court shall advise appropriate juvenile authorities and refer such offenders to the juvenile court for disposition pursuant to section 232.52A.

Sec. 25. Section 232.19, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding any other provision of this chapter, a child shall not be placed in detention as a result of a violation by that child of section 123.47.

Sec. 26. NEW SECTION. 232.52A DISPOSITION OF CERTAIN JUVENILE OFFENDERS.

In addition to any other order of the juvenile court, a person under age eighteen, who may be in need of treatment as determined under section 232.8, may be ordered to participate in an alcohol or controlled substance education or evaluation program approved by the juvenile court. If recommended after evaluation, the court may also order the person to participate in a treatment program approved by the court. The juvenile court may also require the custodial parent or parents or other legal guardian to participate in an educational program with the person under age eighteen if the court determines that such participation is in the best interests of the person under age eighteen.

Sec. 27. Section 232.82, Code 1989, is amended to read as follows:

232.82 REMOVAL OF SEXUAL OFFENDERS AND PHYSICAL ABUSERS FROM THE RESIDENCE PURSUANT TO COURT ORDER.

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion, that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, or a physical abuse as defined by section 232.2, subsection 38, the juvenile court may enter an ex parte order requiring the alleged sexual offender or physical abuser to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense or physical abuse has occurred and that substantial evidence exists to believe that the presence of the alleged sexual offender or physical abuser in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

2. If an order is entered under subsection 1 and a petition has not yet been filed under this chapter, the petition shall be filed under section 232.87 by the county attorney, the department of human services, or a juvenile court officer within three days of the entering of the order.

3. The juvenile court may order on its own motion, or shall order upon the request of the alleged sexual offender or physical abuser, a hearing to determine whether the order to vacate the residence should be upheld, modified, or vacated. The juvenile court may in any later child in need of assistance proceeding uphold, modify, or vacate the order to vacate the residence.

Sec. 28. Section 232.116, subsection 1, Code Supplement 1989, is amended by adding a new paragraph:

NEW PARAGRAPH. l. 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 after finding that the child has been physically or sexually abused as a result of the acts or omissions of a parent.

(2) The parent found to have physically or sexually abused the child has been imprisoned for such abuse against the child, the child's sibling, or any other child in the household and the court finds it is unlikely that the parent will be released within five years.

Sec. 29. NEW SECTION. 246.310A INSTITUTION READING ROOMS.

The director shall, as necessary, provide for the provision of suitable space for reading material for inmates. For purposes of this section, "suitable reading materials" does not include material depicting or describing the genitals, sex acts, masturbation, excretory functions, or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material for inmates, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value. The space shall be located so that any visitors, other than those authorized pursuant to section 246.512, shall not be able to view the space or the materials located within that space.

Sec. 30. Section 246.513, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department of corrections in cooperation with judicial district departments of correctional services shall establish in each judicial district bed space for the confinement and treatment of offenders convicted of violating chapter 321J who are sentenced to the custody of the director. The department of corrections shall develop standardized assessment criteria for the assignment of offenders to a facility established pursuant to this section. The offender shall be assigned by the director to a facility pursuant to section 321J.2, subsection 2, paragraph "b" or "c", unless initial medical treatment is necessary or there is insufficient space to accommodate the person. The offenders shall ~~first~~ be assigned to the Iowa medical classification facility at Oakdale for classification ~~and after classification may be assigned to~~ if medical treatment is necessary or if the offender fails to satisfactorily perform in a treatment program conducted in a residential facility operated by ~~any~~ a judicial district department of correctional services. The offender shall be assigned to an institution following classification. The facilities established shall meet all the following requirements:

Sec. 31. Section 246.703, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director may enter into a chapter 28E agreement with a county board of supervisors or county conservation board to provide inmate services for environmental maintenance including but not limited to brush and weed cutting, tree planting, and erosion control. The board of supervisors or conservation board shall reimburse the department of corrections for the allowance paid the inmates by the director. The supervision, security, and transportation of inmates used pursuant to the chapter 28E agreement shall be provided by the department of corrections.

Sec. 32. NEW SECTION. 246.902 WORK RELEASE — PERSONS SERVING MANDATORY MINIMUM SENTENCE.

An inmate serving a mandatory minimum sentence of one year or more, who is approved to participate in the work release program, shall serve the final six months of the inmate's mandatory minimum sentence performing labor in the program. Duties, if possible, shall consist of physical labor in plain view of the public. However, an inmate shall not be required to perform work which is beyond an inmate's physical ability, which constitutes a physical hardship, or which is dangerous or threatening to the inmate's life or health, medically prohibited, or unduly painful.

Sec. 33. Section 321J.2, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A minimum term of imprisonment in a county jail or community-based correctional facility imposed on a person convicted of a second or subsequent offense under paragraph "b" or "c" shall be served on consecutive days. However, if the sentencing court finds that service of the full minimum term on consecutive days would work an undue hardship on the person, or finds that sufficient jail space is not available and is not reasonably expected to become available within four months after sentencing to incarcerate the person serving the minimum sentence on consecutive days, the court may order the person to serve not less than forty-eight consecutive hours of the minimum term and to perform a specified number of hours of unpaid community service as deemed appropriate by the sentencing court.

Sec. 34. Section 321J.3, subsection 1, Code 1989, is amended to read as follows:

1. On a conviction for a violation of section 321J.2, the court may order the defendant to attend a course for drinking drivers under section 321J.22. If the defendant submitted to a chemical test on arrest for the violation of section 321J.2 and the test indicated an alcohol concentration of .20 or higher, or if the defendant is charged with a second or subsequent offense, the court shall order the defendant, on conviction, to undergo a substance abuse evaluation and the court ~~may~~ shall order the defendant to follow the recommendations proposed in the substance abuse evaluation for appropriate substance abuse treatment for the defendant. Court-ordered substance abuse treatment is subject to the periodic reporting requirements of section 125.86. If a defendant is committed by the court to a substance abuse treatment facility, the administrator of the facility shall report to the court when it is determined that the defendant has received the maximum benefit of treatment at the facility and the defendant shall be released from the facility. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence. The court may prescribe the length of time for the evaluation and treatment or it may request that the area school conducting the course for drinking drivers which the person is ordered to attend or the treatment program to which the person is committed immediately report to the court when the person has received maximum benefit from the course for drinking drivers or treatment program or has recovered from the person's addiction, dependency, or tendency to chronically abuse alcohol or drugs. Upon successfully completing or attending a course for drinking drivers or an ordered substance abuse treatment program, the person may be placed on probation for six months and as a condition of probation, shall attend a program providing posttreatment services relating to substance abuse as approved by the court. A person committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44. A defendant who fails to carry out the order of the court or who fails to successfully complete or attend a course for drinking drivers or an ordered substance abuse treatment program shall be confined in the county jail for twenty days in addition to any other imprisonment ordered by the court or may be ordered to perform unpaid community service work, and shall be placed on probation for one year with a violation of this probation punishable as contempt of court. In addition to any other condition of probation, the person shall attend a program providing substance abuse prevention services or posttreatment services related to substance abuse as ordered by the court. The person shall report to the person's probation officer as ordered concerning proof of attendance at the treatment program or posttreatment program ordered by the court. Failure to attend or complete the program shall be considered a violation of probation and is punishable as contempt of court.

Sec. 35. NEW SECTION. 321J.4A SURRENDER OF REGISTRATION AND PLATES.

1. Upon a plea or verdict of guilty of a third or subsequent violation of section 321J.2, the court shall issue an impoundment order requiring the surrender to the court of the registration certificate and registration plates of all of the following:

a. All vehicles registered to the defendant, or jointly to the defendant and the defendant's spouse.

b. All vehicles owned by the defendant, or jointly by the defendant and the defendant's spouse.

c. All vehicles leased to the defendant, or jointly to the defendant and the defendant's spouse. This paragraph does not apply to a rental vehicle which is one of a fleet of two or more vehicles rented for periods of four months or less.

2. For purposes of this subsection, a conviction for, deferred judgment for, or plea of guilty to, a violation of section 321J.2, which occurred more than six years prior to the date of the most recent violation charged, shall not be considered in determining that the most recent violation is a third or subsequent violation.

3. If the court issues an impoundment order, the registration certificate and registration plates shall be surrendered to the court either three days after the order is issued or on the date specified by the court, whichever is later. The court shall forward surrendered registration certificates to the county recorder within seven days after surrender. The court may destroy the surrendered registration plates. Except as provided in subsection 5, new registration plates shall not be issued to the defendant or owner until the driver's license of the violator has been reissued or reinstated. The court shall notify the director within ten days after issuing an impoundment order.

4. a. A defendant or an owner may apply to the director for new registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. Application for and acceptance of special plates constitutes implied consent for law enforcement officers to stop the vehicle bearing special plates at any time. The director shall authorize the issuance of special plates if any of the following apply:

(1) A member of the defendant's household has a valid driver's license.

(2) The defendant or owner has a temporary restricted license pursuant to section 321J.20.

The director may issue the special plates on payment of a fifty dollar fee for each vehicle for which special plates are requested.

b. Until the driver's license of the defendant is reinstated or reissued, the defendant shall inform the department that an impoundment order is in effect when requesting any new registration plates.

5. A registered owner shall not sell a motor vehicle during the time its registration plates and registration certificate have been ordered surrendered or during the time its registration plates bear a special series number, unless the registered owner applies to the department for consent to transfer title to the motor vehicle. If the department is satisfied that the proposed sale is in good faith and for valid consideration, that the registered owner will be deprived of custody and control of the motor vehicle, and that the sale is not for the purpose of circumventing the provisions of this section, the department may certify its consent to the county recorder. The county recorder shall then transfer the registration certificate to the new owner upon proper application and issue new registration plates. After the registration plates and registration certificate have been ordered surrendered to the court under this section, if the title to the motor vehicle is transferred by the cancellation of a conditional sales contract, a sale upon execution, or by decree or order of a court of competent jurisdiction, the department shall order the registration certificate surrendered to the new registered owner. The county recorder shall then transfer the registration certificate and issue new registration plates to the new registered owner.

6. This section is not intended to change or modify taxation of motor vehicles or the time within which a motor vehicle tax must be paid.

7. a. A person who fails to surrender any registration plates or a registration certificate to the court upon demand under this section or who fails to comply with this section is guilty of a simple misdemeanor and contempt of court.

b. A person who operates a motor vehicle on a street or highway at a time when a court has ordered the surrender of its registration plate and registration certificate is guilty of a

simple misdemeanor as a separate and distinct offense from any other penalty imposed in connection with driving while under a license suspension or revocation.

8. The director may adopt such rules as may be necessary or convenient for the implementation and administration of this section.

Sec. 36. Section 356.26, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The district court may also grant by order to any person sentenced to a county jail the privilege of a sentence of in-home detention where the county sheriff has certified to the court that the jail has an in-home detention program. The department of corrections shall report to the legislative fiscal bureau on a semiannual basis concerning utilization of in-home detention, including the counties which have established such programs and the number of prisoners allowed in-home detention privileges.

Sec. 37. NEW SECTION. 421A.1 DEFINITIONS.

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

1. "Controlled substance" means controlled substance as defined in section 204.101.

2. "Counterfeit substance" means a counterfeit substance as defined in section 204.101.

3. "Dealer" means any person who ships, transports, or imports into this state or acquires, purchases, possesses, manufactures, or produces in this state any of the following:

a. Seven or more grams of a taxable substance other than marijuana, but including a taxable substance that is a mixture of marijuana and other taxable substances.

b. Forty-two and one-half grams or more of a substance consisting of or containing marijuana.

c. Ten or more dosage units of a taxable substance which is not sold by weight.

However, a person who lawfully ships, transports, or imports into this state or acquires, purchases, possesses, manufactures, or produces a taxable substance in this state is not considered a dealer.

4. "Department" means the department of revenue and finance.

5. "Director" means the director of revenue and finance.

6. "Dosage unit" means the unit of measurement in which a substance is dispensed to the ultimate user. Dosage unit includes, but is not limited to, one pill, one capsule, or one microdot.

7. "Marijuana" means marijuana as defined in section 204.101.

8. "Simulated controlled substance" means a simulated controlled substance as defined in section 204.101.

9. "Taxable substance" means a controlled substance, a counterfeit substance, a simulated controlled substance, or marijuana, or a mixture of materials that contains a controlled substance, counterfeit substance, simulated controlled substance, or marijuana.

Sec. 38. NEW SECTION. 421A.2 ADMINISTRATION — RULES.

The director shall administer this chapter. The director shall collect all taxes, interest, and civil penalties imposed under this chapter and deposit them in the general fund of the state.

The director may adopt rules under chapter 17A that are necessary to enforce this chapter. The director shall adopt a uniform system of providing, affixing, and displaying official stamps, labels, or other official indicia for taxable substances.

Sec. 39. NEW SECTION. 421A.3 TAX PAYMENT REQUIRED FOR POSSESSION — PAYMENT DUE.

A dealer shall not possess, distribute, or offer to sell a taxable substance unless the tax imposed under this chapter has been paid as evidenced by a stamp, label, or other official indicia permanently affixed to the taxable substance.

Taxes imposed on taxable substances by this chapter are due and payable immediately upon manufacture, production, acquisition, purchase, or possession by a dealer.

If the indicia evidencing the payment of the tax imposed on taxable substances under this chapter have not been affixed, the dealer shall have the indicia permanently affixed on the taxable substance immediately after receiving the taxable substance. A stamp, label, or other official indicia shall be used only once and shall not be used after the date of expiration.

Sec. 40. NEW SECTION. 421A.4 MEASUREMENTS.

For purposes of measurements under this chapter, the weight of a taxable substance shall be measured by its weight in metric grams in the dealer's possession. If a taxable substance consists of a mixture containing both marijuana and another substance or combination of substances listed in the definition of taxable substance in section 421A.1, the taxable substance shall be taxed under section 421A.7, subsection 2.

Sec. 41. NEW SECTION. 421A.5 DEFENSE OR IMMUNITY.

This chapter does not provide in any manner a defense or affirmative defense to or immunity for a dealer from criminal prosecution pursuant to Iowa law.

Sec. 42. NEW SECTION. 421A.6 PHARMACEUTICALS.

This chapter does not require persons lawfully in possession of a taxable substance to pay the tax required under this chapter or to purchase, acquire, or affix the stamps, labels, or other official indicia otherwise required by this chapter.

Sec. 43. NEW SECTION. 421A.7 TAX IMPOSED — RATE OF TAX.

An excise tax is imposed on dealers at the following rates:

1. On each gram of marijuana, or each portion of a gram, five dollars.

2. On each gram or portion of a gram of any taxable substance sold by weight other than marijuana, two hundred fifty dollars.

3. On each ten dosage units of any taxable substance that is not sold by weight, or portion thereof, four hundred dollars.

Sec. 44. NEW SECTION. 421A.8 PRICE OF STAMPS, LABELS, OR OTHER INDICIA.

Stamps, labels, or other official indicia to be affixed to a taxable substance indicating the payment of the excise tax shall be obtained and purchased from the department. The dealer shall pay the entire excise tax listed in section 421A.7 at the time of purchase, except as provided in section 421A.13, and receive stamps, labels, or other official indicia for the amount paid. However, the minimum purchase price to be paid for any stamps, labels, or indicia shall be two hundred fifteen dollars.

Sec. 45. NEW SECTION. 421A.9 ASSESSMENTS ARE JEOPARDY ASSESSMENTS.

All assessments of taxes made pursuant to this chapter shall be considered jeopardy assessments or collections as provided in section 422.30. The director shall assess a tax, interest, and applicable penalties based on knowledge or information available to the director; mail to the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax, interest, and penalty; demand its immediate payment; and, if payment is not immediately made, collect the tax, interest, and penalty by any method prescribed in section 422.30. The period for examination, determination of amount of tax owed, and assessment is unlimited.

A person shall not bring suit to enjoin the assessment or collection of any taxes, interest, or penalties imposed by this chapter.

The tax, interest, and penalties assessed by the director are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show any incorrectness or invalidity of an assessment. The burden is upon the taxpayer to prove that the shipment, transportation, importation, acquisition, purchase, possession, manufacture, or production of a taxable substance was lawful if a taxpayer's status as a dealer is disputed. Any statement filed by the director with the clerk of the district court, or any other certificate by the director of the amount of tax, interest, and penalties determined or assessed is admissible in evidence and is prima facie evidence of the facts contained in the statement.

Sec. 46. NEW SECTION. 421A.10 CONFIDENTIAL NATURE OF INFORMATION.

Notwithstanding any law to the contrary, the director or an employee of the department shall not reveal any information obtained from a dealer; nor shall information obtained from

a dealer be used against the dealer in any criminal proceeding, unless the information is independently obtained, except in connection with a proceeding involving taxes due under this chapter from the dealer against whom the tax was assessed.

A person who violates this section is guilty of a simple misdemeanor.

This section does not prohibit the director from publishing statistics that do not disclose the identity of the dealers.

A stamp, label, or other official indicia denoting payment of the tax imposed under this chapter shall not be used against a taxpayer in a criminal proceeding, except that such information may be used against the taxpayer in connection with the administration or civil or criminal enforcement of the tax imposed under this chapter or any similar tax imposed by another state or local unit of government.

Sec. 47. NEW SECTION. 421A.11 EXAMINATION OF RECORDS BY DIRECTOR — SUBPOENAS.

For the purpose of determining whether or not the dealer should have paid taxes, determining the amount of tax that should have been paid, or collecting any taxes under this chapter, the director may examine, or cause to be examined, any books, papers, records, or memoranda that may be relevant to making such determinations, whether the books, papers, records, or memoranda are the property of or in the possession of the dealer or another person. The director may require the attendance of any person having knowledge or information that may be relevant, compel the production of books, papers, records, or memoranda by persons required to attend, take testimony on matters material to the determination, and administer oaths or affirmations. Upon demand of the director or an examiner or investigator, the court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, or memoranda. The director may also issue subpoenas. Disobedience of subpoenas issued under this chapter is punishable by the district court of the county in which the subpoena is issued, or if the subpoena is issued by the director, by the district court of the county in which the party served with the subpoena is located, in the same manner as a contempt of court.

The director may petition the district court or a magistrate for an administrative search warrant as authorized by section 808.14 to execute a distress warrant authorized by section 422.26.

Sec. 48. NEW SECTION. 421A.12 CIVIL AND CRIMINAL PENALTIES FOR VIOLATION OF ACT — INTEREST.

A dealer who violates this chapter is subject to a penalty equal to the amount of the tax imposed by section 421A.7, in addition to the tax imposed by that section. The dealer shall pay interest on the tax and penalty at the rate in effect under section 421.7, counting each fraction of a month as an entire month, computed from the date of assessment through the date of payment. The penalty and interest shall be collected as part of the tax.

In addition to the civil tax penalty and interest imposed by this section, a dealer distributing, offering to sell, or possessing taxable substances without affixing the appropriate stamps, labels, or other official indicia is guilty of a class "D" felony.

A person who possesses, prints, engraves, makes, issues, sells, or circulates a counterfeit taxable substance tax stamp, label, or other official indicia, or places or causes to be placed a counterfeit taxable substance tax stamp, label, or other official indicia on a taxable substance, is guilty of a class "D" felony.

A person who uses, sells, offers for sale, or possesses for use or sale a previously used or expired taxable substance tax stamp, label, or other official indicia, or attaches or causes to be attached a previously used or expired taxable substance tax stamp, label, or other official indicia to a taxable substance, is guilty of a class "D" felony.

Notwithstanding section 802.3, an indictment may be found or information filed upon any criminal offense specified in this chapter, in the proper court, within six years after the commission of the offense.

Sec. 49. NEW SECTION. 421A.13 CREDIT FOR PREVIOUSLY PAID TAXES.

If another state or local unit of government has previously assessed an excise tax on a taxable substance, the taxpayer shall pay the difference between the tax imposed under this chapter and the tax previously paid. If the tax previously paid to the other state or local unit of government was equal to or greater than the tax imposed under this chapter, no tax is due. The burden is on the taxpayer to show that an excise tax on the taxable substances has been paid to another state or local unit of government.

Sec. 50. NEW SECTION. 421A.14 REVISION OF TAX — REFUNDS.

Sections 421.5, 422.26, 422.28, 422.29, 422.73, subsection 2, and 422.74 shall apply to this chapter, except that a refund claim filed later than thirty days from the expiration date of the stamps for which the refund is requested shall not be allowed by the director.

Sec. 51. NEW SECTION. 421A.15 AVAILABILITY OF RECORDS AND INFORMATION.

The director may request from state, county, and local agencies, information and assistance deemed necessary to administer this chapter. State, county, and local agencies, officers, and employees shall cooperate with the director in identifying dealers and shall, on request, supply the department with available information and assistance which the director deems necessary to administer this chapter, notwithstanding any provisions of law making such information confidential.

Sec. 52. Section 422.7, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. If the adjusted gross income includes income or loss from a business operated by the taxpayer, and if the business does not qualify for the adjustment under section 422.7, subsection 12, an additional deduction shall be allowed in computing the income or loss from the business if the business hired for employment in the state during its annual accounting period ending with or during the taxpayer's tax year either of the following:

a. 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.

b. 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.

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" and "b" 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.

The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the twelve-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the division of job service of the department of employment services, the additional deduction shall be allowed.

A taxpayer who is a partner of a partnership or a shareholder of a subchapter S corporation, may deduct that portion of wages qualified under this subsection paid by the partnership or subchapter S corporation based on the taxpayer's pro rata share of the profits or losses from the partnership or subchapter S corporation.

The department shall develop and distribute information concerning the deduction available for businesses employing persons named in paragraphs "a" and "b".

Sec. 53. Section 422.35, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. If the taxpayer is a business corporation and does not qualify for the adjustment under section 422.35, subsection 6, 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" and "b" who were hired for the first time by the taxpayer during the tax year for work done in this state:

a. 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.

b. 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.

This deduction is allowed for the wages paid to the individuals successfully completing a probationary period named in paragraphs "a" and "b" during the twelve months following the date of first employment by the taxpayer and shall be deducted in the tax years when paid.

The department shall develop and distribute information concerning the deduction available for businesses employing persons named in paragraphs "a" and "b".

Sec. 54. Section 602.6405, subsection 1, Code 1989, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. ~~They also~~ Magistrates have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. ~~They also~~ Magistrates have jurisdiction over violations of section 123.47 involving persons eighteen years of age, and section 123.49, subsection 2, paragraph "h". Magistrates have jurisdiction to conduct hearings authorized under section 809.4 and section 809.10, subsection 2.

Sec. 55. Section 707.6A, Code Supplement 1989, is amended to read as follows:

707.6A HOMICIDE OR SERIOUS INJURY BY VEHICLE.

1. A person commits a class ~~"D"~~ "C" felony when the person unintentionally causes the death of another by either of the following means:

a. Operating a motor vehicle while under the influence of alcohol or ~~a~~ other drug or a combination of such substances or while having an alcohol concentration, as defined in section 321J.1, subsection 1, 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.

b. Driving a motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property, in violation of section 321.277.

2. A person commits ~~an aggravated misdemeanor~~ a class "D" felony when the person unintentionally causes the death of another by operating a motor vehicle in any of the following manners:

a. Drag racing, in violation of section 321.278.

b. Eluding or attempting to elude a pursuing law enforcement vehicle, in violation of section 321.279.

3. A person commits an aggravated misdemeanor when the person unintentionally causes a serious injury, as defined in section 321J.1, subsection 8, by either of the means described in subsection 1 of this section.

~~3~~ 4. As used in this section, "motor vehicle" includes any vehicle defined as a motor vehicle in section 321.1.

5. Except for the purpose of sentencing under section 321J.2, subsection 2, a conviction or deferral of judgment for a violation of this section, where a violation of section 321J.2 is admitted or proved, shall be treated as a conviction or deferral of judgment for a violation of section 321J.2 for the purposes of chapters 321, 321A, and 321J, and section 907.3, subsection 1.

Sec. 56. Section 709.10, Code 1989, is amended to read as follows:

709.10 COST OF MEDICAL EXAMINATION IN CRIMES OF SEXUAL ABUSE.

The cost of a medical examination for the purpose of gathering evidence and the cost of treatment for the purpose of preventing venereal disease shall be borne by the ~~Iowa~~ department of ~~public health~~ justice.

Sec. 57. NEW SECTION. 723A.1 DEFINITIONS.

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

1. "Criminal acts" means any of the following or any combination of the following:

a. An offense constituting a violation of section 204.401 involving a controlled substance, a counterfeit substance, or a simulated controlled substance.

b. An offense constituting a violation of chapter 711 involving a robbery or extortion.

c. An offense constituting a violation of section 708.6 involving an act of terrorism.

d. An offense constituting a violation of section 708.8.

e. An offense constituting a violation of section 720.4.

f. Any other offense constituting a forcible felony as defined in section 702.11.

2. "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts, which has an identifiable name or identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

3. "Pattern of criminal gang activity" means the commission, attempt to commit, conspiring to commit, or solicitation of two or more criminal acts, provided the criminal acts were committed on separate dates or by two or more persons who are members of, or belong to, the same criminal street gang.

Sec. 58. NEW SECTION. 723A.2 CRIMINAL GANG PARTICIPATION.

A person who actively participates in or is a member of a criminal street gang and who willfully aids and abets any criminal act committed for the benefit of, at the direction of, or in association with any criminal street gang, commits a class "D" felony.

Sec. 59. Section 809.10, subsection 3, Code 1989, is amended to read as follows:

3. Upon a finding by the court that the property is forfeitable, the court ~~shall~~ may as a matter of equity enter an order transferring title to the property to the state.

Sec. 60. NEW SECTION. 809.17 PROCEEDS APPLIED TO VARIOUS PROGRAMS.

Except as provided in section 809.21, proceeds from the disposal of seized or forfeited property pursuant to this chapter may be transferred in whole or in part to the victim reparation fund created in pursuant to* chapter 912 at the discretion of the recipient agency, political subdivision, or department.

Sec. 61. Section 811.1, Code Supplement 1989, is amended to read as follows:

811.1 BAILABLE AND NONBAILABLE OFFENSES.

All defendants are bailable both before and after conviction, by sufficient surety, or subject to release upon condition or on their own recognizance, except that the following defendants shall not be admitted to bail:

*According to enrolled Act

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, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree, or any felony included in section 204.401, subsection 1, paragraph "a".

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, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree, or any felony included in section 204.401, subsection 1, paragraph "a".

3. Notwithstanding subsections 1 and 2, a defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of, or appealing a conviction of, a felony offense under chapter 204 not provided for in subsection 1 or 2, is presumed to be ineligible to be admitted to bail unless the court determines that such release reasonably will not result in the person failing to appear as required and will not jeopardize the personal safety of another person or persons.

Sec. 62. Section 901.2, unnumbered paragraph 1, Code Supplement 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 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. Notwithstanding section 901.3, a presentence investigation ordered by the court for a serious misdemeanor shall include information concerning only the following:

1. A brief personal and social history of the defendant.

2. The defendant's criminal record.

3. The harm to the victim, the victim's immediate family, and the community, including any completed victim impact statement or statements and restitution plan.

Sec. 63. Section 901.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The defendant's potential as a candidate for assignment to a treatment facility pursuant to section 246.513 based upon the standardized assessment criteria developed by the department of corrections. The presentence investigation report shall contain the assessment criteria commencing January 1, 1991.

Sec. 64. NEW SECTION. 901.4A SUBSTANCE ABUSE EVALUATION.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court may order the defendant to submit to and complete a substance abuse evaluation, if the court determines that there is reason to believe that the defendant regularly abuses alcohol or other controlled substances and may be in need of treatment. An order made pursuant to this section may be made in addition to any other sentence or order of the court.

Sec. 65. Section 901.5, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The court may order the defendant to complete any treatment indicated by a substance abuse evaluation ordered pursuant to section 901.4A or any other section.

Sec. 66. Section 903.1, subsection 3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 106, 106A, 109, 109A, 110, 110A, 110B, 111, 321, or 321G, ~~section 123.47,~~ or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

Sec. 67. Section 903A.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Each inmate of an institution under the Iowa department of corrections, is eligible for a reduction of sentence of one day for each day of good conduct of the inmate while committed to one of the department's institutions. In addition to the sentence reduction of one day for each day of good conduct, each inmate is eligible for an additional reduction of sentence of up to five days a month if the inmate participates satisfactorily in employment in the institution, in Iowa state industries, in an inmate employment program established by the director, in a treatment program established by the director, or in an inmate educational program approved by the director. Reduction of sentence pursuant to this section may be subject to forfeiture pursuant to section 903A.3. Computation of good conduct time is subject to the following conditions:

Sec. 68. Section 906.4, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board may establish as a condition of a person's parole or work release that the person perform a specified number of hours of unpaid community service. The board shall not make community service a uniform or mandatory requirement for all or substantially all parolees or work release inmates but shall exercise discretion in ordering community service as a condition of parole or work release. The board shall report to the general assembly on the implementation of community service as a condition of parole or work release. The report shall be submitted on or before January 1, 1991.

Sec. 69. Section 906.5, Code Supplement 1989, is amended to read as follows:

906.5 RECORD REVIEWED — RULES.

1. ~~Within~~ Except as provided in subsection 2, 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. Within six months after the commitment of a person convicted of an offense under chapter 714, 715A, 716, or 716A, a member of the board shall interview the person as provided

in subsection 1. The board shall develop a plan for the purpose of early release of such persons when it is determined that a person convicted of such an offense can be released without detriment to the community or to the person.

It is the intent of the general assembly that the board shall implement this plan of early release in an effort to assist in controlling the prison population and assuring prison space for the confinement of offenders whose release would be detrimental to the citizens of this state. The board shall report to the legislative fiscal bureau on a monthly basis concerning the implementation of this plan and the number of inmates paroled pursuant to this plan and the average length of stay of those paroled.

2 3. 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 4. 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. 70. 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. 71. Section 906.15, Code 1989, is amended to read as follows:

906.15 DISCHARGE FROM PAROLE.

Unless sooner discharged, a person released on parole shall be discharged when the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement. Discharge from parole may be granted prior to such time, when an early discharge is appropriate. The board shall periodically review all paroles, and when ~~it shall determine~~ the board determines that any person on parole is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, ~~it~~ the board shall discharge the person from parole. A parole officer shall periodically review all paroles assigned to the parole officer, and when the parole officer determines that any person assigned to the officer is able and willing to fulfill the obligations of a law-abiding citizen without further supervision, the officer may discharge the person from parole after notification and approval of the district director and notification of the board of parole. In ~~either~~ any event, discharge from parole shall terminate the person's sentence. However, a person convicted of a violation of section 709.3, 709.4 or 709.8 committed on or with a child shall not be discharged from parole

until the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement.

A parole officer or the district director who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged from parole by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

Sec. 72. Section 907.9, Code 1989, is amended to read as follows:

907.9 DISCHARGE FROM PROBATION.

At any time that the court determines that the purposes of probation have been fulfilled, the court may order the discharge of a person from probation. At any time that a probation officer determines that the purposes of probation have been fulfilled, the officer may order the discharge of a person from probation after approval of the district director, and notification of the sentencing court and county attorney who prosecuted the case. The sentencing judge, unless the judge is no longer serving or is otherwise unable to, may order a hearing on its own motion, or shall order a hearing upon the request of the county attorney, for review of such discharge. If the sentencing judge is no longer serving or unable to order such hearing, the chief judge of the district or the chief judge's designee shall order any hearing pursuant to this section. Following the hearing, the court shall approve or rescind such discharge. If a hearing is not ordered within thirty days after notification by the probation officer, the person shall be discharged and the probation officer shall notify the state court administrator of such discharge. At the expiration of the period of probation, in cases where the court fixes the term of probation, the court shall order the discharge of the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

A probation officer who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged from probation by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

Sec. 73. Section 910.1, subsection 1, Code 1989, is amended to read as follows:

1. "Victim" means ~~any~~ a person who has suffered pecuniary damages as a result of the offender's criminal activities. However, for purposes of this chapter, an insurer is not a victim and does not have a right of subrogation. The crime victim reparation program is not an insurer for purposes of this chapter, and the right of subrogation provided by section 912.12 does not prohibit restitution to the crime victim reparation program.

Sec. 74. Section 910.1, subsection 4, Code 1989, is amended to read as follows:

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. Restitution ~~shall~~ also ~~include~~ includes the payment of crime victim assistance reimbursements, court costs, court-appointed attorney's fees or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs, court-appointed attorney's fees or the expense of a public defender.

Sec. 75. Section 910.2, Code 1989, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered,

the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities and, if the court so orders and to the extent that the offender is reasonably able to do so, for crime victim assistance reimbursement, court costs, court-appointed attorney's fees or the expense of a public defender when applicable. However, victims shall be paid in full before restitution is paid for crime victim assistance reimbursement, court costs, court-appointed attorney's fees or for the expense of a public defender. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, crime victim assistance reimbursement, court costs, and court-appointed attorney's fees or the expense of a public defender. When the offender is not reasonably able to pay all or a part of the crime victim assistance reimbursement, court costs, court-appointed attorney's fees or the expense of a public defender, the court may require the offender in lieu of that portion of the crime victim assistance reimbursement, court costs, court-appointed attorney's fees, or expense of a public defender for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 76. Section 910A.7A, Code Supplement 1989, is amended to read as follows:

910A.7A NOTIFICATION BY ~~CLERK OF THE SUPREME COURT~~ DEPARTMENT OF JUSTICE.

The ~~clerk of the supreme court~~ department of justice shall notify a registered victim of all dispositional orders of a case currently on appeal in which the victim was involved.

Sec. 77. Section 912.1, subsection 3, Code Supplement 1989, is amended to read as follows:

3. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony, ~~an aggravated misdemeanor,~~ or ~~a serious~~ misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except for violations of section 321J.2 or when the intention is to cause personal injury or death. A plea or verdict of guilty of a charge under section 321J.2 or a license revocation under section 321J.9 or 321J.12 shall be considered by the department as evidence of a violation of section 321J.2 for the purposes of this chapter.

Sec. 78. Section 912.3, subsection 4, Code Supplement 1989, is amended to read as follows:

4. Request from the department of human services, the divisions of job service and industrial services of the department of employment services, the ~~attorney general~~ department of public safety, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim reparation program.

Sec. 79. Section 912.3, subsection 7, Code Supplement 1989, is amended by striking the subsection.

Sec. 80. Section 912.5, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To a victim of an act committed outside this state who is a resident of this state, if the act would be compensable had it occurred within this state and the act occurred in a state that does not have an eligible crime victim compensation program, as defined in the federal Victims of Crime Act of 1984, Pub. L. 98-473, section 1403(b), as amended and codified in 42 U.S.C. § 10602(b).

Sec. 81. Section 912.6, subsection 1, Code Supplement 1989, is amended to read as follows:

1. Reasonable charges incurred for medical care not to exceed ten thousand five hundred dollars. Reasonable charges incurred for mental health care not to exceed one thousand five hundred dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 236A.1.

Sec. 82. Section 912.6, subsections 2 and 3, Code Supplement 1989, are amended by striking the subsections.

Sec. 83.

The department of public safety shall study the feasibility and usefulness of implementing a pilot program for determining the extent of drug and alcohol use and abuse among persons arrested for felony offenses, of determining whether there is any correlation between drug and alcohol abuse and crime in this state, for developing data comparing rural and urban areas in this state, and for developing a comparison with similar data collected in other states. The study shall be under the direction of the drug enforcement and abuse prevention coordinator who shall consult with the department of public safety to accomplish the purposes described in this section.

Sec. 84. ALTERNATIVE DRUG TESTING FOR OFFICERS.

The department of public safety shall develop a plan for the implementation of alternative drug testing programs for law enforcement, parole, and probation officers. The plan shall be submitted to the general assembly by January 15, 1991, in a form which could be adopted and implemented by the department of public safety or individual law enforcement agencies throughout the state.

Sec. 85.

Chapter 421A, as enacted in this Act, takes effect September 1, 1990.

Sec. 86. Section 35 takes effect July 1, 1991.

Approved May 6, 1990

CHAPTER 1252

ENERGY EFFICIENCY

S.F. 2403

AN ACT relating to energy efficiency.

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

Section 1. Section 8.23, Code 1989, is amended to read as follows:

8.23 ANNUAL DEPARTMENTAL ESTIMATES.

On or before September 1, next prior to each legislative session, all departments and establishments of the government shall transmit to the director, on blanks to be furnished by the director, estimates of their expenditure requirements, including every proposed expenditure, for the ensuing fiscal year, classified so as to distinguish between expenditures estimated for administration, operation, and maintenance, and the cost of each project involving the purchase of land or the making of a public improvement or capital outlay of a permanent character, together with supporting data and explanations as called for by the director. The budget estimates shall include for those agencies which pay for energy directly a line item for energy expenses itemized by type of energy and location. The estimates of expenditure requirements

shall be based upon seventy-five percent of the funding provided for the current fiscal year accounted for by program and the remainder of the estimate of expenditure requirements prioritized by program. The estimates shall be accompanied with performance measures for evaluating the effectiveness of the program. If a department or establishment fails to submit estimates within the time specified, the governor shall cause estimates to be prepared for that department or establishment as in the governor's opinion are reasonable and proper. The director shall furnish standard budget request forms to each department or agency of state government.

Sec. 2. Section 15.109, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. At the time the department approves assistance for an applicant, provides the person with information regarding the nature and source of other technical assistance available in the state to assist the applicant on design and management matters concerning energy efficiency and waste reduction. The department shall review the extent to which recommendations made to grantees are in fact implemented by the grantees.

Sec. 3. Section 18.115, subsection 4, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

In conjunction with the requirements of section 18.3, subsection 1, effective January 1, ~~1990~~ 1991, the state vehicle dispatcher, and any other state agency or local governmental political subdivision purchasing new motor vehicles for other than law enforcement purposes, shall ~~each year~~ purchase new passenger ~~automobiles~~ vehicles and light trucks such that the average fuel efficiency for the fleet of new passenger ~~automobiles~~ vehicles and light trucks purchased in that year by the state vehicle dispatcher ~~is not less than two miles per gallon under~~ or other state agency or local governmental political subdivision equals or exceeds the average fuel economy standard for the ~~automobiles'~~ vehicles' model year as established by the United States secretary of transportation under 15 U.S.C. § 2002. This paragraph does not apply to ~~automobiles~~ vehicles purchased for any of the following: law enforcement purposes; school buses; off-road maintenance work; or work vehicles used to pull loaded trailers. The group of comparable ~~automobiles~~ vehicles within the total fleet purchased by the state vehicle dispatcher, or any other state agency or local governmental political subdivision purchasing motor vehicles for other than law enforcement purposes, shall have an average fuel efficiency rating ~~not less than two miles per gallon under~~ equal to or exceeding the average fuel economy rating for that model year for that class of comparable ~~automobiles~~ vehicles 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). For purposes of this paragraph, "state agency" includes, but is not limited to, a community college or an institution under the control of the state board of regents.

Sec. 4. Section 18.115, subsection 4, Code Supplement 1989, is amended by adding the following new paragraphs:

a. Effective January 1, 1993, the state vehicle dispatcher, after consultation with the department of management and the various state agencies exempted from obtaining vehicles for use through the state vehicle dispatcher, shall adopt by rule pursuant to chapter 17A, a system of uniform standards for assigning vehicles available for use to maximize the average passenger miles per gallon of motor vehicle fuel consumed. The standards should consider the number of passengers traveling to a destination, the fuel economy of and passenger capacity of vehicles available for assignment, and any other relevant information, to assure assignment of the most energy efficient vehicle or combination of vehicles for a trip from those vehicles available for assignment. The standards adopted by the state vehicle dispatcher shall not apply to special work vehicles, and law enforcement vehicles. The rules when adopted shall apply to the following agencies:

(1) State vehicle dispatcher.

(2) State department of transportation.

(3) Institutions under the control of the state board of regents.

(4) The department for the blind.

(5) Any other state agency exempted from obtaining vehicles for use through the state vehicle dispatcher.

b. As used in paragraph "a", "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).

Sec. 5. NEW SECTION. 72.5 LIFE CYCLE COST.

1. A contract for a public improvement or construction of a public building, including new construction or renovation of an existing public building, by the state, or an agency or political subdivision of the state, shall not be let without satisfying the following requirements:

a. A design professional submitting a design development proposal for consideration of the public body shall at minimum prepare one proposal meeting the design program's space and use requirements which reflects the lowest life cycle cost possible in light of existing commercially available technology.

b. Submission of a cost benefit analysis of any deviations from the lowest life cycle cost proposal contained in other design proposals requested by or prepared for submission to the public body.

The public body may request additional design proposals in light of funds available for construction, aesthetic considerations, or any other reason.

This subsection applies for all design development proposals requested on or after January 1, 1991.

2. In connection with development of a statewide building energy efficiency rating system, pursuant to section 93.40, the director of the department of natural resources in consultation with the department of management, state building code director, and state fire marshal, shall develop standards and methods to evaluate design development documents and construction documents based upon the energy efficiency rating system for public buildings, and other life cycle cost factors, to facilitate fair and uniform comparisons between design proposals and informed decision making by public bodies.

3. The department of management shall develop a proposal for submission to the general assembly on or before January 10, 1991, to create a division within the department of management to evaluate life cycle costs on design proposals submitted on public improvement and construction contracts for agencies and political subdivisions of the state, to assure uniform comparisons and professional evaluations of design proposals by an independent agency. The report shall also address potential redundancy and conflicts within existing state law regarding life cycle cost analysis and recommend the resolution of any problems which are identified.

4. It is the intent of the general assembly to discourage construction of public buildings based upon lowest acquisition cost, and instead to require that such decisions be based upon life cycle costs to reduce energy consumption, maintenance requirements, and continuing burdens upon taxpayers.

Sec. 6. NEW SECTION. 93.3 ENERGY EFFICIENCY GOAL.

The goal of this state is to more efficiently utilize energy resources, especially those that are nonrenewable or that have negative environmental impacts, in order to enhance the economy of the state and to decrease the state's dependence on energy resources from outside the state by reducing the amount of energy used. This goal is to be implemented through the development of programs that promote energy efficiency and energy conservation by all Iowans, through the development and enhancement of an energy efficiency industry, through the development of indigenous energy resources that are economically and environmentally viable, and through the development and implementation of effective public information and education programs.

State government shall be a model and testing ground for the use of energy efficiency systems.

Sec. 7. Section 93.7, subsection 1, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

The department shall develop the plan with the assistance of, and in consultation with, representatives of the energy industry, economic interests, the public, and other interested parties. The department shall submit a report to the general assembly concerning the status and implementation of the plan on a biennial basis. The biennial update shall contain an evaluation of all state energy programs including expected versus actual benefits and forecasts of future energy demand in Iowa.

Sec. 8. Section 93.7, subsection 4, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Establish a central depository within the state for energy data. The central depository shall be located at or accessible through a library which is a member of an interlibrary loan program to facilitate access to the data and information contained in the central depository. The department shall collect data necessary to forecast future energy demands in the state. The department may require a supplier to provide information pertaining to the supply, storage, distribution and sale of energy sources in this state. The information shall be furnished on a periodic basis, shall be of a nature which directly relates to the supply, storage, distribution and sale of energy sources, and shall not include any records, documents, books or other data which relate to the financial position of the supplier. Provided the department, prior to requiring any supplier to furnish it with such information, shall make every reasonable effort to determine if the same is available from any other governmental source. If it finds such information is available, the department shall not require submission of the same from a supplier. Notwithstanding the provisions of chapter 22, information and reports obtained under this section shall be confidential except when used for statistical purposes without identifying a specific supplier and when release of the information will not give an advantage to competitors and serves a public purpose. The department shall use this data to conduct energy forecasts which shall be included in the biennial update required by section 93.7, subsection 1.

Sec. 9. Section 93.7, subsection 5, Code Supplement 1989, is amended to read as follows:

5. Develop, recommend, and ~~recommend~~ implement with appropriate agencies public and professional education and communication programs in energy efficiency, energy conservation, and conversion to alternative sources of energy.

Sec. 10. Section 93.7, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Conduct a study on activities related to energy production and use which contribute to global climate change and the depletion of the stratospheric ozone layer. The study shall identify the types and relative contributions of these activities in Iowa. The department shall develop a strategy to reduce emissions from activities identified as having an adverse impact on the global climate and the stratospheric ozone layer. The department shall submit a report containing its findings and recommendations to the governor and general assembly by January 1, 1992.

Sec. 11. Section 93.13A, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall not require a school district, area school, area education agency, city, or county to perform an engineering analysis if the school district, area education agency, city, or county demonstrates to the department that the facility which is the subject of the proposed engineering analysis at issue is unlikely to be in use or operation in six years by the governmental entity currently using or occupying the facility.

Sec. 12. Section 93.20, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A school district, area school, area education agency, city, or county shall design and construct the most energy cost-effective facilities feasible and shall use the financing made available by the department to cover the incremental costs above

minimum building code energy efficiency standards of purchasing energy efficient devices and materials unless other lower cost financing is available. As used in this section, "facility" means a structure that is heated or cooled by a mechanical or electrical system, or any system of physical operation that consumes energy to carry out a process.

NEW UNNUMBERED PARAGRAPH. The department shall not require a school district, area school, area educational agency, city, or county to implement a specific energy conservation measure identified in a comprehensive engineering analysis if the political subdivision which prepared the analysis demonstrates to the department that the facility which is the subject of the energy conservation measure is unlikely to be used or operated for the full period of the expected payback of the energy conservation measure.

Sec. 13. NEW SECTION. 93.40 STATEWIDE BUILDING ENERGY EFFICIENCY RATING SYSTEM.

1. The director shall adopt rules, pursuant to chapter 17A, establishing a statewide building energy efficiency rating system. The rating system shall apply to all new and existing public, commercial, industrial, and residential buildings in the state and shall be established subject to the following schedule:

a. Ratings for new residential buildings by July 1, 1992.

b. Ratings for existing residential buildings by July 1, 1993.

c. Ratings for new public buildings by July 1, 1994.

d. Ratings for existing public buildings by July 1, 1995.

e. Ratings for new commercial and industrial buildings by July 1, 1995.

f. Ratings for existing commercial and industrial buildings by July 1, 1995.

The director shall adopt a minimum acceptable energy efficiency standard for each class of new buildings.

2. a. The energy efficiency rating shall be disclosed at the request of the prospective purchaser according to the terms of the offer to purchase.

b. The energy efficiency rating shall be disclosed to a prospective lessee whose rent does not include energy cost upon request.

c. The designer of a new residential or commercial building shall state in writing to the department that to the best of the person's knowledge, information, and belief, the new building design is in substantial compliance with the minimum energy efficiency standards established by rule of the department.

d. Concurrent with the disclosure of an energy efficiency rating pursuant to paragraphs "a" through "c", the prospective purchaser or lessee shall be provided with a copy of an information brochure prepared by the department which includes information relevant to that class of building, including, but not limited to:

(1) How to analyze the building's energy efficiency rating.

(2) Comparisons to statewide averages for new and existing construction of that class.

(3) Notice to the prospective purchaser that the seller must disclose a building's energy efficiency rating upon the prospective purchaser's request.

(4) Information concerning methods to improve a building's energy efficiency rating.

(5) A notice for residential buyers that qualifying income for mortgage loan purposes may be affected by the energy efficiency rating.

e. A new residential, commercial, or industrial building shall not be hooked up or connected to any provider of electricity, whether a regulated utility, rural electric cooperative, municipal utility, or otherwise; or natural gas, except liquid petroleum, unless the builder states in writing to the utility that to the best of the builder's knowledge, information, and belief, the building was built in accordance with the construction documents.

f. Each public building proposed for construction, renovation, or acquisition shall be rated pursuant to the energy efficiency rating system provided in subsection 1 prior to contracting for the construction, renovation, or acquisition. The public body proposing to contract for construction, renovation, or acquisition for a public building shall consider the energy efficiency ratings of alternatives when contracting.

3. The energy efficiency rating system adopted by the department shall provide a means of analyzing and comparing the relative energy efficiency of buildings upon sale or lease of new or existing residential, commercial, or industrial buildings. The system shall provide for rating each public building in existence to assist public officials in decision making with regard to capital improvements and public energy costs.

4. The director shall establish a voluntary working group of persons and interest groups interested in the energy efficiency rating system or energy efficiency, including, but not limited to such persons as electrical engineers, mechanical engineers, architects, and builders. The interest group shall advise the department in the development of the energy efficiency rating system and shall assist the department in implementation of the rating system by coordinating education programs for designers, builders, businesses, and other interested persons to assist compliance and to facilitate incorporation of the rating system into existing practices. The intent of the general assembly is to encourage the consideration of the energy efficiency rating system in the market, so as to provide market rewards for energy efficient buildings and those designing, building, or selling energy efficient buildings.

5. All public buildings shall be analyzed for energy efficiency using this rating system by July 1, 1996. The results of that analysis shall be submitted to the department by August 1, 1996. The department shall submit a report to the governor and general assembly by January 15, 1997, that analyzes the results of this evaluation of public buildings and includes recommendations. The results of the analysis of each building shall be submitted to the public agency or governmental subdivision which owns or operates that building as well.

6. The director shall make available energy efficiency practices information to be used by individuals involved in the design, construction, retrofitting, and maintenance of buildings for state and local governments.

7. For purposes of this section and section 93.41:

a. "Builder" means the prime contractor that hires and coordinates building subcontractors or if there is no prime, the contractor that completes more than fifty percent of the total construction work performed on the building. Construction work includes, but is not limited to, foundation, framing, wiring, plumbing, and finishing work.

b. "Designer" means the architect, engineer, landscape architect, builder, interior designer or other person who performs the actual design work or if under whose direct supervision and responsible charge the construction documents are prepared.

c. "Public building" means a building owned or operated by the state, a state agency, or a governmental subdivision, including but not limited to a city, county, or school district.

8. The director may report an architect, professional engineer, or landscape architect to the appropriate examining board if the director believes the person has engaged in fraudulent conduct in connection with an energy efficiency rating for a building. The director may report a builder to the division of labor, bureau of contractor registration, if the director believes the builder has engaged in fraudulent conduct in connection with an energy efficiency rating for a building.

Sec. 14. Section 214A.2, subsection 3, Code Supplement 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. a. Gasoline with a mixture of ten percent or more ethanol, but not more than thirteen percent, shall be known as gasohol.

b. Gasoline with a mixture of more than thirteen percent ethanol, but not more than twenty-five percent, shall be known as high blend ethanol. For purposes of chapters 323A, 324, and 422, high blend ethanol shall be treated as gasohol.

c. Gasoline shall not contain a mixture of more than twenty-five percent ethanol.

Sec. 15. NEW SECTION. 214A.19 DEMONSTRATION GRANTS AUTHORIZED.

1. The department of natural resources, conditioned upon the availability of funds, is authorized to award demonstration grants to persons who purchase vehicles which operate on alternative fuels, including but not limited to, high blend ethanol, compressed natural gas, electricity, solar energy, or hydrogen. A grant shall be for the purpose of conducting research connected

with the fuel or the vehicle, and not for the purchase of the vehicle itself, except that the money may be used for the purchase of the vehicle if all of the following conditions are satisfied:

a. The department retains the title to the vehicle.

b. The vehicle is used for continuing research.

c. If the vehicle is sold or when the research related to the vehicle is completed, the proceeds of the sale of the vehicle shall be used for additional research.

2. The governor shall seek the cooperation of the governors of other states willing to cooperate to establish an alternative fuels consortium. The purposes of the consortium may include, but are not limited to, coordinating the research, production, and marketing of alternative fuels within the participating states. The consortium may also coordinate presentation of consortium policy on alternative fuels to automakers and federal regulatory authorities.

Sec. 16. Section 258A.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The state board of engineering and land surveyors, the board of architectural examiners, the board of landscape architectural examiners, and the department of natural resources shall cooperate with each other and with persons who typically offer continuing education courses for design professionals to make available energy efficiency related continuing education courses, and to encourage interdisciplinary cooperation and education concerning available energy efficiency strategies for employment in the state's construction industry.

Sec. 17. NEW SECTION. 266.39C THE IOWA ENERGY CENTER.

1. The Iowa energy center is established at Iowa state university of science and technology. The center shall strive to increase energy efficiency in all areas of Iowa energy use. The center shall serve as a model for state efforts to decrease dependence on imported fuels and to decrease reliance on energy production from nonrenewable, resource-depleting fuels. The center shall conduct and sponsor research on energy efficiency and conservation that will improve the environmental, social, and economic well-being of Iowans, minimize the environmental impact of existing energy production and consumption, and reduce the need to add new power plants.

The center shall assist Iowans in assessing technology related to energy efficiency and alternative energy production systems and shall support educational and demonstration programs that encourage implementation of energy efficiency and alternative energy production systems.

The center shall also conduct and sponsor research to develop alternative energy systems that are based upon renewable sources and that will reduce the negative environmental and economic impact of energy production systems.

2. An advisory council is established consisting of the following members:

a. One person from Iowa state university of science and technology, appointed by its president.

b. One person from the university of Iowa, appointed by its president.

c. One person from the university of northern Iowa, appointed by its president.

d. One representative of private colleges and universities within the state, to be nominated by the Iowa association of independent colleges and universities, and appointed by the Iowa coordinating council for post-high school education.

e. One representative of community colleges, appointed by the state board for community colleges.

f. One representative of the energy and geological resources division of the department of natural resources, appointed by the director.

g. One representative of the state department of transportation, appointed by the director.

h. One representative of the office of consumer advocate, appointed by the consumer advocate.

i. One representative of the utilities board, appointed by the utilities board.

j. One representative of the rural electric cooperatives, appointed by the governing body of the Iowa association of electric cooperatives.

k. One representative of municipal utilities, appointed by the governing body of the Iowa association of municipal utilities.

l. Two representatives from investor-owned utilities, one representing gas utilities, appointed by the Iowa utility association, and one representing electric utilities, appointed by the Iowa utility association.

The terms of the members shall begin and end as provided in section 69.19 and any vacancy shall be filled by the original appointing authority. The terms shall be for four years and shall be staggered as determined by the president of Iowa state university of science and technology.

3. Iowa state university of science and technology shall employ a director for the center, who shall be appointed by the president of Iowa state university of science and technology. The director of the center shall employ necessary research and support staff. The director and staff shall be employees of Iowa state university of science and technology. No more than five hundred thousand dollars of the funds made available by appropriation from state revenues in any one year shall be expended by the center for the salaries and benefits of the employees of the center, including the salary and benefits of the director. The remainder of the funds appropriated from state funds shall be used to sponsor research grants and projects submitted on a competitive basis by Iowa colleges and universities and private nonprofit agencies and foundations. The center may also solicit additional grants and funding from public and private nonprofit agencies and foundations.

The director shall prepare an annual report.

4. The advisory council shall provide the president of Iowa state university of science and technology with a list of three candidates from which the director shall be selected. The council shall provide an additional list of three candidates if requested by the president. The council shall advise the director in the development of a budget, on the policies and procedures of the center, in the funding of research grant proposals, and regarding program planning and review.

Sec. 18. Section 476.1, unnumbered paragraph 7, Code 1989, is amended to read as follows:

The jurisdiction of the board under this chapter shall include programs designed to promote the use of energy ~~conservation~~ efficiency strategies by rate or service-regulated gas and electric utilities. These programs shall be cost effective. The board may initiate these programs as pilot projects to accumulate sufficient data to determine if the programs meet the requirements of this paragraph.

Sec. 19. Section 476.1A, Code Supplement 1989, is amended to read as follows:

476.1A APPLICABILITY OF AUTHORITY — CERTAIN ELECTRIC UTILITIES.

Electric public utilities having ~~less~~ fewer than ten thousand customers and electric cooperative corporations and associations are not subject to the rate regulation authority of the board. Such utilities are subject to all other regulation and enforcement activities of the board, including:

1. Assessment of fees for the support of the division.
2. Safety and engineering standards for equipment, operations, and procedures.
3. Assigned area of service.
4. Pilot projects of the board.
5. Assessment of fees for the support of the Iowa energy center created in section 266.39C and the center for global warming established by the state board of regents.
6. Filing energy efficiency plans and energy efficiency results with the board. The board may permit these utilities to file joint plans.

The board may waive all or part of the energy efficiency filing and review requirements for electric cooperative corporations and associations and electric public utilities which demonstrate superior results with existing energy efficiency programs.

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.

Electric cooperative corporations and associations and electric public utilities exempt from rate regulation under this section shall not make or grant any unreasonable preferences or advantages as to rates or services to any person or subject any person to any unreasonable prejudice or disadvantage.

The board of directors or the membership of an electric cooperative corporation or association otherwise exempt from rate regulation may elect to have the cooperative's rates regulated by the board. The board shall adopt rules prescribing the manner in which the board of directors or the membership of an electric cooperative may so elect. If the board of directors or the membership of an electric cooperative has elected to have the cooperative's rates regulated by the board, after two years have elapsed from the effective date of such election the membership of the electric cooperative may elect to exempt the cooperative from the rate regulation authority of the board.

Sec. 20. Section 476.1B, Code Supplement 1989, is amended to read as follows:

476.1B APPLICABILITY OF AUTHORITY — MUNICIPALLY OWNED UTILITIES.

1. Unless otherwise specifically provided by statute, a municipally owned utility is not subject to regulation by the board under this chapter, except for regulatory action pertaining to:

a. Assessment of fees for the support of the division and the office of consumer advocate, as set forth in section 476.10.

b. Safety standards.

c. Assigned areas of service, as set forth in sections 476.22 through 476.26.

d. Enforcement of civil penalties pursuant to section 476.51.

e. Disconnection of service, as set forth in section 476.20.

f. Discrimination against users of renewable energy resources, as set forth in section 476.21.

g. Encouragement of alternate energy production facilities, as set forth in sections 476.41 through 476.45.

h. Enforcement of section 476.56.

i. Enforcement of section 476.66.

j. Enforcement of section 476.62.

~~2. Municipally owned utilities shall be required to adhere to the requirements of the following sections of the Code but all rules and regulations to enforce these sections shall lie with each local municipal utility's governing board. The board has no authority concerning these sections as they apply to municipal utilities:~~

~~a. Peak-load management techniques, as set forth in section 476.17.~~

~~b. Promulgation of rules concerning the use of energy conservation strategies, as set forth in section 476.2.~~

k. Assessment of fees for the support of the Iowa energy center created in section 266.39C and the global warming center created by the state board of regents.

l. Filing energy efficiency plans and energy efficiency results with the board. The board may permit these utilities to file joint plans.

2. The board may waive all or part of the energy efficiency filing and review requirements for municipally owned utilities which demonstrate superior results with existing energy efficiency programs.

Sec. 21. Section 476.1C, subsection 1, Code 1989, is amended to read as follows:

1. Gas public utilities having ~~less~~ fewer than two thousand customers are not subject to the regulation authority of the utilities board under this chapter unless otherwise specifically provided. Sections 476.10, 476.20, 476.21, and 476.51 apply to such gas utilities.

Gas public utilities having fewer than two thousand customers shall be subject to the assessment of fees for the support of the Iowa energy center created in section 266.39C and the global warming center created by the state board of regents and shall file energy efficiency plans and energy efficiency results with the board. The board may waive all or part of the energy efficiency filing requirements if the gas utility demonstrates superior results with existing energy efficiency programs.

Gas public utilities having ~~less~~ fewer than two thousand customers shall keep books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the board. The board may inspect the accounts of the utility at any time.

A gas public utility having ~~less~~ fewer than two thousand customers may make effective a new or changed rate, charge, schedule, or regulation after giving written notice of the proposed new or changed rate, charge, schedule, or regulation to all affected customers served by the public utility. The notice shall inform the customers of their right to petition for a review of the proposal to the utilities board within sixty days after notice is served if the petition contains the signatures of at least one hundred of the gas utility's customers. The notice shall state the address of the utilities board. The new or changed rate, charge, schedule, or regulation takes effect sixty days after such valid notice is served unless a petition for review of the new or changed rate, charge, schedule, or regulation signed by at least one hundred of the gas utility's customers is filed with the board prior to the expiration of the sixty-day period.

If such a valid petition is filed with the board within the sixty-day period, any new or changed rate, charge, schedule, or regulation shall take effect, under bond or corporate undertaking, subject to refund of all amounts collected in excess of those amounts which would have been collected under the rates or charges finally approved by the board. The board shall within five months of the date of filing make a determination of just and reasonable rates based on a review of the proposal, applying established regulatory principles. The board may call upon the gas public utility and its customers to furnish factual evidence in support of or opposition to the new or changed rate, charge, schedule, or regulation. If the gas public utility disputes the finding, the utility may within twenty days file for further review, and the board shall docket the case as a formal proceeding under section 476.6, subsection 7, and set the case for hearing. The gas public utility shall submit factual evidence and written argument in support of the filing.

A gas public utility having ~~less~~ fewer than two thousand customers shall not make effective a new or changed rate, charge, schedule, or regulation which relates to services for which a rate change is pending within twelve months following the date the petition to review the prior proposed rate, charge, schedule, or regulation was filed with the board or until the board has made its determination of just and reasonable rates, whichever date is earlier, unless the utility applies to the board for authority and receives authority to make a subsequent rate change at an earlier date.

Gas public utilities having ~~less~~ fewer than two thousand customers shall not make or grant any unreasonable preferences or advantages as to rates or services to any person or subject any person to any unreasonable prejudice or disadvantage. Rates charged by a gas public utility having less than two thousand customers for transportation of customer-owned gas shall not exceed the actual cost of such transportation services including a fair rate of return.

Sec. 22. Section 476.2, Code 1989, is amended to read as follows:

476.2 POWERS — RULES.

1. The board shall have broad general powers to effect the purposes of this chapter notwithstanding the fact that certain specific powers are hereinafter set forth. The board shall have authority to issue subpoenas and to pay the same fees and mileage as are payable to witnesses in the courts of record of general jurisdiction and shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, contents and filing of reports, documents and other papers provided for in this chapter or in the board's rules. In the establishment, amendment, alteration or repeal of any of such rules, the board shall be subject to the provisions of chapter 17A.

2. The board shall employ at rates of compensation consistent with current standards in industry such professionally trained engineers, accountants, attorneys, and skilled examiners and inspectors, secretaries, clerks, and other employees as it may find necessary for the full and efficient discharge of its duties and responsibilities as required by this chapter.

3. The board is hereby authorized and empowered to intervene in any proceedings before the federal power commission or any other federal or state regulatory body when it finds that any decision of such tribunal would adversely affect the costs of any public utility service within the state of Iowa.

4. The board shall have authority to inquire into the management of the business of all public utilities, and shall keep itself informed as to the manner and method in which the same is conducted, and may obtain from any public utility all necessary information to enable the board to perform its duties.

~~The board shall promulgate rules concerning the use of energy conservation strategies by rate or service-regulated gas and electric utilities by July 1, 1981. The board may prescribe appropriate rates for any approved energy conservation program. Nothing in this paragraph subjects the rates of municipal utilities to the regulatory authority of the board.~~

5. The board shall provide to the governor and the general assembly on or before December 1, 1992, a report on the level of intended energy efficiency activity of nonrate-regulated utilities based on the energy efficiency plans previously filed by the nonrate-regulated utilities. The report shall include any recommendations of the board for legislative action.

6. The board shall provide to the governor and general assembly on or before December 1, 1994, a report on the results of implementation of the energy efficiency plans filed with the board by nonrate-regulated utilities. The report shall include any recommendations of the board for legislative action.

7. The board shall notice rules concerning the filing requirements for energy efficiency plans by rate-regulated gas and electric utilities on or before October 1, 1990. Rate-regulated gas and electric utilities shall be required to file initial plans no later than four months after the effective date of the rules required by this subsection. The board shall also adopt rules concerning the filing requirements for energy efficiency plans by all other utilities.

Sec. 23. Section 476.6, subsection 15, unnumbered paragraph 3, Code Supplement 1989, is amended by striking the paragraph.

Sec. 24. Section 476.6, subsection 15, unnumbered paragraphs 5 and 6, Code Supplement 1989, are amended by striking the paragraphs.

Sec. 25. Section 476.6, subsection 16, unnumbered paragraph 2, Code Supplement 1989, is amended by striking the paragraph.

Sec. 26. Section 476.6, subsection 17, Code Supplement 1989, is amended to read as follows:

17. COMPREHENSIVE ENERGY MANAGEMENT REQUIRED FOR ELECTRIC UTILITIES. An electric utility shall not have an increased revenue requirement finally approved under this section in any application for increased rates filed on or after January 1, 1992, 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.

Sec. 27. Section 476.6, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 19. ENERGY EFFICIENCY IMPLEMENTATION, COST REVIEW, AND COST RECOVERY.

a. The board shall conduct contested case proceedings for review of energy efficiency plans and budgets filed by rate-regulated gas or electric utilities. The board may approve, reject, or modify the plans and budgets. Notwithstanding the provisions of section 17A.19, subsection 5, in an application for judicial review of the board's decision concerning a utility's energy efficiency plan or budget, the reviewing court shall not order a stay. Whenever a request to modify an approved plan or budget is filed subsequently by the office of consumer advocate or a rate-regulated gas or electric public utility, the board shall promptly initiate a formal proceeding if the board determines that any reasonable ground exists for investigating the request. The formal proceeding may be initiated at any time by the board on its own

motion. Implementation of board approved plans or budgets shall be considered continuous in nature and shall be subject to investigation at any time by the board or the office of the consumer advocate.

b. An energy efficiency plan and budget shall be designed to expend annually, at a minimum, the following designated percentage of the gas and electric rate-regulated utility's gross operating revenues during the previous calendar year derived from intrastate public utility operations:

(1) For electric rate-regulated utilities, two percent.

(2) For gas rate-regulated utilities, one and one-half percent.

A rate-regulated electric utility or rate-regulated gas utility shall have the designated expenditure requirement included in its energy efficiency plan and budget on or before January 1, 1992. The board may waive the spending requirement for an individual utility if the board determines after the contested case proceeding in section 476.6, subsection 19, paragraph "a", that the expenditure level of the energy efficiency programs included in the utility's approved energy efficiency plan is less than the spending requirement.

Energy efficiency expenditures incurred on or after July 1, 1990, may be included in a utility's initial energy efficiency plan and budget submitted pursuant to paragraph "a".

c. A rate-regulated utility shall submit for consideration in its energy efficiency plan, at a minimum, the following programs, where relevant to the utility's services:

(1) A hot water heater insulation blanket distribution program.

(2) A commercial lighting program.

(3) A rebate, coupon, or other program for purchases of goods, including but not limited to light bulbs, which contribute to energy efficiency.

(4) A tree planting program to moderate the physical environment and to consume atmospheric carbon dioxide resulting from burning fossil fuels within the state for energy; provided, however, that the tree planting program is not required to itself be energy efficient or cost effective.

(5) A cooperative program with any community action agency within the utility's service area to implement countywide or communitywide energy efficiency programs for qualified low-income persons.

Each of these programs, except the tree planting program contained in subparagraph (4), shall be approved as part of the utility's plan only if the board determines the program to be cost effective for that utility.

d. The board may periodically conduct a contested case proceeding to evaluate the reasonableness and prudence of a gas or electric rate-regulated public utility's implementation of the utility's approved energy efficiency plan and budget and provide for the recovery of expenditures and related costs of the provision of energy efficiency projects. Notice to customers shall be in a manner prescribed by the board; provided, however, that the board shall not allow energy efficiency to be represented in customer billings as a separate cost or expense. The board shall consider the cost effectiveness of the projects and shall allow the utility to recover the reasonable expenditures and related costs of the projects determined to be cost effective. A utility shall also recover the reasonable expenditures and related costs of an energy efficiency project which is not cost-effective if the board determines the utility was prudent and reasonable in the planning and implementation of the energy efficiency project. The board may treat the expenditures and related costs incurred by a utility pursuant to the utility's approved energy efficiency plan and budget as capital items for ratemaking purposes. Recovery pursuant to this paragraph shall not be allowed until eighteen months after the board's final order in the initial contested case to review a utility's proposed energy efficiency plan and budget pursuant to paragraph "a".

e. In addition to the expenditures and related costs collected pursuant to section 476.6, subsection 19, paragraph "d", if the board determines sufficient justification exists for assessing a reward or penalty on the utility for its performance regarding energy efficiency, the board may allow the utility to collect an amount as a reward or may require an amount to be deducted

from the recovery of expenditures and related costs as a penalty. The rewards and penalties of this paragraph shall be in addition to the provisions of section 476.52.

f. The legislative council shall consider the appointment of a legislative interim study committee in 1996 to review the success or failure of the substantive and procedural provisions for energy efficiency cost recovery contained in this section. The interim study committee, if appointed, shall make recommendations to the general assembly on any required changes due to the experience gained from the previous two biennial energy efficiency plan and budget cycles.

NEW SUBSECTION. 20. FILING OF FORECASTS.

The board shall periodically require each rate-regulated gas or electric public utility to file a forecast of future gas requirements or electric generating needs and the board shall evaluate the forecast. The forecast shall include, but is not limited to, a forecast of the requirements of its customers, its anticipated sources of supply, and its anticipated means of addressing the forecasted gas requirements or electric generating needs.

NEW SUBSECTION. 21. ENERGY EFFICIENCY PROGRAM FINANCING.

The board may require each rate-regulated gas or electric public utility to offer qualified customers the opportunity to enter into an agreement for the amount of moneys reasonably necessary to finance cost-effective energy efficiency improvements to the qualified customers' residential dwellings or businesses.

Sec. 28. Section 476.8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Every public utility is required to furnish reasonably adequate service and facilities. "Reasonably adequate service and facilities" for public utilities furnishing gas or electricity includes programs for customers to encourage the use of energy ~~conservation~~ efficiency and renewable energy sources. The charge made by any public utility for any heat, light, gas, energy ~~conservation~~ efficiency and renewable energy programs, water or power produced, transmitted, delivered or furnished, or communications services, or for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful. In determining reasonable and just rates, the board shall consider all factors relating to value and shall not be bound by rate base decisions or rulings made prior to the adoption of this chapter.

Sec. 29. Section 476.10, unnumbered paragraph 4, Code Supplement 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. 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. The board and the office of consumer advocate may add additional personnel or contract for additional assistance to review and evaluate energy efficiency plans and the implementation of energy efficiency programs including, but not limited to, professionally trained engineers, accountants, attorneys, skilled examiners and inspectors, and secretaries and clerks. The board and the office of the consumer advocate may expend additional sums beyond those sums appropriated. However, the authority to add additional personnel or contract for additional assistance must first be approved by the department of management. The additional sums shall be provided to the board and the office of the consumer advocate by the utilities subject to the energy efficiency requirements in this chapter. The assessments shall be in addition to and separate from the quarterly assessment.

Sec. 30. NEW SECTION. 476.10A FUNDING FOR IOWA ENERGY CENTER AND GLOBAL WARMING CENTER.

The board shall direct all gas and electric utilities to remit to the treasurer of state one-tenth of one percent of the total gross operating revenues during the last calendar year derived from their intrastate public utility operations. The board shall by rule provide a schedule for remittances which shall require that the first remittance be made not before July 1, 1991. The amounts collected pursuant to this section shall be in addition to the amounts permitted to be assessed pursuant to section 476.10. The board shall allow inclusion of these amounts in the budgets approved by the board pursuant to section 476.6, subsection 19, paragraph "a". Eighty-five percent of the remittances collected pursuant to this section is appropriated to the Iowa energy center created in section 266.39C. Fifteen percent of the remittances collected pursuant to this section is appropriated to the center for global warming established by the state board of regents.

Sec. 31. Section 476.42, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A facility which is a qualifying facility under 18 C.F.R. part 292, subpart B is not precluded from being an alternate energy production facility under this division.

Sec. 32. Section 476.42, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Next generating plant" means an electric utility's assumed next coal-fired base load electric generating plant, whether planned or not, based on current technology and undiscounted current cost.

Sec. 33. Section 476.42, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A facility which is a qualifying facility under 18 C.F.R. part 292, subpart B is not precluded from being a small hydro facility under this division.

Sec. 34. Section 476.43, subsection 3, unnumbered paragraph 1, Code 1989, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The board may adopt individual utility or uniform statewide facility rates. The board shall consider the following factors in setting individual or uniform rates:

Sec. 35. Section 476.43, subsection 3, Code 1989, is amended by adding the following new paragraphs:

NEW PARAGRAPH. e. External factors, including but not limited to, environmental and economic factors.

NEW PARAGRAPH. f. Other relevant factors.

NEW PARAGRAPH. g. If the board adopts uniform statewide rates, the board shall use representative data in lieu of utility specific information in applying the factors listed in paragraphs "a" through "f".

Sec. 36. Section 476.43, subsection 4, Code 1989, is amended by striking the subsection.

Sec. 37. Section 476.43, subsection 5, Code 1989, is amended to read as follows:

5. In the case of a utility that purchases all or substantially all of its electricity requirements, the rates established under this section must be ~~equal to the current cost to the electric utility of similar types and quantities of electrical service~~ based on the electric utility's current purchased power costs.

Sec. 38. Section 476.44, Code 1989, is amended to read as follows:

476.44 EXCEPTIONS.

1. The board shall not require an electric utility to purchase or wheel electricity from an alternate energy production facility or small hydro facility unless the facility ~~meets all of the following conditions~~ is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that meets both of the following:

~~a. Has an electric generating capacity of not more than eighty megawatts.~~

~~b. Is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that:~~

~~(1)~~ a. Is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities or small hydro facilities.

~~(2)~~ b. Does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

2. ~~The board shall not require an~~ An electric utility shall not be required to purchase ~~or wheel electricity from a small hydro facility unless the facility has an electric generating capacity of not,~~ at any one time, more than ~~eighty~~ fifteen megawatts of power from alternate energy production facilities.

Sec. 39. Section 476.63, Code Supplement 1989, is amended to read as follows:

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. 40. Section 476.65, subsection 1, paragraph b, Code 1989, is amended to read as follows:

b. That the results of the audit are available to any person engaged in the business of making or providing energy ~~conservation~~ efficiency improvements or services who requests the information whether the request is made for the customer individually or the request is made for the customer as a class.

Sec. 41. Section 476A.1, subsection 1, Code 1989, is amended to read as follows:

1. "Facility" means any electric power generating plant or a combination of plants at a single site, owned by any person, with a total capacity of ~~one hundred~~ twenty-five megawatts of electricity or more and those associated transmission lines connecting the generating plant to either a power transmission system or an interconnected primary transmission system or both. Transmission lines subject to the provisions of this chapter shall not require a franchise under chapter 478.

Sec. 42. Section 476A.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. This chapter shall not apply to an electric power generating plant, or combination of plants at a single site, with a total capacity of more than twenty-five but less than one hundred megawatts of electricity if the owner or operator prior to January 1, 1990, has met all of the following conditions:

a. Acquired a site for the facility.

b. Publicly announced the intention to construct a facility at that site.

c. Let contracts for major components of the facility.

Sec. 43. Section 476A.6, subsection 4, paragraph c, Code 1989, is amended to read as follows:

c. Establishment of cost-effective energy ~~conservation~~ efficiency and renewable energy services and programs.

Sec. 44. Section 476A.6, subsection 4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The applicant, if a public utility as defined in section 476.1, has in effect a comprehensive energy management program designed to reduce peak loads and to increase efficiency of use of energy by all classes of customers of the utility, and the facility in the application is necessary notwithstanding the existence of the comprehensive energy management program. As used in this subsection, a "comprehensive energy management program" includes at a minimum the following:

Sec. 45. Section 476A.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. The applicant, if a public utility as defined in section 476.1, shall demonstrate to the board that the utility has considered sources for long-term electric supply from either purchase of electricity or investment in facilities owned by other persons.

Sec. 46. Section 476A.6, subsection 5, Code 1989, is amended to read as follows:

5. The applicant, if a public utility as defined in section 476.1, has considered all feasible alternatives to the proposed facility including nongeneration alternatives; has ranked those alternatives by cost; has implemented the least-cost alternatives first; and the facility in the application is necessary notwithstanding the implementation of these alternatives.

Sec. 47. Section 476A.15, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

476A.15 WAIVER.

The board, if it determines that the public interest would not be adversely affected, may waive any of the requirements of this chapter for facilities with a capacity of one hundred or fewer megawatts.

Sec. 48.

The department of natural resources shall make recommendations to the general assembly on or before January 1, 1991, on whether Iowa should adopt appliance standards and the extent to which such state appliance standards are not preempted by federal law. As used in this section "appliance" includes, but is not limited to, air conditioners, space heaters, commercial lighting, cooling, and cooking devices, and refrigerators.

Sec. 49.

1. The state department of transportation, in consultation with units of local government, including representatives of cities of 200,000 or more population, cities of 50,000 or more but less than 200,000 population, and cities under 50,000 population, shall conduct, conditioned upon the availability of funds, a comprehensive study of the relationship between transportation planning, systems development, and management to urban and rural development, land use planning, and energy demand. The purpose of the study shall be to identify opportunities to improve the long-term energy efficiency of transportation, as well as to improve traffic safety and service. The results of the study shall be reported to the general assembly and shall contain recommended policies and legislation.

The department may use any appropriation or other funds available to it for the purpose of this study, may contract with one or more universities located within the state for assistance with the study, and may contract with consultants for assistance with the study as necessary. An interim report shall be made to the general assembly by January 31, 1991.

2. The study shall include where appropriate:

a. An energy demand and planning survey to determine the amounts of energy which is consumed for transportation related purposes.

b. An analysis of regional commuting patterns.

c. Development of alternatives to commuting by single occupant motor vehicles, including:

(1) A feasibility study for implementing light rail passenger service as an alternative to highway construction or expansion, including specifically providing commuter service on existing rail lines in the Cedar Rapids-Iowa City area and the Des Moines-Ames area.

(2) A feasibility study for implementing high occupancy vehicle (HOV) lanes during rush hours on urban controlled access freeways or interstate highways within metropolitan areas.

d. An evaluation of the need to conduct a trial program, for a six-month period at minimum, of a ramp metering system on at least one metropolitan interchange of the interstate highway system.

e. The preparation of model legislation or rules to encourage the creation and use of vanpools or carpools for commuters. Proposed legislation or rules may include, but are not limited to, an interest-free loan program for vanpools and other incentives for the formulation and operation of vanpools or carpools.

f. The preparation of a feasibility study of using bike and pedestrian ways for movement of people from residential areas to work centers as an alternative to motor vehicles.

g. An analysis of the costs of each possible solution which shall include environmental, health, and other costs or benefits which are not otherwise accounted for.

Sec. 50.

The state department of transportation shall, conditioned upon the availability of funds, compile an inventory of traffic signals and their use in the state. The inventory shall be detailed enough to allow consideration of the appropriateness of the signals and their operation following the most current policies both as identified by the institute of transportation engineers and identified in the manual on uniform traffic control devices for streets and highways by the federal highway administration. The assessment shall consider what improvements, if any, should be made to signals to improve energy efficiency, safety, and traffic service, and shall consider what signals, if any, should be eliminated. The department may identify and add other classes of or uses of traffic control devices to the inventory, and review the impact on energy usage, safety, and traffic service of specified classes of traffic control devices. The department shall recommend as part of the comprehensive report any changes needed in state statutes or policy to provide for the improved management, control, and use of all traffic devices. The inventory with a summary report shall be submitted to the general assembly on or before January 31, 1992.

Sec. 51.

1. The state department of transportation, in consultation with the department of management and other appropriate public agencies, shall recommend projects including but not limited to projects to encourage additional public employees to carpool, vanpool, or use public transportation.

2. Funds repaid from state transit assistance loans pursuant to section 307.38 may be used as necessary to provide the incentives for the projects.

3. The state department of transportation, in consultation with the department of management, shall report the recommendations to the general assembly on or before January 1, 1991.

4. The report shall include the cost of providing parking spaces at representative locations owned or operated by state government, including the capitol complex.

5. The report shall recommend specific sources of funding for incentives and other related expenses for promotion and administration.

Sec. 52.

The department of management, in consultation with the department of natural resources, division of energy and geological resources, shall conduct an interest survey of state employees' interest in and willingness to use telecommuting. The survey shall especially target state employees whose primary duties and services are typically performed by phone or upon a computer, and who currently have access to a computer or other telecommunication equipment at work, but need not be limited to such employees. The results of the survey shall be presented to the general assembly on or before January 15, 1991.

Sec. 53.

The department of natural resources shall make recommendations to reduce fuel costs and other expenses incurred by local school districts in both urban and rural areas to transport students. The recommendations may include methods or criteria for the bus scheduling and other strategies deemed economically feasible by the department.

Sec. 54.

The state board of education shall require driver education courses offered by schools under the board's jurisdiction to include instruction in the following additional subject areas:

1. Routine maintenance of motor vehicles to maximize energy efficiency and safety.
2. Operation of motor vehicles to maximize energy efficiency and safety.

Sec. 55.

The department of natural resources, subject to the availability of funds, shall contract with a qualified person or persons to offer a free car care clinic at* least fourteen sites geographically distributed throughout the state. Each such clinic shall inspect vehicles of attendees and instruct owners and operators of motor vehicles in the maintenance of motor vehicles to maximize energy efficiency. Vehicle inspections conducted at the clinic may include minor adjustments, including, but not limited to, adjusting belt tensions or inflating tires. The department shall cooperate with appropriate vocational educational programs to utilize students skilled in the field to the extent possible. The administrator shall coordinate with local officials and vocational educational programs for each site the scheduling and promotion of the clinic.

Sec. 56.

The department of natural resources shall develop a proposal to phase in on a statewide basis, or on a multistate basis, automotive tailpipe emission standards as established by the state of California as of January 1, 1990. The department shall submit the proposal to the general assembly on or before January 15, 1991.

Approved May 8, 1990

CHAPTER 1253

HIGHER EDUCATION COORDINATION, ADMINISTRATION, STANDARDS, AND FUNDING

S.F. 2410

AN ACT relating to higher education, including coordination, administration, standards, and funding, making appropriations, and providing effective dates.

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

Section 1. Section 18.29, Code 1989, is amended to read as follows:

18.29 PRINTING FOR STATE INSTITUTIONS.

The power of the director to let contracts shall not embrace printing for any state penal, correctional or board of regents institution, or ~~area vocational schools,~~ ~~area~~ community colleges, or school corporations under the jurisdiction of the department of education when the institution is able and desires to do its own printing.

Sec. 2. Section 149.4, Code 1989, is amended to read as follows:

149.4 APPROVED SCHOOL.

~~No~~ A school of podiatry shall not be approved by the board of podiatry examiners as a school of recognized standing unless ~~said~~ the school:

*An additional "at" probably intended

1. Requires for graduation or the receipt of any podiatric degree the completion of a course of study covering a period of at least eight months in each of four calendar years.

2. After January 1, 1962, ~~no~~ a school of podiatry shall not be approved by the board of podiatry examiners which does not have as an additional entrance requirement two years study in a recognized college, ~~junior college,~~ university, or academy.

Sec. 3. Section 156.3, Code 1989, is amended to read as follows:

156.3 ELIGIBILITY REQUIREMENTS.

To be eligible to take the examination for a funeral director's license, a person must have completed two academic years of instruction in a recognized college~~, junior college~~ or university in a course of study approved by the board or have equivalent education as defined by the board and have satisfactorily completed a course of instruction in mortuary science in an accredited school approved by the board.

Sec. 4. Section 256.3, Code 1989, is amended to read as follows:

256.3 STATE BOARD ESTABLISHED.

The state board of education is established for the department. The state board consists of nine members appointed by the governor subject to senate confirmation. The members shall be qualified electors of the state and hold no other elective or appointive state office. A member shall not be engaged in professional education for a major portion of the member's time nor shall the member derive a major portion of income from any business or activity connected with education. ~~One member shall have substantial knowledge related to vocational and technical training, and one member shall have substantial knowledge related to area community colleges.~~ Not more than five members shall be of the same political party.

The terms of office are for six years beginning and ending as provided in section 69.19.

Three of the state board members shall have substantial knowledge related to the community college system. The remaining six members shall be members of the general public.

Sec. 5. Section 256.7, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 17. Adopt by January 15, 1991, rules which set criteria for the establishment and approval of quality instructional centers at the community colleges under section 280A.45. Rules adopted shall contain criteria for the identification of a quality instructional center, for the enhancement of other programs in order to upgrade other programs to quality instructional center status, and for the review of program offerings for purposes of retention of quality instructional center status.

NEW SUBSECTION. 18. Adopt by January 15, 1991, rules which establish guidelines for the approval of program sharing and administrative sharing agreements entered into by two or more community colleges or by a community college and a higher education institution under the control of the board of regents under section 280A.46.

NEW SUBSECTION. 19. By January 1, 1991, develop a brochure, to be distributed by school districts to students in grades nine through eleven, which explains the postsecondary options law contained in chapter 261C.

NEW SUBSECTION. 20. Adopt, by July 1, 1992, rules and a procedure for accrediting all community college programs in Iowa. Rules adopted shall satisfy the requirements for implementing the educational and service program contained in section 280A.48.

NEW SUBSECTION. 21. Adopt rules and a procedure for accrediting all apprenticeship programs in the state which receive state or federal funding. In developing the rules, the state board shall consult with schools and labor or trade organizations affected by or currently operating apprenticeship or training programs. Rules adopted shall be the same or similar to criteria established for the operation of apprenticeship programs at community colleges.

Sec. 6. Section 256.9, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 39. Develop by September 1, 1990, an application and review process for the identification of quality instructional centers at the community colleges. The process developed shall include but is not limited to the development of criteria for the identification of a quality instructional center as well as for the enhancement of other program offerings in order to upgrade programs to quality instructional center status. Criteria established shall be designed to increase student access to programs, establish high quality occupational and vocational education programs, and to enhance interinstitutional cooperation in program offerings.

NEW SUBSECTION. 40. Explore, in conjunction with the state board of regents, the need for coordination between school districts, area education agencies, regents' institutions, and community colleges for purposes of delivery of courses, use of telecommunications, transportation, and other similar issues. Coordination may include, but is not limited to, coordination of calendars, programs, schedules, or telecommunications emissions. The department shall develop recommendations which shall be submitted in a report to the general assembly by February 15, 1991.

NEW SUBSECTION. 41. Develop by September 1, 1990, an application and review process for approval of administrative and program sharing agreements between two or more community colleges or a community college and an institution of higher education under the board of regents entered into pursuant to section 280.46.

Sec. 7. NEW SECTION. 256.30B COMMUNITY COLLEGE COUNCIL.

A community college council is established to assist the state board of education with substantial issues which are directly related to the community college system. The state board shall refer all substantial issues directly related to the community college system to the council. The council shall formulate recommendations on each issue referred to it by the state board and shall submit the recommendations to the state board within any specified time periods.

The council shall consist of four voting members and two ex officio nonvoting members. The four voting members of the council shall be members of the state board and shall include the three members of the state board who have knowledge of issues and concerns affecting the community college system and a fourth member of the state board designated annually by the state board president. Of the two ex officio nonvoting members, one shall be a community college president appointed by an association which represents the largest number of community college presidents in the state and the other shall be a community college trustee appointed by an association which represents the largest number of community college trustees in the state. The ex officio nonvoting members shall serve staggered three-year terms beginning on May 1, of the year of appointment.

Sec. 8. Section 258.3A, subsection 3, Code Supplement 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~~ community colleges with vocational ~~schools and~~ programs; and practitioner preparation schools, departments, and classes, applying for federal and state moneys under this chapter.

Sec. 9. Section 258.4, subsections 7 and 9, Code Supplement 1989, are amended to read as follow:

7. Annually inspect, as a basis of approval, all schools, departments, and classes, area vocational-technical high schools and programs, ~~area~~ community colleges with vocational ~~schools and~~ programs and all practitioner preparation schools, departments, and classes, applying for federal and state moneys under this chapter.

9. Establish a regional planning process to be implemented by regional planning boards, which utilizes the services of local school districts, ~~merged area schools~~ community colleges, and other resources to assist local school districts in meeting vocational education standards while avoiding unnecessary duplication of services.

Sec. 10. NEW SECTION. 260B.1 HIGHER EDUCATION STRATEGIC PLANNING COUNCIL ESTABLISHED.

The higher education strategic planning council is established to develop strategic plans for the advancement of higher education institutions in the state.

The higher education council is an independent public body to be located in the offices of the college aid commission, which consists of six voting members and three ex officio members, who are to be selected in the following manner. Two voting members shall be selected from each of the following three education sectors:

1. State board for community colleges.
2. State board of regents.
3. An association which represents the largest number of independent colleges and universities.

Members selected from the association of independent colleges and universities shall also be members of a governing board of a college or university.

The director of the department of education, or the director's designee, the executive director of the state board of regents, or the executive director's designee, and the president of the association which represents the largest number of independent colleges and universities, or the president's designee, shall be ex officio members of the council and shall assist the council in carrying out its duties. All voting members shall serve staggered two-year terms in the manner provided in chapter 69.

The council shall elect a chairperson on a rotating basis from the portion of its membership which is composed of representatives of the three education sectors. The chairperson shall serve for one year and until a successor is elected and qualified. Members shall receive reimbursement for actual expenses and may receive per diem compensation as provided in section 7E.6.

Sec. 11. NEW SECTION. 260B.2 DUTIES OF COUNCIL.

The council shall be responsible for developing strategic plans which address issues relating to higher education, education intersectoral missions, and the future direction of postsecondary education in Iowa.

The council shall submit annual reports regarding its responsibilities and activities to the governor and general assembly. Reports shall include information relating to the development of the strategic plans.

Sec. 12. NEW SECTION. 260B.3 COUNCIL PLAN DEVELOPMENT.

The council may contract with consultants for assistance in developing strategic plans.

Sec. 13. NEW SECTION. 261.52 GRADUATE STUDENT FINANCIAL ASSISTANCE PROGRAM.

It is the intent of the general assembly to encourage graduate student assistance which reduces or eliminates the tax liability on institutional assistance moneys for financial aid recipients and to assist in assuring that current and future needs for teaching faculty in Iowa are met. A graduate student financial assistance program is therefore established to provide financial assistance for Iowa resident students pursuing postgraduate programs that will qualify them to pursue careers in higher education in areas where there is or may be a shortage of teaching faculty.

The graduate student financial assistance program shall be administered by the commission. Moneys appropriated to the commission for the program shall be distributed to institutions in amounts which reflect the proportions that the number of Iowa resident graduate students enrolled at an institution bear to the total number of Iowa resident graduate students enrolled at all participating institutions. Institutions shall use the funds to provide financial assistance to qualifying Iowa resident graduate students.

Sec. 14. Section 261.101, Code Supplement 1989, is amended to read as follows:

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, community colleges, and accredited private institutions in order to encourage resident minority students to remain in Iowa, to attend community colleges, private 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. 15. Section 261.102, subsections 4 and 6, Code Supplement 1989, are amended to read as follows:

4. "Full-time student" means an individual who is enrolled at an accredited private institution, community college, or board of regents' university for at least twelve semester hours or the trimester or quarter equivalent.

6. "Part-time student" means an individual who is enrolled at an accredited private institution, community college, 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.

Sec. 16. Section 261.103, subsection 1, Code Supplement 1989, 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, community college, 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.~~ 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. 17. Section 261.104, unnumbered paragraph 1, subsections 1 and 3, Code Supplement 1989, are amended to read as follows:

In administering the program for the community colleges and the private ~~institution~~ institutions, the commission shall:

1. Provide application forms to students enrolled and attending or seeking to enroll and attend community colleges or accredited private institutions.

3. Approve and award grants to community colleges and accredited private institutions under the program.

Sec. 18. Section 261C.2, Code 1989, is amended to read as follows:

261C.2 POLICY.

It is the policy of this state to promote rigorous academic or vocational-technical pursuits and to provide a wider variety of options to high school pupils by enabling eleventh and twelfth grade pupils to enroll part time in nonsectarian courses in eligible postsecondary institutions of higher learning in this state.

Sec. 19. Section 261C.3, Code 1989, is amended to read as follows:

261C.3 DEFINITIONS.

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

1. "Eligible postsecondary institution" means an institution of higher learning under the control of the state board of regents, ~~an area school~~ a community college established under chapter 280A, or an accredited private institution as defined in section 261.9, subsection 5.

2. "Eligible pupil" means a pupil classified by the board of directors of a school district or the authorities in charge of an accredited nonpublic school as an eleventh or twelfth grade pupil during the period the pupil is participating in the enrollment option provided under this chapter. A pupil attending an accredited nonpublic school shall be counted as a shared-time student in the pupil's school district of residence for state foundation aid purposes.

Sec. 20. Section 261C.4, Code 1989, is amended to read as follows:

261C.4 AUTHORIZATION.

An eligible pupil may make application to an eligible institution to allow the eligible pupil to enroll for academic or vocational-technical credit in a nonsectarian course offered at that eligible institution. A comparable course must not be offered by the school district or accredited nonpublic school in which the pupil is enrolled. If an eligible institution accepts an eligible pupil for enrollment under this section, the institution shall send written notice to the pupil, the pupil's school district or accredited nonpublic school, and the department of education. The notice shall list the course, the clock hours the pupil will be attending the course, and the number of hours of postsecondary academic or vocational-technical credit that the eligible pupil will receive from the eligible institution upon successful completion of the course.

Sec. 21. Section 261C.5, Code 1989, is amended to read as follows:

261C.5 HIGH SCHOOL CREDITS.

A school district or accredited nonpublic school may grant high school academic or vocational-technical credit to an eligible pupil enrolled in a course under this chapter if the eligible pupil successfully completes the course as determined by the eligible institution. The board of directors of the school district or authorities in charge of an accredited nonpublic school shall determine the number of high school credits that shall be granted to an eligible pupil who successfully completes a course.

The high school credits granted to an eligible pupil under this section shall count toward the graduation requirements and subject area requirements of the school district of residence or accredited nonpublic school of the eligible pupil. Evidence of successful completion of each course and high school credits and postsecondary academic or vocational-technical credits received shall be included in the pupil's high school transcript.

Sec. 22. Section 261C.6, subsection 2, Code 1989, is amended to read as follows:

2. Two hundred fifty dollars.

Sec. 23. Section 261C.9, Code 1989, is amended to read as follows:

261C.9 PUPIL ENROLLMENT.

Payments shall not be made under section 261C.6 if the eligible pupil is enrolled on a full-time basis in the pupil's school district of residence or in an accredited nonpublic school as well as enrolling in a course or program in an eligible postsecondary institution.

Sec. 24. Section 262.9, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 23. Develop a policy and adopt rules relating to the establishment of tuition rates which provide a predictable basis for assessing and anticipating changes in tuition rates.

NEW SUBSECTION. 24. By July 1, 1991, develop a policy which requires oral communication competence of persons who provide instruction to students attending institutions under the control of the board. The policy shall include a student evaluation mechanism which requires student evaluation of persons providing instruction at the end of each academic period.

NEW SUBSECTION. 25. By July 1, 1991, develop a policy relating to the teaching proficiency of teaching assistants which provides a teaching proficiency standard, instructional assistance to, and evaluation of persons who provide instruction to students at the higher education institutions under the control of the board.

NEW SUBSECTION. 26. Explore, in conjunction with the department of education, the need for coordination between school districts, area education agencies, state board of regents' institutions, and community colleges for purposes of delivery of courses, use of telecommunications, transportation, and other similar issues. Coordination may include, but is not limited to, coordination of calendars, programs, schedules, or telecommunications emissions. The state board shall develop recommendations which shall be submitted in a report to the general assembly by February 15, 1991.

*Sec. 25. *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.*

Sec. 26. Section 280A.1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

It is hereby declared to be the policy of the state of Iowa and the purpose of this chapter to provide for the establishment of not more than ~~seventeen~~ fifteen areas which shall include all of the area of the state and which may operate ~~either area vocational schools or area~~ community colleges offering to the greatest extent possible, educational opportunities and services in each of the following, when applicable, but not necessarily limited to:

Sec. 27. Section 280A.2, Code 1989, is amended to read as follows:

280A.2 DEFINITIONS.

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

1. ~~"Vocational school" means a publicly supported school which offers as its curriculum or part of its curriculum vocational or technical education, training, or retraining available to persons who have completed or left high school and are preparing to enter the labor market; persons who are attending high school who will benefit from such education or training but who do not have the necessary facilities available in the local high schools; persons who have entered the labor market but are in need of upgrading or learning skills; and persons who due to academic, socioeconomic, or other handicaps are prevented from succeeding in regular vocational or technical education programs.~~

2. ~~"Junior college" means a publicly supported school which offers as its curriculum or part of its curriculum two years of liberal arts, preprofessional, or other instruction partially fulfilling the requirements for a baccalaureate degree but which does not confer any baccalaureate degree.~~

3. "Community college" means a publicly supported school which ~~offers~~ may offer programs of adult and continuing education, lifelong learning, community education, and up to two years of liberal arts, preprofessional, or ~~other~~ occupational instruction partially fulfilling the requirements for a baccalaureate degree but ~~which does not confer any baccalaureate degree and~~ confers no more than an associate degree; or which offers ~~in~~ as the whole or ~~in~~ as part of the curriculum ~~of a vocational school~~ up to two years of vocational or technical education, training, or retraining to persons who are preparing to enter the labor market.

2. "Director" means the director of the department of education.

4 3. "Merged area" means an area where two or more ~~county~~ school systems or parts ~~thereof~~ of school systems merge resources to ~~establish and~~ operate a ~~vocational school or a~~ community college in the manner provided in this chapter.

*Item veto; see message at end of the Act

~~5. "Area vocational school" means a vocational school established and operated by a merged area.~~

~~6. "Area community college" means a community college established and operated by a merged area.~~

~~7~~ 4. "State board" means the state board of education.

~~8. "Director" means the director of the department of education.~~

~~9. "Planning board" means any county board of education which is a party to a plan for establishment of an area vocational school or area community college.~~

~~10. "Area school" means an area vocational school or area community college established under the provisions of this chapter.~~

Sec. 28. Section 280A.12, Code 1989, is amended to read as follows:

280A.12 DIRECTORS OF MERGED AREA.

~~In each merged area, the initial board of directors elected at the special election shall organize within fifteen days following the election and may thereafter proceed with the establishment of the designated area vocational school or area community college.~~ The board of directors of the merged area shall organize at the first regular meeting in October of each year. Organization of the board shall be effected by the election of a president and other officers from the board membership as board members determine. The board of directors shall appoint a secretary and a treasurer who shall each give bond as prescribed in section 291.2 and who shall each receive the salary determined by the board. The secretary and treasurer shall perform duties under chapter 291 and additional duties the board of directors deems necessary. However, the board may appoint one person to serve as the secretary and treasurer. If one person serves as the secretary and treasurer, only one bond is necessary for that person. The frequency of meetings other than organizational meetings shall be as determined by the board of directors but the president or a majority of the members may call a special meeting at any time.

Members of the board, other than the secretary and the treasurer, shall be allowed their actual expenses incurred in the performance of their duties and may be eligible to receive per diem compensation.

Sec. 29. Section 280A.17, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The board of directors of each merged area shall prepare an annual budget designating the proposed expenditures for operation of the ~~area vocational school or area~~ community college. The board shall further designate the amounts which are to be raised by local taxation and the amounts which are to be raised by other sources of revenue for the operation. The budget of each merged area shall be submitted to the state board no later than May 1 preceding the next fiscal year for approval. The state board shall review the proposed budget and shall, prior to June 1, either grant its approval or return the budget without approval with the comments of the state board attached to it. Any unapproved budget shall be resubmitted to the state board for final approval. Upon approval of the budget by the state board, the board of directors shall certify the amount to the respective county auditors and the boards of supervisors annually shall levy a tax of twenty and one-fourth cents per thousand dollars of assessed value on taxable property in a merged area for the operation of ~~an area vocational school or area~~ a community college. Taxes collected pursuant to the levy shall be paid by the respective county treasurers to the treasurer of the merged area as provided in section 331.552, subsection 29.

Sec. 30. Section 280A.19, Code 1989, is amended to read as follows:

280A.19 ACQUISITION OF SITES AND BUILDINGS.

Boards of directors of merged areas may acquire sites and erect and equip buildings for use by ~~area vocational schools or area~~ community colleges and may contract indebtedness and issue bonds to raise funds for such purposes.

Sec. 31. Section 280A.21, Code 1989, is amended to read as follows:

280A.21 ELECTION TO INCUR INDEBTEDNESS.

No indebtedness shall be incurred under section 280A.19 until authorized by an election. A proposition to incur indebtedness and issue bonds for ~~area vocational school or area~~ community college purposes shall be deemed carried in a merged area if approved by a sixty percent majority of all voters voting on the proposition in the area. However, if the costs of utilities are paid by a community college with funds derived from the levy authorized under section 280A.22, the community college may use the general fund moneys that would have been used to pay the costs of utilities for capital expenditures, may invest the funds, or may incur indebtedness without an election, provided that the payments on the indebtedness incurred, and any interest on the indebtedness, can be made using general funds of the community college and the total payments on the principal and interest on the indebtedness do not exceed the amount of the costs of the utilities.

Sec. 32. Section 280A.22, subsection 1, paragraph a, and subsections 2 and 3, Code 1989, are amended to read as follows:

a. In addition to the tax authorized under section 280A.17, the voters in any merged area may at the annual school election vote a tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value in any one year for a period not to exceed ten years for the purchase of grounds, construction of buildings, payment of debts contracted for the construction of buildings, purchase of buildings and equipment for buildings, and the acquisition of libraries, for the purpose of paying costs of utilities, and for the purpose of maintaining, remodeling, improving, or expanding the ~~area vocational school or area~~ community college of the merged area. If the tax levy is approved under this section, the costs of utilities shall be paid from the proceeds of the levy. The tax shall be collected by the county treasurers and remitted to the treasurer of the merged area as provided in section 331.552, subsection 29. The proceeds of the tax shall be deposited in a separate and distinct fund to be known as the voted tax fund, to be paid out upon warrants drawn by the president and secretary of the board of directors of the merged area district for the payment of costs incurred in providing the school facilities for which the tax was voted.

2. The proceeds of the tax voted under subsection 1, paragraph "a", prior to July 1, 1987 shall be used for the purposes for which it was approved by the voters and may be used for the purpose of paying the costs of utilities.

3. In addition to the tax authorized under section 280A.17, the board of directors of an area school may certify for levy by March 15, 1982 and March 15, 1983, a tax on taxable property in the merged area at rates that will provide total revenues for the two years equal to five percent of the area school's general fund expenditures for the fiscal year ending June 30, 1980 in order to provide a cash reserve for that ~~area school~~ community college. As nearly as possible, one-half the revenue for the cash reserve fund shall be collected during each year.

The revenues derived from the levies shall be placed in a separate cash reserve fund. Moneys from the cash reserve fund shall only be used to alleviate temporary cash shortages. If moneys from the cash reserve fund are used to alleviate a temporary cash shortage, the cash reserve fund shall be reimbursed immediately from the general fund of the area school as funds in the general fund become available, but in no case later than June 30 of the current fiscal year, to repay the funds taken from the cash reserve fund.

Sec. 33. NEW SECTION. 280A.22A STATE BOARD FOR COMMUNITY COLLEGES.

The state board of education shall constitute the state board for community colleges.

Sec. 34. NEW SECTION. 280A.22B DUTIES OF STATE BOARD.

The state board for community colleges shall:

1. Adopt and establish policies for programs and services of the department which relate to community colleges.

2. Prescribe standards and procedures for the approval of practitioner preparation programs and professional development programs under section 256.7, subsection 3.

3. Review and make recommendations that relate to community colleges in the five-year plan for the achievement of educational goals.

Sec. 35. Section 280A.23, Code 1989, is amended to read as follows:

280A.23 AUTHORITY OF AREA DIRECTORS.

The board of directors of each ~~area vocational school or area~~ community college shall:

1. Determine the curriculum to be offered in ~~such school or~~ a college subject to approval of the state board. If a community college's curriculum does not include courses in arts and sciences, the board must seek and obtain approval of the state board before the college may expand the curriculum to include those courses. If the community college's curriculum does not include support services to provide educational access to programs for students with special education needs, the board, in compliance with state board policies for providing services to special needs students, shall make an assessment of the need for special support services in the college and develop a plan to meet those identified needs. 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~~ community college, 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 a course or program is needed, the board of directors shall assess both the needs of the population of the area served and any special needs of the student population of the particular community college. The state board shall monitor the process and outcomes of services for special populations. 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.

2. Have authority to determine tuition rates for instruction. Tuition for residents of Iowa shall not exceed the lowest tuition rate per semester, or the equivalent, charged by an institution of higher education under the state board of regents for a full-time resident student. However, except for students enrolled under chapter 261C, if a local school district pays tuition for a resident pupil of high school age, the limitation on tuition for residents of Iowa shall not apply, the amount of tuition shall be determined by the board of directors of the ~~area school~~ community college with the consent of the local school board, and the pupil shall not be included in the full-time equivalent enrollment of the ~~area school~~ community college for the purpose of computing general aid to the ~~area school~~ community college. Tuition for nonresidents of Iowa shall not be less than ~~one hundred fifty percent and not more than two hundred percent of the tuition established for residents of Iowa~~ the marginal cost of instruction of a student attending the college. ~~Tuition for resident or nonresident students may be set at a higher figure with the approval of the state board.~~ A lower tuition for nonresidents may be permitted under a reciprocal tuition agreement between a merged area and an educational institution in another state, if the agreement is approved by the state board. The board may designate that portion of the tuition moneys collected from students be used for student aid purposes.

3. Have the powers and duties with respect to ~~such schools and~~ community colleges, not otherwise provided in this chapter, which are prescribed for boards of directors of local school districts by chapter 279 except that the board of directors is not required to prohibit the use of tobacco and the use or possession of alcoholic liquor or beer by any student of legal age under the provisions of section 279.9.

4. Have the power to enter into contracts and take other necessary action to insure a sufficient curriculum and efficient operation and management of the ~~school or~~ college and maintain and protect the physical plant, equipment, and other property of the ~~school or~~ college.

5. Establish policy and make rules, not inconsistent with law and administrative rules, regulations, and policies of the state board, for its own government and that of the administrative, teaching, and other personnel, and the students of the ~~school or~~ college, and aid in the enforcement of such laws, rules, and regulations.

6. Have authority to sell a student-constructed building and the property on which the student-constructed building is located or any article resulting from any vocational program or course offered at ~~an area vocational school or area~~ a community college by any procedure which may be adopted by the board. Governmental agencies and governmental subdivisions of the state within the merged areas shall be given preference in the purchase of such articles. All revenue received from the sale of any article shall be credited to the funds of the board of the merged area.

7. With the consent of the inventor, and in the discretion of the board, secure letters patent or copyright on inventions of students, instructors, and officials of any ~~vocational school or~~ community college of the merged area, or take assignment of such letters patent or copyright and make all necessary expenditures in regard thereto. Letters patent or copyright on inventions when so secured shall be the property of the board of the merged area and the royalties and earnings thereon shall be credited to the funds of the board.

8. Set the salary of the area superintendent. In setting the salary, the board shall consider the salaries of administrators of educational institutions in the merged area and the enrollment of the ~~area school~~ community college.

9. At the request of an employee through contractual agreement the board may arrange for the purchase of group or individual annuity contracts for any of its employees from any company the employee chooses that is authorized to do business in this state and through an Iowa-licensed insurance agent that the employee selects, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. If an existing tax-sheltered annuity contract is to be replaced by a new contract the agent or representative of the company shall submit a letter of intent by registered mail to the company being replaced, to the insurance commissioner of the state of Iowa, and to the agent's or representative's own company at least thirty days prior to any action. This letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract.

10. Make necessary rules to provide for the policing, control, and regulation of traffic and parking of vehicles and bicycles on the property of the ~~area school~~ community college. The rules may provide for the use of institutional roads, driveways, and grounds; registration of vehicles and bicycles; the designation of parking areas; the erection and maintenance of signs designating prohibitions or restrictions; the installation and maintenance of parking control devices except parking meters; and assessment, enforcement, and collection of reasonable penalties for the violation of the rules.

Rules made under this subsection may be enforced under procedures adopted by the board of directors. Penalties may be imposed upon students, faculty, and staff for violation of the rules, including, but not limited to, a reasonable monetary penalty which may be deducted from student deposits and faculty or staff salaries or other funds in possession of the ~~area school~~ community college or added to student tuition bills. The rules made under this subsection may also be enforced by the impoundment of vehicles and bicycles parked in violation of the rules, and a reasonable fee may be charged for the cost of impoundment and storage prior to the release of the vehicle or bicycle to the owner. Each ~~area school~~ community college shall establish procedures for the determination of controversies in connection with the imposition of penalties. The procedures shall require giving notice of the violation and the penalty prescribed and providing the opportunity for an administrative hearing.

11. Be authorized to issue to employees of ~~merged area schools~~ community colleges school credit cards to use for payment of authorized expenditures incurred in the performance of work-related duties.

12. During the second week of August of each year, publish by one insertion in at least one newspaper published in the merged area a summarized statement verified by affidavit of the secretary of the board showing the receipts and disbursements of all funds of the ~~area school~~ community college for the preceding fiscal year. The statement of disbursements shall show the names of the persons, firms, or corporations, and the total amount paid to each during the fiscal year. The board is not required to make the publications and notices required under sections 279.34, 279.35, and 279.36.

13. Adopt policies and procedures for the use of telecommunications as an instructional tool at the ~~area school~~ community college. The policies and procedures shall include but not be limited to policies and procedures relating to programs, educational policy, practices, staff development, use of pilot projects, and the instructional application of the technology.

14. In its discretion, adopt rules relating to the classification of students enrolled in the ~~area school~~ community college who are residents of Iowa's sister states as residents or nonresidents for tuition and fee purposes.

15. By July 1, 1991, develop a policy which requires oral communication competence of persons who provide instruction to students attending institutions under the control of the board. The policy shall include a student evaluation mechanism which requires student evaluation of persons providing instruction at the end of each academic period.

16. By July 1, 1991, develop a policy relating to the teaching proficiency of teaching assistants which provides a teaching proficiency standard, instructional assistance to, and evaluation of persons who provide instruction to students at the higher education institutions under the control of the board.

Sec. 36. Section 280A.25, Code 1989, is amended to read as follows:

280A.25 DUTIES OF DIRECTOR.

The director shall:

1. Designate a ~~vocational school or~~ community college as an "area vocational education school" within the meaning of, and for the purpose of administering, the Act of Congress designated the "Vocational Education Act of 1963". A ~~vocational school or~~ community college shall not be so designated by the director of the department of education for the expenditure of funds under 20 U.S.C. 35c(a)(5), which has not been designated and classified as ~~an area vocational school or area~~ a community college by the state board.

2. Change boundaries of director districts in a merged area when the board fails to change boundaries as required by law.

3. Make changes in boundaries of merged areas with the approval of the board of directors of each merged area affected by the change. When the boundaries of a merged area are changed, the director of the department of education may authorize the board of directors of the merged area to levy additional taxes upon the property within the merged area, or any part of the merged area, and distribute the taxes so that all parts of the merged area are paying their share toward the support of the ~~school or~~ college.

4. Administer, allocate, and disburse federal or state funds made available to pay a portion of the cost of acquiring sites for and constructing, acquiring, or remodeling facilities for ~~area vocational schools or area~~ community colleges, and establish priorities for the use of such funds.

5. Administer, allocate, and disburse federal or state funds available to pay a portion of the operating costs of ~~area vocational schools or area~~ community colleges.

6. Approve or disapprove, in a manner as the director of the department of education may prescribe, sites and buildings to be acquired, erected, or remodeled for use by ~~area vocational schools or area~~ community colleges.

7. Propose administrative rules to carry out this chapter subject to approval of the state board.

8. Enter into contracts with local school boards within the area that have and maintain a technical or vocational high school and with private schools or colleges in the co-operative or merged areas to provide courses or programs of study in addition to or as a part of the curriculum made available in the community college ~~or area vocational schools~~.

9. Make arrangements with boards of merged areas and local school districts to permit students attending high school to participate in vocational-technical programs and advanced college placement courses and obtain credit for such participation for application toward the completion of a high school diploma. The granting of credit is subject to the approval of the director of the department of education.

10. Prescribe a uniform system of accounting for ~~area schools~~ community colleges.

11. Adopt rules prohibiting ~~an area school~~ a community college that does not provide intercollegiate athletics as a part of its program on July 1, 1987 from adding intercollegiate athletics to its program after that date.

12. Ensure that ~~area schools~~ community colleges that provide intercollegiate athletics as a part of their program comply with section 601A.9.

Sec. 37. Section 280A.27, Code 1989, is amended to read as follows:

280A.27 ~~AREA SCHOOLS BRANCH~~ COMMUNITY COLLEGES DIVISION IN DEPARTMENT.

~~There shall be an area schools branch~~ A community colleges division shall be established within the department of education. The ~~branch~~ division shall exercise the powers and perform the duties conferred by law upon the department with respect to ~~area vocational schools and area and public~~ community ~~and junior~~ colleges.

Sec. 38. Section 280A.28, Code 1989, is amended to read as follows:

280A.28 TAX FOR EQUIPMENT REPLACEMENT.

Annually, the board of directors may certify for levy a tax on taxable property in the merged area at a rate not exceeding three cents per thousand dollars of assessed valuation for equipment replacement for the ~~area school~~ community college.

Sec. 39. Section 280A.31, Code 1989, is amended to read as follows:

280A.31 AUXILIARY ENTERPRISES.

The board of directors may expend profits from auxiliary enterprises of ~~area schools~~ community colleges for services and equipment which includes but is not limited to tutoring services, scholarships, grants, furniture, fixtures and equipment for noninstructional student use, and support of intramural and intercollegiate athletics.

For the purpose of this section:

1. "Auxiliary enterprises" means self-supporting services provided at the ~~area school~~ community college for which fees or charges are paid, and includes but is not limited to food services, college stores, student unions, institutionally operated vending services, recreational activities, faculty clubs, laundries, parking facilities, and intercollegiate athletics.

2. "Profits from auxiliary enterprises" means the difference between the total fees or charges collected for auxiliary enterprises and the expenditures by the ~~area school~~ community college for the auxiliary enterprises.

Sec. 40. Section 280A.32, Code 1989, is amended to read as follows:

280A.32 TRUSTS.

The board of a merged area may accept and administer trusts and may authorize nonprofit foundations acting solely for the support of the ~~area school~~ community college to accept and administer trusts deemed by the board to be beneficial to the operation of the ~~area school~~ community college. Notwithstanding section 633.63, the board and the nonprofit foundations may act as trustees in these instances. The board shall require that moneys belonging to a nonprofit foundation are audited annually.

Sec. 41. Section 280A.33, Code 1989, is amended to read as follows:

280A.33 JOINT ACTION WITH BOARD OF REGENTS.

1. Approval standards, except as hereinafter provided, for ~~area and public~~ community ~~and junior~~ colleges shall be initiated by the ~~area schools~~ community colleges branch of the department and submitted to the state board of education and the state board of regents, through the director of the department of education, for joint consideration and adoption.

2. Approval standards for ~~area vocational schools and for~~ vocational programs and ~~courses~~ other programs offered by ~~area~~ community colleges shall be initiated by the area schools branch and submitted to the state board of education through the director of the department of education, for consideration and adoption. ~~No such~~ A proposed approval standard shall not be adopted by the state board until the standard has been submitted to the advisory committee created by chapter 258 and its recommendations ~~thereon~~ obtained.

3. For purposes of this section, "approval standards" shall include standards for administration, qualifications and assignment of personnel, curriculum, facilities and sites, requirements for awarding of diplomas and other evidence of educational achievement, guidance and counseling, support services for students with special needs, instruction, instructional materials, maintenance, and library.

4. Approval standards are subject to chapter 17A. In addition, approval standards shall be reported by the director of the department of education to the general assembly within twenty days after the commencement of a regular legislative session. ~~An area~~ A community college ~~or area vocational school~~ shall not be removed from the approved list for failure to comply with the approval standards until at least one hundred twenty days have elapsed following the reporting of the standards to the general assembly as provided in this section.

5. The department of education shall supervise and evaluate the educational program in the several ~~area~~ community colleges ~~and area vocational schools~~ of the state for the purpose of the improvement and approval of such institutions.

6. The director of the department of education shall make recommendations and suggestions in writing to each ~~area~~ community college ~~and area vocational school~~ if the department determines, after due investigation, that deficiencies exist.

7. The director of the department of education shall maintain a list of approved ~~area~~ community colleges ~~and area vocational schools~~, and the director shall remove from the approved list for cause, after due investigation and notice, ~~an area~~ a community college ~~or area vocational school~~ which fails to comply with the approval standards. ~~An area~~ A community college ~~or area vocational school~~ which is removed from the approved list pursuant to this section is ineligible to receive state financial aid during the period of removal. The director shall allow a reasonable period of time, which shall be at least one year, for compliance with approval standards if ~~an area~~ a community college ~~or area vocational school~~ is making a good faith effort and substantial progress toward full compliance or if failure to comply is due to factors beyond the control of the board of directors of the merged area operating the institution. In allowing time for compliance, the director shall follow consistent policies, taking into account the circumstances of each case. The reasonable period of time for compliance may be, but need not be, given prior to the one-year notice requirement that is provided in this section.

8. The director of the department of education shall give ~~an area~~ a community college ~~or area vocational school~~ which is to be removed from the approved list at least one year's notice. The notice shall be given by registered or certified mail addressed to the superintendent of the ~~area~~ community college ~~or area vocational school~~ and shall specify the reasons for removal. The notice shall also be sent by ordinary mail to each member of the board of directors of the ~~area~~ community college ~~or area vocational school~~, and to the news media which serve the merged area where the school is located; but any good faith error or failure to comply with this sentence shall not affect the validity of any action by the director. If, during the year, the ~~area~~ community college ~~or area vocational school~~ remedies the reasons for removal and satisfies the director that it will thereafter comply with the laws and approval standards, the director shall continue the ~~area~~ community college ~~or area vocational school~~ on the approved

list and shall transmit to the ~~area~~ community college ~~or area vocational school~~ notice of the action by registered or certified mail.

9. At any time during the year after notice is given, the board of directors of the ~~area~~ community college ~~or area vocational school~~ may request a public hearing before the director of the department of education, by mailing a written request to the director by registered or certified mail. The director shall promptly set a time and place for the public hearing, which shall be either in Des Moines or in the affected merged area. At least thirty days' notice of the time and place of the hearing shall be given by registered or certified mail addressed to the superintendent of the ~~area~~ community college ~~or area vocational school~~. At least ten days before the hearing, notice of the time and place of the hearing and the reasons for removal shall also be published by the department in a newspaper of general circulation in the merged area where the ~~area~~ community college ~~or area vocational school~~ is located.

10. At the hearing the ~~area~~ community college ~~or area vocational school~~ may be represented by counsel and may present evidence. The director of the department of education may provide for the hearing to be recorded or reported. If requested by the ~~area~~ community college ~~or area vocational school~~ at least ten days before the hearing, the director shall provide for the hearing to be recorded or reported at the expense of the ~~area~~ community college ~~or area vocational school~~, using any reasonable method specified by the ~~area~~ community college ~~or area vocational school~~. Within ten days after the hearing, the director shall render a written decision, and shall affirm, modify, or vacate the action or proposed action to remove the ~~area~~ community college ~~or area vocational school~~ from the approved list. The board of directors of the ~~merged area school~~ community college may request a review of the decision of the director by the state board. The state board may affirm, modify, or vacate the decision, or may direct a rehearing before the director.

Sec. 42. Section 280A.37, Code 1989, is amended to read as follows:

280A.37 MEMBERSHIP IN ASSOCIATION OF SCHOOL BOARDS.

Boards of directors of ~~merged area schools~~ community colleges may pay, out of funds available to them, reasonable annual dues to an Iowa association of school boards.

Membership in such an Iowa association of school boards shall be limited to those duly elected members of boards of directors of ~~area schools~~ community colleges.

Sec. 43. Section 280A.38, Code 1989, is amended to read as follows:

280A.38 LEASE AGREEMENTS FOR SPACE.

The board of directors may, with the approval of the director of the department of education, enter into lease agreements, with or without purchase options, not to exceed twenty years in duration, for the leasing or rental of buildings for use basically as classrooms, laboratories, shops, libraries, and study halls for ~~vocational school or~~ community college purposes, and pay for the leasing or rental with funds acquired pursuant to section 280A.17, section 280A.18, and section 280A.22. However, lease agreements extending for less than ten years and for less than twenty-five thousand dollars per year need not be submitted to the director of the department of education for approval.

The agreements may include the leasing of existing buildings on public or private property, buildings to be constructed upon real estate owned by the ~~area school~~ community college, or buildings to be placed upon real estate owned by the ~~area school~~ community college.

Before entering into a lease agreement with a purchase option for a building to be constructed, or placed, upon real estate owned by the ~~area school~~ community college, the board shall first adopt plans and specifications for the proposed building which it considers suitable for the intended use, and the board shall also adopt the proposed terms of the lease agreement and purchase option. Upon obtaining the approval of the director of the department of education, if approval of the director is required, the board shall invite bids, by advertisement published once each week for two consecutive weeks in the county where the building is to be located. The lease agreement shall be awarded to the lowest responsible bidder, or the board may reject all bids and readvertise for new bids.

Sec. 44. Section 280A.39, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any merged area which combines with another merged area under this section for purposes of combining community colleges under the control of the boards shall be eligible to receive additional state funds from the community college excellence 2000 account under section 286A.14A in an amount which equals ten percent of the state general aid received by each of the colleges during the first year of merger, in addition to any state general aid received, based upon the availability of funds. Community colleges which intend to merge under this section shall submit applications to the department describing the merger proposal and plans developed to implement the merger. Any application which results in a merger of colleges shall be subject to the review and approval of the department before the merger is eligible to receive funds for the merger.

In years succeeding the first year of merger, the merged colleges shall receive additional funds in an amount which is two percent less than the percent received during the previous year.

Sec. 45. Section 280A.42, Code 1989, is amended to read as follows:

280A.42 PAYMENT OF EXPENSES.

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

Sec. 46. NEW SECTION. 280A.44 APPRENTICESHIP PROGRAMS.

Each community college is authorized to establish or contract for the establishment of apprenticeship programs for apprenticeable occupations. Any apprenticeship program established under this section shall comply with requirements established by the United States department of labor, bureau of apprenticeship and training. Participation in an apprenticeship program or apprenticeship agreement by an apprenticeship sponsor shall be on a voluntary basis.

For purposes of this section, "apprenticeship program" means a plan, registered with the United States bureau of apprenticeship and training which contains the terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement.

For purposes of this section, "apprenticeship sponsor" means a person operating an apprenticeship program or in whose name an apprenticeship program is being operated, registered, or approved.

For purposes of this section, "apprenticeable occupation" means an occupation approved for apprenticeship by the United States department of labor, bureau of apprenticeship and training.

For purposes of this section, "apprentice" means a person who is at least sixteen years of age, except where a higher minimum age is required by law, who is employed in an apprenticeable occupation, and is registered with the United States department of labor, bureau of apprenticeship and training.

Sec. 47. NEW SECTION. 280A.45 QUALITY INSTRUCTIONAL CENTERS.

A quality instructional centers program is established for the community colleges to promote the creation or enhancement of high quality, unique, high cost, capital intensive, or highly specialized vocational-technical and occupational programs, which cannot be practically or economically offered at more than a few community colleges. The department of education shall

establish criteria for the identification, approval, and review of programs for which an application for identification as a quality instructional center has been submitted.

A community college seeking to have a program identified as a quality instructional center shall submit an application to the department, describing the program, costs associated with program delivery, and current and projected student participation in the program. The department shall review each application, either accept or reject the application, and inform the applicant of the department's action on the application. Rejection of an application shall not preclude a community college from resubmitting the same or a different program for consideration as a candidate for identification as a quality instructional center.

A community college with an approved quality instructional center shall receive funds from the community college excellence 2000 account under section 286A.14A.

The department shall provide assistance to community colleges to ensure that each community college is able to offer at least one program which meets the standards adopted for quality instructional centers.

A community college with an approved quality instructional center shall annually submit a report indicating how funds received during the past year were spent and the projections of the next year's funding needs. The department shall review the reports to determine which centers will continue to be identified as quality instructional centers and the next year's funding levels for each approved center.

Sec. 48. NEW SECTION. 280A.46 PROGRAM AND ADMINISTRATIVE SHARING.

By September 1, 1990, the department shall establish guidelines and an approval process for program sharing agreements and for administrative sharing agreements entered into by two or more community colleges or by a community college and a higher education institution under the control of the board of regents. Guidelines established shall be designed to increase student access to programs, enhance educational program offerings throughout the state, and enhance interinstitutional cooperation in program offerings. A community college must submit an application and obtain approval from the department in order to become eligible to receive funds from the community college excellence 2000 account under section 286A.14A for an administrative sharing or program sharing agreement. The application shall describe the sharing agreement, costs, and benefits associated with the sharing proposal.

Sec. 49. NEW SECTION. 280A.47 ACCREDITATION OF COMMUNITY COLLEGE PROGRAMS.

1. The state board of education shall establish an accreditation process for community college programs. By July 1, 1993, all community colleges shall meet the standards for accreditation. For the school year commencing July 1, 1994, and in succeeding school years, the department of education shall use a two component process for the continued accreditation of community college programs.

a. The first component consists of annual monitoring by the department of education of all community colleges for compliance with program accreditation standards adopted by the state board. The first component monitoring requires community colleges to submit to an annual audit of college programs by the department of education beginning July 1, 1993.

b. The second component consists of the use of an accreditation team appointed by the director of the department of education, to conduct on-site visits to three different community colleges per year. The number and composition of the accreditation team shall be determined by the director, but the team shall include members of the department of education staff and members of community college staff from community colleges other than the community college which conducts the programs being evaluated for accreditation.

c. Rules adopted by the state board shall include provisions for coordination of the accreditation process under this section with activities of accreditation associations, which are designed to avoid duplication in the accreditation process.

2. Prior to a visit to a community college, members of the accreditation team shall have access to the program audit report filed with the department for that community college. After

a visit to a community college, the accreditation team shall determine whether the accreditation standards for a program have been met and shall make a report to the director and the state board, together with a recommendation as to whether the program of the community college should remain accredited. The accreditation team shall report strengths and weaknesses, if any, for each program standard and shall advise the community college of available resources and technical assistance to further enhance strengths and improve areas of weakness. A community college may respond to the accreditation team's report.

3. The state board shall determine whether a program of a community college shall remain accredited. If the state board determines that a program of a community college does not meet accreditation standards, the director of the department of education, in cooperation with the board of directors of the community college, shall establish a plan prescribing the procedures that must be taken to correct deficiencies in meeting the program standards, and shall establish a deadline date for correction of the deficiencies. The deadline for correction of deficiencies under a plan shall be no later than June 30 of the year following the on-site visit of the accreditation team. The plan is subject to approval of the state board. Plans shall include components which address meeting program deficiencies, sharing or merger options, discontinuance of specific programs or courses of study, and any other options proposed by the state board or the accreditation team to allow the college to meet the program standards.

4. During the time specified in the plan for its implementation, the community college program remains accredited. The accreditation team shall revisit the community college and shall determine whether the deficiencies in the standards for the program have been corrected and shall make a report and recommendation to the director and the state board. The state board shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies in the program have been corrected.

5. If the deficiencies have not been corrected in a program of a community college, the community college board shall take one of the following actions within sixty days from removal of accreditation:

a. Merge the deficient program or programs with a program or programs from another accredited community college.

b. Contract with another educational institution for purposes of program delivery at the community college.

6. The director of the department of education shall give a community college which has a program which fails to meet accreditation standards at least one year's notice prior to removal of accreditation of the program. The notice shall be given by certified mail or restricted certified mail addressed to the superintendent of the community college and shall specify the reasons for removal of accreditation of the program. The notice shall also be sent by ordinary mail to each member of the board of directors of the community college. Any good faith error or failure to comply with the notice requirements shall not affect the validity of any action by the director. If, during the year, the community college remedies the reasons for removal of accreditation of the program and satisfies the director that the community college will comply with the accreditation standards for that program in the future, the director shall continue the accreditation of the program of the community college and shall transmit notice of the action to the community college by certified mail or restricted certified mail.

7. The action of the director to remove a community college's accreditation of the program may be appealed to the state board. At the hearing, the community college may be represented by counsel and may present evidence. The state board may provide for the hearing to be recorded or reported. If requested by the community college at least ten days before the hearing, the state board shall provide for the hearing to be recorded or reported at the expense of the community college, using any reasonable method specified by the community college. Within ten days after the hearing, the state board shall render a written decision, and shall affirm, modify, or vacate the action or proposed action to remove the college's accreditation of the program. Action by the state board is final agency action for purposes of chapter 17A.

Sec. 50. NEW SECTION. 280A.48 STANDARDS FOR ACCREDITING COMMUNITY COLLEGE PROGRAMS.

1. The state board shall develop standards for the accreditation of each of the following community college programs:

a. Administration.

b. Faculty.

c. Curriculum and evaluation.

d. Library or learning resource center.

e. Student services.

f. Laboratories, shops, equipment, and supplies.

g. Physical plant.

h. Building and site approval.

2. In the development of standards for accrediting community college programs, the state board of education shall adhere to the provisions of section 280A.23 and review the community colleges' mission identified in section 280A.1, review current literature relating to effective colleges and learning environments, and consult with representatives from the community colleges, other higher education institutions, community college board members, college administrators, faculty, parents, students, members of business, industry, labor, the regional planning councils, local education agencies, other governmental agencies, associations interested in education, and representatives of communities. The standards for the programs shall encompass, but are not limited to, the following general areas:

a. The institutional input. This may include, but is not limited to, the organization of human, financial, and physical resources into educational and service programs to accomplish the community colleges' purposes, faculty and staff, financial practices, buildings, grounds, maintenance and equipment, governance, and the characteristics of educational and service programs, measures of viability, rigor of major degree programs, breadth of supporting academic programs such as general education and developmental education, breadth of supporting services for students with special needs such as curriculum and instructional modification, quality of instruction, and other related aspects of the community college mission.

b. The institutional outcomes. This may include, but is not limited to, measures of student academic achievement, student development, placement, occupational success, faculty accomplishments, and the results of service initiatives to special constituencies. This shall include an annual report on the number of students with disabilities who apply, who are enrolled, and who complete programs offered at each community college.

c. Standards for administration, qualifications and assignment of faculty and staff, curriculum, requirements for awarding of diplomas, certificates, and associate degrees, guidance and counseling, support services for students with special education needs, instruction, instructional materials, and library.

Standards developed shall include a provision that the standard academic work load for an instructor in arts and science courses shall be fifteen credit hours per school term, and the maximum academic work load for any instructor shall be sixteen credit hours per school term, for classes taught during the normal school day. In addition thereto, any faculty member may teach a course or courses at times other than the regular school week, involving total class instruction time equivalent to not more than a three-credit-hour course. The total work load for such instructors shall not exceed the equivalent of eighteen credit hours per school term.

Standards developed shall include provisions requiring equal access in recruitment, enrollment, and placement activities for students with special education needs. The provisions shall include a requirement that students with special education needs shall receive instruction in the least restrictive environment with access to the full range of program offerings at a college, through, but not limited to, adaptation of curriculum, instruction, equipment, facilities, career guidance, and counseling services.

Sec. 51. NEW SECTION. 280A.49 STAFF DEVELOPMENT PROGRAM.

In order to promote excellence in teaching at the community colleges and to assist the staffs of the community colleges to accomplish the policy of the state of Iowa as specified in section

280A.1, the community college staff development program is established. The goal of this program is to enhance the quality, effectiveness, and performance of community college staff through staff development activities. Staff development activities may include, but are not limited to, workshops, conferences, internships, enrollment in work-related courses, special projects related to job performance, development of methods and strategies for meeting the needs of students with special needs and integrating those students into regular instructional programs, research projects, performance-based pay plans, and curriculum planning and development. Any items of a staff development plan which are mandatory items of bargaining under chapter 20 shall be negotiated with the appropriate certified bargaining agent. For the fiscal year beginning July 1, 1992, and succeeding fiscal years, each community college that meets the requirements of this section is eligible to receive moneys from the staff development account for the implementation of a staff development plan.

Sec. 52. NEW SECTION. 280A.50 STAFF DEVELOPMENT ACCOUNT.

The department of education shall provide for the establishment of a staff development account in the office of treasurer of state for purposes of providing moneys to community colleges for staff development. There is appropriated from the general fund of the state to the department of education on July 1 of each fiscal year beginning July 1, 1992, for crediting to the staff development account for each budget year an amount equal to an amount which is five-tenths of one percent of the total state general aid generated under chapter 286A for all community colleges during the base year. In the fiscal years succeeding June 30, 1993, an additional five-tenths of one percent shall be added to the percent multiplier, used to determine the appropriation in this section, until that percent multiplier reaches four percent. Once the percent multiplier has reached the four percent level, it shall remain at that level for purposes of calculating the amount to be appropriated in succeeding fiscal years. Moneys appropriated by the general assembly to the department of education for the purpose of the staff development program shall be paid to community colleges upon approval by the department of education of an application submitted by a community college. Funds shall be distributed to a community college based upon the proportion that a college's state general aid paid for the base year bears to the total state general aid paid that year to all community colleges.

Moneys paid to a community college shall be used to cover the direct costs of staff development activities. These costs may include payment of salary and fringe benefits for plan participants, fees for consultants and workshop presenters, transportation costs, tuition costs, costs of instructional materials, and other costs directly related to staff development activities.

Sec. 53. NEW SECTION. 280A.51 STAFF DEVELOPMENT PLAN.

Annually, the board of directors of a community college desiring to receive moneys under the staff development program shall submit an application to the department of education. The application shall include a staff development plan which shall contain the following components:

1. A description of the types of activities to be conducted.

2. A description of the process to be used to involve faculty and staff in planning and the implementation of the described activities.

3. A description of the assessment mechanism to be used to determine whether staff development activities have resulted in measurable improvement in the quality, effectiveness, and performance of community college staff.

Sec. 54. NEW SECTION. 280A.52 SUBMISSION OF PLAN.

A plan adopted by the board of directors of a community college shall be submitted to the department of education not later than July 1 of a school year for that school year. Amendments to multiple year plans may be submitted annually for each year of a multiple year plan. Plans submitted to the department shall contain an affirmation by each certified faculty or staff organization with which the board negotiates for collective bargaining purposes that the procedures of chapter 20 have been met for items which are mandatory subjects of bargaining.

The department of education shall review each plan and its budget, and notify the department of management of the name of each community college with an approved plan.

However, for the school year beginning July 1, 1992, a board of directors may submit a proposed plan and budget not later than January 1, 1992, and the department of education shall notify the community colleges not later than February 15, 1992, whether their plans have been approved by the department. Final approval of budgets for approved staff development plans for that year shall be determined by the department of education not later than February 15, 1992. The department of education shall notify the department of revenue and finance of the amounts of payments to be made to each community college that has an approved plan. Notwithstanding section 8.33, moneys allocated to a community college for the fiscal year beginning July 1, 1992, for an approved staff development plan that are not expended for that school year shall not revert to the general fund of the state but may be expended by that community college during the school year beginning July 1, 1993. For school years thereafter, moneys allocated to a community college for an approved plan for a year but not expended during that school year shall revert to the general fund of the state as provided in section 8.33.

Sec. 55. NEW SECTION. 280A.53 REPORT.

Each community college receiving moneys for a staff development plan for a school year shall file a report and an accounting with the department of education by July 1 of the next following school year. The report shall identify each staff development activity and the expenditures made under the plan for each activity. 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 community colleges. The reports shall be available to the public in the manner provided in section 22.3 upon request.

Sec. 56. NEW SECTION. 280A.54 REVERSION.

Any portion of moneys appropriated to the department of education for staff development program purposes and allocated under section 280A.50 to a community college for a fiscal year not expended during that fiscal year reverts to the general fund of the state as provided in section 8.33.

Sec. 57. NEW SECTION. 280A.55 PAYMENTS.

Payments for the staff development program shall be made on a quarterly basis, and the payments shall be separate from the general financial aid. The payments to a community college may be combined and a separate accounting of the amount paid for each program shall be included. Payment shall be made in accordance with section 286A.12. Any payments made to community colleges under this chapter are miscellaneous income for purposes of chapter 286A.

Sec. 58. NEW SECTION. 280A.56 DEFINITIONS.

As used in this division:

1. "Board" means a board of directors of a community college.

2. "Project" means the acquisition by purchase, lease, or construction of buildings for use as student residence halls and dormitories, including dining and other incidental facilities therefor, and additions to such buildings, the reconstruction, completion, equipment, improvement, repair or remodeling of residence halls, dormitories, or additions or incidental facilities, and the acquisition of property of every kind and description, whether real, personal, or mixed, by gift, purchase, lease, condemnation, or otherwise and the improvement of the property.

3. "Institution" means a community college organized under this chapter.

4. "Bonds or notes" means revenue bonds or revenue notes which are payable solely and only from net rents, profits, and income derived from the operation of residence halls, dormitories, incidental facilities, and additions.

Sec. 59. NEW SECTION. 280A.57 AUTHORIZATION — CONTRACTS — TITLE.

Subject to and in accordance with the provisions of this division, the board of trustees of each community college is hereby authorized to undertake and carry out any project at a community college under the board's control and to operate, control, maintain, and manage

student residence halls and dormitories, including dining and other incidental facilities, and additions to such buildings at each of said institutions. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions or facilities shall be let in accordance with the provisions of section 280A.19. The title to all real estate acquired under the provisions of this division and the improvements erected on the real estate shall be taken and held in the name of the merged area. The board is authorized to rent the rooms in such residence halls and dormitories to the students, officers, guests and employees of the institutions at such rates, fees or rentals as will provide a reasonable return upon the investment, but which will in any event produce net rents, profits and income sufficient to insure the payment of the principal of and interest on all bonds or notes issued to pay any part of the cost of any project and refunding bonds or notes issued pursuant to the provisions of this division and to insure that no property tax revenues will be needed to retire the bonds or notes.

Sec. 60. NEW SECTION. 280A.58 BONDS OR NOTES.

To pay all or any part of the cost of carrying out any project at any institution the board is authorized to borrow money and to issue and sell negotiable bonds or notes and to refund and refinance bonds or notes issued for any project or for refunding purposes at a lower rate, the same rate, or a higher rate or rates of interest and from time to time as often as the board shall find it to be advisable and necessary so to do. Bonds or notes issued to refund other bonds or notes issued by the board for residence hall or dormitory purposes at any institution, including dining or other facilities and additions, or issued for refunding purposes, may either be sold in the manner specified for the selling of certificates under section 280B.6 and the proceeds applied to the payment of the obligations being refunded, or the refunding bonds or notes may be exchanged for and in payment and discharge of the obligations being refunded. A finding by the board in the resolution authorizing the issuance of the refunding bonds or notes, that the bonds or notes being refunded were issued for a purpose specified in this division and constitute binding obligations of the board, shall be conclusive and may be relied upon by any holder of any refunding bond or note issued under the provisions of this division. The refunding bonds or notes may be sold or exchanged in installments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds or notes may be exchanged in part or sold in parts in installments at different times or at one time. The refunding bonds or notes may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds or other obligations to be refinanced thereby and may be issued for the purpose of refunding a like or greater principal amount of bonds or notes, except that the principal amount of the refunding bonds or notes may exceed the principal amount of the bonds or notes to be refunded to the extent necessary to pay any premium due on the call of the bonds or notes to be refunded or to fund interest in arrears or about to become due.

All bonds or notes issued under the provisions of this division shall be payable from and shall be secured by an irrevocable first lien pledge of a sufficient portion of the following: the net rents, profits and income derived from the operation of residence halls, dormitories, dining or other incidental facilities and additions, including necessary real and personal property, acquired or improved in whole or in part with the proceeds of such bonds or notes, regardless of the manner of such acquisition or improvement; and the net rents, profits and income not pledged for other purposes derived from the operation of any other residence halls or dormitories, including dining or other incidental facilities and additions, at the particular institution. In addition, the board may secure any bonds or notes issued by borrowing money, by mortgaging any real estate or improvements erected on real estate, or by pledging rents, profits, and income received from property for the discharge of mortgages. All bonds or notes issued under the provisions of this division shall have all the qualities of negotiable instruments under the laws of this state.

Sec. 61. NEW SECTION. 280A.59 RATES AND TERMS OF BONDS OR NOTES.

The bonds or notes may bear a date or dates, may bear interest at such rate or rates, payable semiannually, may mature at such time or times, may be in such form, carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face of the bonds, and may contain any terms and covenants as may be provided by the resolution of the board authorizing the issuance of the bonds or notes. In addition to the estimated cost of construction, the cost of the project shall be deemed to include interest upon the bonds or notes during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, any underwriter discount, and engineering, administrative and legal expenses. The bonds or notes shall be executed by the president of the board of trustees and attested by the secretary and the coupons attached to the bonds or notes shall be executed with the original or facsimile signatures of said president and secretary. Any bonds or notes bearing the signatures of officers in office on the date of the signing shall be valid and binding for all purposes, notwithstanding that before delivery of the bonds or notes any or all persons whose signatures appear on the bonds or notes shall have ceased to be officers. Each bond or note shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the net rents, profits and income derived from the operation of residence halls or dormitories, including dining and other incidental facilities, at the institution named, and that it does not constitute a charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of bonds or notes shall be recorded in the office of the treasurer of the institution on behalf of which the bonds or notes are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond or note.

Sec. 62. NEW SECTION. 280A.60 REFUNDING.

Upon the determination by the board to undertake and carry out any project or to refund outstanding bonds or notes, the board shall adopt a resolution generally describing the contemplated project and setting forth the estimated cost, or describing the obligations to be refunded, fixing the amount of bonds or notes to be issued, the maturity or maturities, the interest rate or rates and all details of the project. The resolution shall contain any covenants as may be determined by the board as to the issuance of additional bonds or notes that may be issued payable from the net rents, profits and income of the residence halls or dormitories, the amendment or modification of the resolution authorizing the issuance of any bonds or notes, the manner, terms and conditions and the amount or percentage of assenting bonds or notes necessary to effectuate the amendment or modification, and any other covenants as may be deemed necessary or desirable. In the discretion of the board any bonds or notes issued under the terms of this division may be secured by a trust indenture by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the boundaries of the state of Iowa, but no such trust indenture shall convey or mortgage the buildings or facilities or any part of the buildings or facilities. The provisions of this division and of any resolution or other proceedings authorizing the issuance of bonds or notes and providing for the establishment and maintenance of adequate rates, fees or rentals and the application of the proceeds thereof shall constitute a contract with the holders of the bonds or notes.

Sec. 63. NEW SECTION. 280A.61 RATES, FEES, AND RENTALS — PLEDGE.

If bonds or notes are issued by a board, the board shall establish, impose, and collect rates, fees or rentals for the use of and services provided by the residence halls and dormitories, including dining and other incidental facilities therefor, at the institution on behalf of which the bonds or notes are issued, shall adjust the rates, fees, or rentals from time to time, in order to always provide net amounts sufficient to pay the principal of and interest on the bonds or notes as they become due, and shall maintain a reserve. The board may pledge a sufficient amount of the net rents, profits and income derived from the operation of residence halls and

dormitories, including dining and other facilities, at the institution for this purpose. Rates, fees, or rentals collected at one institution shall not be used to discharge bonds or notes issued for or on account of another institution. All bonds or notes issued under the terms of this division shall be exempt from taxation by the state of Iowa and the interest on the bonds or notes is exempt from the state income tax.

Sec. 64. NEW SECTION. 280A.62 ACCOUNTS.

A certified copy of each resolution providing for the issuance of bonds or notes under this division shall be filed with the treasurer of the institution on behalf of which the bonds or notes are issued and the treasurer shall keep and maintain separate accounts for each issue of bonds or notes in accordance with the covenants and directions set out in the resolution providing for the issuance of the bonds or notes. All rates, fees, or rentals collected for the use of and services provided by the residence halls and dormitories, including dining and other incidental facilities, at each institution shall be held in trust by the treasurer, separate and apart from all other funds, to be used only for the purposes specified in this division and as may be required and provided for by the proceedings of the board authorizing the issuance of bonds or notes. The treasurer of each institution shall disburse funds from the proper account for the payment of the principal of and interest on the bonds or notes in accordance with the directions and covenants of the resolution authorizing the issuance of the bonds or notes.

If the amount of bonds or notes issued under this chapter exceeds the actual costs of the projects for which the bonds or notes were issued, the amount of the difference shall be used to pay the principal and interest due on bonds or notes issued under this chapter.

Sec. 65. NEW SECTION. 280A.63 NO OBLIGATION AGAINST STATE.

Under no circumstances shall any bonds or notes issued under the terms of this division be or become or be construed to constitute a charge against the state of Iowa within the purview of any constitutional or statutory limitation or provision. Taxes, appropriations, or other funds of the state of Iowa shall not be pledged for or used to pay for the bonds or notes or for the interest on the bonds or notes. Any principal and interest on bonds or notes issued under this division shall be payable only from the net rents, profits, and income derived from the operation of residence halls and dormitories, including dining and other incidental facilities, at the institutions of higher learning under the control of the board, and the sole remedy for any breach or default of the terms of any bonds or notes or proceedings for their issuance shall be a proceeding either in law or in equity by suit, action, or mandamus to enforce and compel performance of the duties required by this division and the terms of the resolution under which the bonds or notes are issued.

Sec. 66. NEW SECTION. 280A.64 WHO MAY INVEST.

All banks, trust companies, building and loan associations, savings and loan associations, investment companies, and other persons carrying on an investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or notes issued pursuant to this division. However, this section shall not be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

Sec. 67. NEW SECTION. 280A.65 FEDERAL OR OTHER AID ACCEPTED.

The board of trustees of each community college may apply for and accept federal aid or nonfederal gifts or grants of funds, and may use the aid, gifts, or funds to pay all or any part of the cost of carrying out any project at any institution under the terms of this division or to pay any bonds and interest on the bonds issued for any of the purposes specified in this division.

Sec. 68. NEW SECTION. 280A.66 REPORTS TO GENERAL ASSEMBLY.

The board of trustees of each community college shall determine, in consultation with the legislative fiscal bureau, the financial information to be included in line item budget information for projects funded by the issuance of bonds or notes under this chapter and shall submit the line item budget information to the general assembly as requested. The board of trustees of each community college shall submit quarterly reports to the general assembly concerning the projects funded by the issuance of bonds or notes under this chapter as follows:

1. Identification of both undercharges and overcharges for line items of projects.

2. Identification of contracts in which any line item for a project exceeds the adopted budget for that line item by ten percent or more.

3. Identification of complaints received by an institution regarding the construction of a project.

If the board of trustees of a community college approves a change in the amount of the line item of a budget for a project, the change shall be transmitted to the appropriations committees of the house of representatives and senate, while the general assembly is in session, and to the legislative council, when the general assembly is not in session, for review.

Sec. 69. NEW SECTION. 280A.67 ALTERNATIVE METHOD.

This division shall be construed as providing an alternative and independent method for carrying out any project at any institution under the control of a community college board of trustees, for the issuance and sale or exchange of bonds or notes in connection with a project and for refunding bonds or notes pertinent to the project, without reference to any other statute, and shall not be construed as an amendment of or subject to the provisions of any other law, and no publication of any notice, whether under section 23.12 or otherwise, and no other or further proceeding in respect to the issuance or sale or exchange of bonds or notes under this division, shall be required except as prescribed by this division, any provisions of other statutes of the state to the contrary notwithstanding.

Sec. 70. NEW SECTION. 280A.68 PRIOR ACTION LEGALIZED.

All rights previously acquired in connection with the financing of any project at any institution are preserved and all acts and proceedings taken by the board preliminary to and in connection with the authorization and issuance of any previously issued and outstanding notes or other obligations for any project are hereby legalized, validated, and confirmed and the notes or obligations are hereby declared to be legal and to constitute valid and binding obligations of the board according to their terms and payable solely and only from the sources referred to in the notes or obligations.

Sec. 71. NEW SECTION. 280A.69 DORMITORY SPACE PRIORITY.

Each community college which completes a project, as defined under section 280A.56, subsection 2, shall set aside a percentage of available dormitory space for the purposes of meeting the needs of the following students:

1. Students, with families, who are participating in specialized or intensive programs.

2. Students who are participating in specialized or intensive programs.

3. Day care arrangements for students, faculty, or staff.

4. Students whose residence is located too far from the community college to permit commuting to and from school, as determined by the board of directors of the merged area.

5. Students whose disabilities require special housing adaptations.

Once all priorities have been met, students shall be allotted rooms on a first come, first served basis.

Sec. 72. NEW SECTION. 280A.70 TEN-YEAR PROGRAM AND TWO-YEAR BONDING ESTIMATE SUBMITTED EACH YEAR.

The board of trustees of each community college shall prepare and submit to the general assembly, the governor, and the department of education a proposed ten-year building program for each institution under the board's control, including an estimate of the maximum

amount of bonds which the board expects to issue under the provisions of this chapter during each year of the ensuing biennium. The program and estimate shall be submitted no later than seven days after the convening of each regular annual session of the general assembly. Before a board of trustees can proceed with a project in the building program, the project must be approved by the state board for community colleges, and be a project designed for special programs, special needs of special students, and to meet needs for which privately owned housing is not available. The building program shall contain a list of the buildings and facilities which are designed to meet the special needs of students attending special programs. The list shall be revised annually, but no project shall be eliminated from the list when bonds have previously been issued by the board to pay the cost of the project. Each list shall contain an estimate of the cost of each of the buildings and facilities referred to on the list.

Sec. 73. Section 280B.2, subsections 1, 2, 5, 7, 8, and 9, Code 1989, are amended to read as follows:

1. "New jobs training program" or "program" means the project or projects established by an ~~area school~~ community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industry in the merged area served by the ~~area school~~ community college.

2. "Project" means a training arrangement which is the subject of an agreement entered into between the ~~area school~~ community college and an employer to provide program services.

5. "Employer" means the person providing new jobs in the merged area served by the ~~area school~~ community college and entering into an agreement.

7. "Agreement" is the agreement between an employer and ~~an area school~~ a community college concerning a project.

8. "~~Area school~~ Community college" means a ~~vocational school or a~~ community college established under chapter 280A.

9. "Board of directors" means the board of directors of ~~an area school~~ a community college.

Sec. 74. Section 280B.3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~An area school~~ A community college may enter into an agreement to establish a project. If an agreement is entered into, the ~~area school~~ community college and the employer shall notify the department of revenue and finance as soon as possible. An agreement may provide, but is not limited to:

Sec. 75. NEW SECTION. 220.162 AUTHORITY TO ISSUE COMMUNITY COLLEGE DORMITORY BONDS AND NOTES.

The authority shall assist a community college or the state board for community colleges as provided in chapter 280A, and the authority shall have all of the powers delegated to it in a chapter 28E agreement by a community college board of directors, the state board for community colleges, or a private developer contracting with a community college to develop a self-liquidating housing facility, such as a dormitory, for the community college, with respect to the issuance or securing of bonds or notes and the carrying out of the purposes of chapter 280A.

Sec. 76. NEW SECTION. 280A.71 COMMUNITY COLLEGE BOND PROGRAM — DEFINITIONS — FUNDING — BONDS AND NOTES.

1. As used in this section and section 280A.72, unless the context otherwise requires, "authority" means the Iowa finance authority.

2. The authority shall cooperate with the state board for community colleges, individual community colleges, and private developers, acting in conjunction with a community college to build self-liquidating housing facilities in connection with the community college, in the creation, administration, and funding of a community college bond program to finance self-liquidating facilities, such as dormitories, in connection with a community college.

3. The authority may issue its bonds and notes for the purpose of funding the nonrecurring cost of acquiring or constructing a community college related facility, such as a dormitory.

4. The authority may issue its bonds and notes for the purposes of this chapter and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the authority or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amount payable under the loan agreements or any other instruments securing the debt obligations under the loan agreements.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreement or other instrument.

d. Other terms and conditions as deemed necessary or appropriate by the authority.

5. The powers granted the authority under this section are in addition to other powers contained in chapter 220. All other provisions of chapter 220, except section 220.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section, except to the extent they are inconsistent with this section.

6. All bonds or notes issued by the authority in connection with the program are exempt from taxation by this state and the interest on the bonds or notes is exempt from state income tax, both personal and corporate.

Sec. 77. NEW SECTION. 280A.72 SECURITY — RESERVE FUNDS — PLEDGES — NONLIABILITY — IRREVOCABLE CONTRACTS.

1. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 280A.71 that the principal of, premium, and interest on the bonds or notes are payable from any of the following and may pledge the same to its bonds and notes:

a. The income and receipts or other moneys derived from the projects financed with the proceeds of the bonds or notes.

b. The income and receipts or other money derived from designated projects whether or not the projects are financed in whole or in part with the proceeds of the bonds or notes.

c. The amounts on deposit in the name of a community college or a private developer or operator of a community college facility, including but not limited to revenues from a purchase, rental, or lease agreement, or dormitory charges.

d. The amounts payable to the authority, the community college board of directors, the state board for community colleges, or a private developer or operator, pursuant to a loan agreement.

e. Any other funds or accounts established by the authority in connection with the program or the sale and issuance of its bonds or notes.

2. The authority may establish reserve funds to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this subsection, the proceeds of the sale of its bonds or notes and other money which is made available from any other source.

3. A pledge made in respect of bonds or notes is valid and binding from the time the pledge is made. The money or property so pledged and received after the pledge by the authority is immediately subject to the lien of the pledge without physical delivery or further act. The lien of the pledge is valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, or any other instrument by which a pledge is created needs to be recorded, filed, or perfected under chapter 554, to be valid, binding, or effective against all persons.

4. The members of the authority or persons executing the bonds or notes are not personally liable on the bonds or notes and are not subject to personal liability or accountability by reason of the issuance of the bonds or notes.

5. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are special obligations of the authority and are payable solely from the income and receipts or other funds or property of the community college or private developer, and the amounts on deposit in a community college bond fund, and the amounts payable to the authority under its loan agreements with a community college or private developer to the extent that the amounts are designated in the resolution, trust agreement, or other instrument of the authority authorizing the issuance of the bonds or notes as being available as security for the bonds or notes. The authority shall not pledge the faith or credit of the state or of a political subdivision of the state to the payment of any bonds or notes. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, or levy, or pledge any form of taxation whatever to the payment of the bonds or notes.

6. The state pledges to and agrees with the holders of bonds or notes issued under this subchapter that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds or notes, together with the interest on them including interest on unpaid installments or interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

Sec. 78. NEW SECTION. 280A.73 RULES.

The authority shall adopt rules pursuant to chapter 17A to implement sections 280A.71 and 280A.72.

Sec. 79. Section 280B.4, Code 1989, is amended to read as follows:

280B.4 INCREMENTAL PROPERTY TAXES.

If an agreement provides that all or part of program costs are to be paid for by incremental property taxes, the board of directors shall provide by resolution that taxes levied on the employer's taxable business property, where new jobs are created as a result of a project, each year by or for the benefit of the state, city, county, school district, or other taxing district after the effective date of the resolution shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the employer's business property, where new jobs are created as a result of a project, was taxable property in an urban renewal project and the resolution was an ordinance within the meaning of those subsections. The taxes received by the board of directors shall be allocated to and when collected be paid into a special fund of the ~~area school~~ community college and may be irrevocably pledged by the ~~area school~~ community college to pay the principal of and interest on the certificates issued by the ~~area school~~ community college to finance or refinance, in whole or in part, the project. However, with respect to any urban renewal project as to which an ordinance is in effect under section 403.19, the collection of incremental property taxes authorized by this chapter are suspended in favor of collection of incremental taxes under section 403.19. As used in this section, "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property of the employer's business, where new jobs are created as a result of a project.

Sec. 80. Section 280B.5, subsections 2, 3, and 5, Code 1989, are amended to read as follows:

2. An amount equal to one and one-half percent of the gross wages paid by the employer to each employee participating in a project shall be credited from the payment made by an employer pursuant to section 422.16. If the amount of the withholding by the employer is less than one and one-half percent of the gross wages paid to the employees covered by the agreement, then the employer shall receive a credit against other withholding taxes due by the

employer. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue and finance, to the ~~area school~~ community college to be allocated to and when collected paid into a special fund of the ~~area school~~ community college to pay the principal of and interest on certificates issued by the ~~area school~~ community college to finance or refinance, in whole or in part, the project. When the principal and interest on the certificates have been paid, the employer credits shall cease and any money received after the certificates have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

3. The new jobs credit from withholding and the special fund into which it is paid, may be irrevocably pledged by ~~an area school~~ a community college for the payment of the principal of and interest on the certificate issued by ~~an area school~~ a community college to finance or refinance, in whole or in part, the project.

5. ~~An area school~~ A community college shall certify to the department of revenue and finance the amount of new jobs credit from withholding an employer has remitted to the special fund and shall provide other information the department may require.

Sec. 81. Section 280B.6, subsection 5, Code 1989, is amended to read as follows:

5. Before certificates are issued, the board of directors shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice by action in the district court of a county in the area within which the ~~area school~~ community college is located, appeal the decision of the board of directors in proposing to issue the certificates. The action of the board of directors in determining to issue the certificates is final and conclusive unless the district court finds that the board of directors has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of directors to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after fifteen days from the publication of the notice of intention to issue.

Sec. 82. Section 280B.7, Code 1989, is amended to read as follows:

280B.7 DEPARTMENT OF ECONOMIC DEVELOPMENT.

The Iowa department of economic development in consultation with the department of education shall coordinate the new jobs training program. The Iowa department of economic development shall adopt, amend, and repeal rules under chapter 17A that the ~~area school~~ community college will use in developing projects with new and expanding industrial new jobs training proposals. The department is authorized to make any rule that is adopted, amended, or repealed effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication. The department shall prepare an annual report for the governor and general assembly on the activities of the industrial new jobs training program.

Sec. 83. Section 280C.2, subsections 1, 2, 5, 7, 8, and 9, Code 1989, are amended to read as follows:

1. "New jobs training program" or "program" means the project or projects established by ~~an area school~~ a community college for the creation of jobs by providing education and training of workers for new jobs for a new or expanding small business in the merged area served by the ~~area school~~ community college.

2. "Project" means a training arrangement which is the subject of an agreement entered into between the ~~area school~~ community college and an employer to provide program services.

5. "Employer" means the small business providing new jobs in the merged area served by the ~~area school~~ community college and entering into an agreement.

7. "Agreement" is the agreement between an employer and ~~an area school~~ a community college concerning a project.

8. "~~Area school~~ Community college" means a ~~vocational school or~~ a community college established under chapter 280A.

9. "Board of directors" means the board of directors of ~~an area school~~ a community college.

Sec. 84. Section 280C.3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~An area school~~ A community college may enter into an agreement to establish a project. However, before ~~an area school~~ a community college and a small business enter into an agreement to establish a project, the ~~area school~~ community college shall consult with the local office of the division of job service of the department of employment services to determine if there already exists in the community, a skilled or experienced group of unemployed workers, as a result of a plant closing or reduction in force, sufficiently large to supply the needs of the new or expanding small business. If such a supply of workers exists, the ~~area school~~ community college shall enter into the agreement only if the small business agrees to give preference in training to those workers over any other workers who do not have greater qualifications. If an agreement is entered into, the ~~area school~~ community college and the employer shall notify the department of revenue and finance as soon as possible. An agreement may provide, but is not limited to:

Sec. 85. Section 280C.5, subsections 2 and 4, Code 1989, are amended to read as follows:

2. An amount equal to one and one-half percent of the gross wages paid by the employer to each employee participating in a project shall be credited from the payment made by an employer pursuant to section 422.16. If the amount of the withholding by the employer is less than one and one-half percent of the gross wages paid to the employees covered by the agreement, then the employer shall receive a credit against other withholding taxes due by the employer. The employer shall remit the amount of the credit quarterly in the same manner as withholding payments are reported to the department of revenue and finance, to the ~~area school~~ community college. To the extent this credit represents repayments of an advance made under section 280C.6 plus interest, it shall be paid to the treasurer of state. When the repayments of an advance plus interest have been paid, the employer credits shall cease and any money received after this shall be remitted to the treasurer of state to be deposited in the general fund of the state.

4. ~~An area school~~ A community college shall certify to the department of revenue and finance the amount of new jobs credit from withholding an employer has remitted to the ~~area school~~ community college and shall provide other information the department may require.

Sec. 86. Section 280C.6, Code 1989, is amended to read as follows:

280C.6 JOB TRAINING FUND.

1. There is established for the ~~area schools an area school~~ community colleges a community college job training fund under the supervision of the treasurer of state. The ~~area school~~ community college job training fund consists of two separate accounts containing moneys as follows:

a. A permanent school fund repayment account to which shall be credited the interest and principal from repayment of loans originating from the permanent school fund appropriation in section 280C.8, made to employers for program costs, and interest earned from moneys in the account. Moneys in this account shall be used to repay the appropriation from the permanent school fund. At the end of each calendar quarter, the treasurer of state shall transfer the moneys in the account and any moneys in the surplus account of the Iowa plan fund for economic development created in section 99E.31 to the permanent school fund as repayment of the loan from the permanent school fund. If there are moneys in the permanent school fund repayment account after the permanent school fund loan has been fully repaid, those moneys shall be transferred to the revolving loan account provided in paragraph "b" of this section.

b. A revolving loan account to which shall be credited moneys appropriated for the fiscal year beginning July 1, 1987, and for succeeding fiscal years for the purposes of this chapter plus the interest and principal from repayment of advances made to employers for program costs and interest earned from moneys in the revolving loan account. Moneys in this account shall be used to provide advances to employers for program costs upon request of boards of

directors of the ~~area schools~~ community colleges. Beginning July 1, 1995, the Iowa department of economic development shall reserve a portion of the moneys in the revolving loan account to pay a portion of the original one million dollar appropriation in section 280C.8 which, based upon projections of the state treasurer, may still be owed to the permanent school fund on June 30, 1996. The department shall reserve a portion of the moneys in the revolving loan account only if the moneys in the permanent school fund repayment account created in paragraph "a" and moneys in the "surplus" account of the Iowa plan fund for economic development created in section 99E.31, subsection 1, paragraph "c", are insufficient to repay the loan from the permanent school fund.

2. To provide funds for the present payment of the costs of a new jobs training program by the employer, the ~~area school~~ community college may provide to the employer an advance of the moneys to be used to pay for the program costs as provided in the agreement. To receive the funds for this advance from the revolving loan account, the ~~area school~~ community college shall submit an application to the department of economic development. The amount of the advance shall not exceed fifty thousand dollars for any project. The advance shall be repaid with interest from the sources provided in the agreement. The rate of interest to be charged for advances made in a calendar month is equal to one half of the average rate of interest on tax exempt certificates issued by ~~area schools~~ community colleges pursuant to chapter 280B for the previous twelve months. The rate shall be computed by the Iowa department of economic development.

Sec. 87. Section 280C.7, Code 1989, is amended to read as follows:

280C.7 DEPARTMENT OF ECONOMIC DEVELOPMENT TO COORDINATE.

The Iowa department of economic development in consultation with the department of education and the division of job service of the department of employment services shall coordinate the new jobs training program. The department of economic development shall adopt, amend, and repeal rules under chapter 17A that the ~~area school~~ community college will use in developing projects with new and expanding small business new jobs training proposals. The department shall establish by rule criteria for determining what constitutes a small business. A project shall not be funded under this chapter unless the department approves the project. The department shall establish by rule criteria for approval of projects. The department is authorized to make any rule that is adopted, amended, or repealed effective immediately upon filing with the administrative rules coordinator or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing, and publication. The Iowa department of economic development shall prepare an annual report for the governor and general assembly on the activities and the future anticipated needs of this new jobs training program.

Sec. 88. Section 280C.8, Code 1989, is amended to read as follows:

280C.8 APPROPRIATIONS.

Notwithstanding sections 8.6, 302.1, and 302.1A, there is appropriated from the permanent school fund, for the fiscal period beginning July 1, 1985, and ending June 30, 1996, the sum of one million dollars to provide funds for the purposes of and deposits in the ~~area school~~ community college job training fund created in section 280C.6. The money appropriated under this section is a loan from the permanent school fund to the ~~area school~~ community college job training fund. The interest on the loan shall be prepaid for a three-year period from funds appropriated by this section. The rate of interest shall be determined by the treasurer of state.

At the end of each calendar quarter the treasurer of state shall transfer moneys to repay the amount of the loan from the permanent school fund from the following sources:

1. Moneys in the permanent school fund repayment account created in section 280C.6, subsection 1, paragraph "a".

2. Moneys to be credited to the "surplus" account of the Iowa plan fund for economic development created in section 99E.31.

On and after June 30, 1996, the moneys reserved by the Iowa department of economic development from the revolving loan account created in section 280C.6, subsection 1, paragraph "b", shall be used to repay a portion of the loan from the permanent school fund provided the conditions stated in section 280C.6, subsection 1, paragraph "b", are met.

Sec. 89. Section 282.26, Code 1989, is amended to read as follows:

282.26 HIGH SCHOOL STUDENTS ATTENDING ADVANCED COURSES.

The board of any ~~junior~~ community college ~~school district~~ may, by mutual agreement with any college or university, permit any specially qualified high school student to attend advanced courses of academic instruction ~~therein~~ at the college or university.

The state board of regents and the department of education may by rule permit such students to attend any institution of higher learning under their jurisdiction. Credit earned in any such course at a ~~junior college,~~ college or university may be applied toward credit for high school graduation. ~~No public~~ Public school funds shall not be expended for payment of tuition or other costs for such attendance at any college or university, unless ~~such~~ the payment is expressly permitted or required by law.

The foregoing provisions shall also apply to ~~junior colleges,~~ colleges and universities in adjacent states when ~~such~~ the institutions are located nearer to the homes or schools of the school district than the closest ~~junior college,~~ college or university within the state.

Sec. 90. Section 286A.2, subsection 6, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Adult remedial education cost center.

Sec. 91. Section 286A.4, Code 1989, is amended to read as follows:

286A.4 SUPPORT PER INSTRUCTIONAL COST CENTER.

Each area school shall multiply the state foundation support level per contact hour for each instructional cost center for a budget year by the number of contact hours eligible for state general aid in the area school in the cost center for the budget year to obtain the support per cost center in that area school. However, for the budget year beginning July 1, 1992, in determining the support per cost center in an area school for the adult remedial education cost center, the number of contact hours for that cost center shall be multiplied by one and one-tenth. For each of the next three budget years the multiplier shall be increased from the multiplier used for the base year by an additional one-tenth until for the budget year beginning July 1, 1995, and succeeding budget years, the multiplier is one and four-tenths. The total support for an area school for instructional cost centers is the sum of the support per cost center for all five instructional cost centers.

Sec. 92. Section 286A.2, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 1. "Area school" means an area school under section 280A.2, subsection 10, Code 1989, for purposes of calculations based on fiscal years occurring before July 1, 1990; for other purposes, "area school" means a community college under section 280A.2, subsection 1.

Sec. 93. Section 286A.2, subsection 4, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

The total contact hours for an area school in a cost center for a budget year for purposes of determining state general aid under this chapter are the average of the total contact hours offered by the area school in that cost center for the base year and the two fiscal years preceding the base year. However, commencing July 1, 1991, total contact hours in a cost center for a budget year shall be the average of the total contact hours offered by the area school in that cost center for the base year and the fiscal year preceding the base year.

Sec. 94. Section 286A.2, subsection 7, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Equipment purchase function.

Sec. 95. Section 286A.3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Commencing July 1, 1991, and on July 1 of each succeeding year, the percent multiplier of the state average cost per contact hour shall be increased by an additional one percent until the state foundation support level per contact hour equals seventy-five percent of the state average cost per contact hour.

Sec. 96. Section 286A.4, Code 1989, is amended to read as follows:

286A.4 SUPPORT PER INSTRUCTIONAL COST CENTER.

Each area school shall multiply the state foundation support level per contact hour for each instructional cost center for a budget year by the number of contact hours eligible for state general aid in the area school in the cost center for the budget year to obtain the support per cost center in that area school. However, in calculating the support per cost center for a budget year in an area school, beginning July 1, 1991, the number of contact hours eligible for state general aid for the vocational-technical preparatory cost center, for programs of twenty-five contact hours or less per week, shall be increased in eight annual equal increments, until the support per cost center equals the number of those contact hours for that cost center multiplied by one and two-tenths. In addition, however, in calculating the support per cost center for vocational-technical preparatory cost centers beginning July 1, 1991, for programs of twenty-six to thirty contact hours per week, the number of contact hours eligible for state general aid shall be increased in eight annual equal increments, until the support per cost center equals the number of contact hours for that cost center multiplied by a number which equals the multiplier used for programs of twenty-five hours per week minus four hundredths for every contact hour per week of the program that exceeds twenty-five hours per week. The total support for an area school for instructional cost centers is the sum of the support per cost center for all five instructional cost centers.

Sec. 97. Section 286A.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Commencing July 1, 1991, and on July 1 of each succeeding year, the percent multiplier of the area school's general institutional support function cost shall be increased by an additional one percent until the foundation support level for the general institutional function reaches seventy-five percent of the area school's general institutional support function cost.

Sec. 98. Section 286A.6, unnumbered paragraph 3, Code 1989, is amended to read as follows:

~~For the budget year beginning July 1, 1986 and succeeding budget years, the~~ The foundation support level per contact hour eligible for state general aid for the student services function cost for an area school is the foundation support level per contact hour for the base year plus a student services support allowable growth amount. The allowable growth amount is determined by the department of management by multiplying the state percent of growth for the budget year by the state average student services function cost per contact hour for the base year. The total is then multiplied by the number of eligible contact hours in the area school to determine the foundation support for the student services function cost for a budget year.

For the fiscal period commencing July 1, 1991, and ending June 30, 1995, twenty-five percent of noneligible contact hours shall be added to the eligible contact hours each fiscal year, for purposes of determining the foundation support for the student services function cost, until all contact hours are eligible for determining the foundation support level. In succeeding fiscal years, all contact hours shall be eligible for purposes of determining the foundation support level for the student services function cost.

Sec. 99. Section 286A.6, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Commencing July 1, 1991, and on July 1 of each succeeding year, the percent multiplier of the state average student services function cost per contact hour shall be increased by an additional one percent until the foundation support level for the student services function cost equals seventy-five percent.

Sec. 100. Section 286A.7, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Commencing July 1, 1991, and on July 1 of each succeeding year, the percent multiplier of the state average cost per square foot shall be increased by an additional percent until the foundation support level per square foot for the physical plant maintenance cost equals seventy-five percent.

Sec. 101. Section 286A.7, subsection 2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The physical plant utility function cost for the base year commencing July 1, 1985 for all area schools is determined by dividing the total physical plant utility costs, including utility costs paid under section 280A.22, of all area schools for that year by the total cubic feet of buildings of the area schools for that year to achieve a state average cost per cubic foot.

Sec. 102. Section 286A.7, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Commencing July 1, 1991, and on July 1 of each succeeding year, the percent multiplier of the state average cost per cubic foot shall be increased by an additional percent until the foundation support level per cubic foot for the physical plant utility cost equals seventy-five percent.

Sec. 103. Section 286A.8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The library function cost for a budget year for an area school is determined by the department of education by multiplying the total of the area school's support for the five instructional cost centers, for the general institutional support function, for the student services function, and for the physical plant function for that year by ~~three and thirty-three hundredths~~ five percent, which is the average percent of the area schools' support expended for the library function cost. The department shall notify the department of management. Notwithstanding this paragraph, for each year of the four-year fiscal period commencing July 1, 1991, and ending June 30, 1995, the percent multiplier, which is the average percent of the area school's support expended for the library function cost, shall be increased in four equal increments from three and thirty-three hundredths percent to five percent.

Sec. 104. Section 286A.8, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Commencing July 1, 1991, and on July 1 of each succeeding year, the percent multiplier of the area school's library function cost shall be increased by an additional percent until the foundation support level for the library services function equals seventy-five percent.

Sec. 105. NEW SECTION. 286A.8A EQUIPMENT PURCHASE FUNCTION COST.

Commencing July 1, 1991, the equipment purchase function cost for a budget year is determined by the department of education by multiplying the sum of all of the area schools' support for the five instructional cost centers, for the general institutional support function, for the student services function, and for the physical plant function for that year by .194 percent for equipment purchases for the arts and sciences cost center and by .776 percent for equipment purchases for the vocational-technical preparatory cost center. The department shall allocate the equipment purchase function cost among the area schools based upon each area school's proportion of arts and sciences contact hours and vocational-technical preparatory contact hours compared to the total arts and sciences and vocational-technical preparatory contact hours, and shall notify the department of management.

The foundation support level for the equipment purchase function cost for an area school for a base year is sixty-five percent of the area school's equipment purchase function cost for that year.

Commencing July 1, 1991, and on July 1 of each succeeding year, the percent multiplier of the area school's equipment purchase function cost shall be increased by an additional one percent until the foundation support level for the equipment purchase function reaches seventy-five percent of the area school's equipment purchase function cost.

Sec. 106. Section 286A.11, subsection 3, Code 1989, is amended to read as follows:

3. Fifty thousand dollars if the area school has fewer than one million contact hours. The department of education shall calculate the difference between the amount of state general aid each area school that has fewer than one million contact hours would receive if a foundation support level of seventy percent were used in lieu of the sixty-five percent plus any additional percentage amounts added to the sixty-five percent foundation level after July 1, 1991, as specified in this chapter and the amount the area school would receive under this chapter. The area school shall receive that difference in lieu of the fifty thousand dollars granted under this subsection if the difference is greater than fifty thousand dollars.

Sec. 107. NEW SECTION. 286A.14A COMMUNITY COLLEGE EXCELLENCE 2000 ACCOUNT.

The department of education shall provide for the establishment of a community college excellence 2000 account in the office of the treasurer of state for deposit of moneys appropriated to the account for purposes of funding quality instructional centers and program and administrative sharing agreements under sections 280A.45 and 280A.46. There is appropriated from the general fund of the state to the department of education, for the fiscal year beginning July 1, 1991, an amount equal to two and five-tenths percent of the total state general aid generated for all community colleges during the base year under chapter 286A. In the next succeeding four fiscal years, the percent multiplier shall be increased in equal increments until the multiplier reaches ten percent. In succeeding fiscal years the percent multiplier used to determine the appropriation under this section shall be ten percent.

Of the moneys in the community college excellence 2000 account, fifty percent shall be reserved for purposes of awarding funds to approved quality instructional centers, forty percent shall be reserved for purposes of awarding funds to community colleges for approved program sharing agreements, and ten percent shall be reserved for purposes of awarding funds to community colleges for approved administrative sharing agreements. Notwithstanding the reservation of moneys in the account, funds not awarded under this section may be used for purposes of allocating funds to community colleges for approved mergers under section 280A.39. Funds received under section 280A.39 and this section shall be in lieu of receipt of funds for other programs funded under this section.

The department of education shall notify the department of management of approval of claims against the account under sections 280A.45, 280A.46, and this section and the department of revenue and finance shall make the payments to community colleges.

Unencumbered funds remaining in the account at the end of a fiscal year shall revert to the general fund of the state under section 8.33.

Sec. 108. NEW SECTION. 286A.19 GUARANTEE.

If the state general aid generated under this chapter for an area school for a budget year is less than the state general aid received by that area school for the fiscal year beginning July 1, 1990, the area school is entitled to receive additional state aid for that budget year equal to the difference between the state general aid generated for that budget year and the state general aid received for the fiscal year beginning July 1, 1990. There is appropriated from the general fund of the state to the department of management an amount sufficient to make the payments under this section.

Sec. 109. Section 298.18, unnumbered paragraph 9, Code 1989, is amended to read as follows:

Provided further that if a school corporation leases a building or property, which has been used as a junior college by such corporation, to a ~~merged area school corporation operating or proposing to operate an area~~ community college, the annual amounts certified as herein provided by such leasing school corporation for payment of interest and principal due on lawful bonded indebtedness incurred by such leasing school corporation for purchasing, building, furnishing, reconstructing, repairing, improving or remodeling the building leased or acquiring or adding to the site of such property leased, to the extent of the respective annual rent the school corporation will receive under such lease, shall not be considered as a part of the total amount estimated and certified for the purposes of determining if such amount exceeds any limitation contained in this section.

Sec. 110. Section 331.512, subsection 1, paragraph h, Code Supplement 1989, is amended to read as follows:

h. The levy of a tax for the operation of ~~an area vocational school or an area~~ a community college as provided in section 280A.17.

Sec. 111. Section 331.559, subsection 5, Code 1989, is amended to read as follows:

5. Collect the tax levied for the erection and equipping of ~~area vocational school or area~~ community college facilities as provided in section 280A.22.

Sec. 112.

If funds are appropriated for that purpose, the department of personnel shall conduct a study of educational opportunities for state employees. The study shall include, but is not limited to, current utilization of educational leave by state employees, programs and services available currently to state employees, state employee needs for increased education, and the development of a plan to coordinate available resources and programs with employees in need of educational services. The department shall submit its findings, together with the plan for increasing educational opportunities, in a report to the general assembly by December 1, 1990.

Sec. 113.

If funds are appropriated for that purpose, the department of education, in consultation with the state board of regents, shall develop recommendations relating to the programs offered under the postsecondary enrollment options Act contained in chapter 261C. The recommendations shall include any funding changes needed to enhance utilization of the postsecondary enrollment options Act by students, including changes in targeted dollar amounts.

The recommendations shall also include an examination of the relationship between the offering of advanced placement courses at the secondary school level and the options available for delivery of postsecondary courses through the postsecondary enrollment options Act. The department shall submit its findings together with its recommendations in a report to the general assembly by January 15, 1991.

Sec. 114.

If funds are appropriated for that purpose, the state board of regents shall conduct a study to determine whether public service assistance is included as one of the criteria for determining institutional compensation and whether faculty members at institutions under its control who do provide public service assistance on a state or national basis receive remuneration for providing the assistance. The board shall submit its findings, along with any recommendations, in a report to the general assembly by December 1, 1990.

Sec. 115.

If funds are appropriated for that purpose, the department of education, in conjunction with the department of economic development and the department of employment services, shall conduct a study of the job and career information programs available through the public education system and state agencies. The study shall include assessment and monitoring of the coordination between the programs offered, the relationship between the programs and statewide job training programs, the identification of areas in which new programs need to

be offered or existing programs strengthened, and the development of recommendations for creation of an information delivery system to provide continuing updates of the relative workforce training and personnel needs as compared to the numbers of students enrolled in the various programs. The department of education shall submit the findings, along with any recommendations, in a report to the general assembly by December 1, 1991.

Sec. 116.

If funds are appropriated for that purpose, the department of education in cooperation with the boards of trustees of each community college shall conduct a study of the child care needs of students, faculty, and staff at each of the community colleges. The department shall submit its findings, along with any recommendations, in a report to the general assembly by December 1, 1991.

Sec. 117.

If funds are appropriated for that purpose, the department of education shall conduct a study of offering special programs at the community colleges versus initiating tuition reciprocity or subvention agreements with similar higher education institutions in surrounding states. The department shall submit its findings in a report to the general assembly by December 1, 1991.

*Sec. 118.

*If funds are appropriated for that purpose, the higher education strategic planning council shall explore the creation of an Iowa "electronic university" and the marketing of courses from Iowa to students in other states through the use of telecommunications.**

Sec. 119.

If funds are appropriated for that purpose, the board of educational examiners in cooperation with the department of education and community college trustees shall conduct a study of the practitioner licensing standards for instructional personnel teaching at the community colleges. The study shall include evaluation of current standards in light of current needs, a comparison of the standards with those of other institutions of higher education in the state and comparable institutions in other states, and evaluation of the educational requirements for nursing educators under 655 Iowa Administrative Code, Rule 2.3 (2)(d)(2), Rule 2.6 (1)(a)(1)(1.), and Rule 2.6 (2)(c), as the requirements relate to community colleges. In addition, this study, done in cooperation with the board of nursing, shall include an assessment of the state's supply of nursing educators who possess the educational qualifications identified in the administrative rules. The board of nursing shall by rule delay enforcement of the nursing educator administrative rules being studied until completion of the study, submission of any findings, and a review of the rules and the completed study by the administrative rules review committee. The board of educational examiners shall submit the findings, along with any recommended changes in the standards, in a report to the general assembly by July 1, 1991.

Sec. 120.

1. Sections 260.33, 261.17, and 307A.2, Code Supplement 1989, are amended by striking the words "area school" or "area schools" and inserting in lieu thereof the following: "community college" or "community colleges".

2. Sections 93.19, 93.20, 93.20A, 252D.1, 279.44, 313.4, 321J.3, 321J.22, 405A.1, 598.1, and 633.376, Code 1989, are amended by striking the words "area school" or "area schools" and inserting in lieu thereof the following: "community college" or "community colleges".

Sec. 121.

1. Sections 260.33, 261.1, and 296.7, Code Supplement 1989, are amended by striking the words "merged area school" or "merged area schools" and inserting in lieu thereof the following: "community college" or "community colleges".

2. Sections 15.103, 19B.11, 80D.4, 93.19, 261.83, 276.10, 279.50, 303.77, 442A.3, and 601A.9, Code 1989, are amended by striking the words "merged area school" or "merged area schools" and inserting in lieu thereof the following: "community college" or "community colleges".

*Item veto; see message at end of the Act

Sec. 122.

1. Sections 99E.31, 99E.32, 256.7, 256.9, 261.1, 261.2, 261.9, 261.12, 261.19, 261.25, 261.35, 261.38, 261.72, 261.82, 261.87, 261.88, 261.90, 261.91, 261.102, and 421.17, Code Supplement 1989, are amended by striking the words "college aid commission" and inserting in lieu thereof the following: "college student aid commission".

2. Sections 7C.7, 17.4, 261.71, and 261A.5, Code 1989, are amended by striking the words "college aid commission" and inserting in lieu thereof the following: "college student aid commission".

Sec. 123.

The initial voting members of the higher education strategic planning council shall serve terms of office as follows: four members shall serve four-year terms and three members shall serve two-year terms. Members serving four-year terms shall include the public member and one member from each of the three other categories of voting members.

Sec. 124. APPOINTMENT OF STATE BOARD.

Notwithstanding the composition of the state board of education established in section 256.3, for the period commencing July 1, 1990, and ending April 30, 1992, the state board of education shall consist of eleven members including the nine members appointed under section 256.3 and two additional members who have substantial knowledge related to the community college and who shall have full voting rights. The two additional members shall be appointed in the manner specified in section 256.3 for members of the state board of education. One of the two additional members shall be appointed to a term ending April 30, 1992, and the other additional member to a term ending on April 30, 1996. Of the positions of membership for which terms expire under section 256.3 on April 30, 1992, two positions are eliminated and shall not be filled.

Sec. 125.

On the effective date of this Act, appropriations, property taxes certified, contracts, agreements, and other obligations of an area school shall be deemed to be appropriations, taxes, contracts, agreements, and obligations of the successor community college.

Sec. 126. Sections 280A.3, 280A.4, 280A.5, 280A.6, 280A.7, 280A.8, 280A.9, 280A.10, 280A.14, 280A.24, 280A.26, and 280A.40, Code 1989, are repealed.

Sec. 127. Section 280A.33 is repealed effective June 30, 1993.

Sec. 128. Section 286A.19 is repealed effective June 30, 1993.

Sec. 129.

The Code editor is directed to correct the sections of chapter 286A that refer to the numbers of instructional cost centers and noninstructional cost functions that have been created upon the effective dates of the creation of the adult remedial cost center and the equipment purchase function.

Sec. 130.

Section 90 of this Act takes effect July 1, 1992.

Sec. 131.

Section 94 of this Act takes effect July 1, 1991.

Approved April 6, 1990, except those items which I hereby disapprove and which are designated as section 25 in its entirety and section 118 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 2410, an Act relating to higher education, including coordination, administration, standards, and funding, making appropriations, and providing effective dates.

Senate File 2410 reflects Iowa's commitment to provide quality postsecondary educational opportunities for all of our citizens. The Act creates a Community College Excellence 2000 program, which will encourage the development of quality instructional centers and provide incentives for program sharing among the community colleges. Also included is a provision which authorizes the State Board of Education to establish an accreditation process for community colleges to assure quality education programs in all community colleges. The Act provides additional funding which may be used to improve faculty salaries and to reduce tuition in the community colleges. I am pleased to approve these initiatives included in Senate File 2410 which will help Iowans acquire the knowledge and skills necessary to compete in a global economy.

Senate File 2410 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 25, in its entirety. This provision would prohibit the State Board of Regents from using reimbursements from the institutions to assist in the funding of the board office. These reimbursements are used for extraordinary expenditures such as presidential searches, organizational audits, staff activities relating to bonding for the universities, and preparation of materials which are of benefit to the universities. The board should continue to be authorized to seek appropriate reimbursements from the universities. Therefore, this provision cannot be approved.

I am unable to approve the item designated as Section 118, in its entirety. This provision would require the Higher Education Strategic Planning Council to explore the creation of an Iowa "Electronic University." While it may be appropriate for the Strategic Planning Council to include the use of new technologies in a strategic plan, the Strategic Planning Council should be responsible for determining which issues should be studied, as provided in Section 11 of this Act.

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 2410 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1254

HIGHER EDUCATION AMENDMENTS

S.F. 2430

AN ACT relating to higher education including the funding, administration, and authority for dormitory bonding of community colleges, coordination of higher education sectors, and studies relating to educational opportunities.

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

Section 1. 1990 Iowa Acts, Senate File 2410,* section 10, is amended by striking the section and inserting in lieu thereof the following:

*Chapter 1253 herein

SEC. 10. NEW SECTION. 260B.1 HIGHER EDUCATION STRATEGIC PLANNING COUNCIL ESTABLISHED.

The higher education strategic planning council is established to develop strategic plans for the advancement of higher education institutions in the state.

The higher education council is an independent public body to be located in the offices of the college aid commission, which consists of seven voting members, who are to be selected in the following manner:

1. One voting member shall be a public member, who shall also serve as chairperson of the council.

2. Two voting members shall be selected from a list of nominees submitted by the state board of regents.

3. Two voting members shall be selected from a list of nominees submitted by the association which represents the largest number of independent colleges and universities.

4. Two voting members shall be selected from a list of nominees submitted jointly by the association which represents the largest number of community college trustees, the association which represents the largest number of community college presidents, and the state board of education.

All voting members shall be appointed by the governor, subject to confirmation by the senate. Terms of office of voting members are four years commencing on July 1.

Sec. 2. 1990 Iowa Acts, Senate File 2410,* section 49, subsection 5, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Discontinue the program or programs which have been identified as deficient.

Sec. 3. 1990 Iowa Acts, Senate File 2410,* section 50, subsection 1, is amended by striking the subsection and inserting in lieu thereof the following:

1. The state board shall develop standards for the accreditation of community college programs. Standards developed shall be general in nature so as to apply to more than one specific program of instruction. However, the state board may develop additional, specific criteria where appropriate to the accreditation process.

Sec. 4. 1990 Iowa Acts, Senate File 2410,* section 58, subsection 4, is amended by striking the subsection.

Sec. 5. 1990 Iowa Acts, Senate File 2410,* section 75, is amended to read as follows:

SEC. 75. NEW SECTION. 220.162 AUTHORITY TO ISSUE COMMUNITY COLLEGE DORMITORY BONDS AND NOTES.

The authority shall assist a community college or the state board for community colleges as provided in chapter 280A, and the authority shall have all of the powers delegated to it in a chapter 28E agreement by a community college board of directors, the state board for community colleges, or a private developer contracting with a community college to develop a ~~self-liquidating~~ housing facility, such as a dormitory, for the community college, with respect to the issuance or securing of bonds or notes ~~and the carrying out of the purposes of chapter 280A~~ as provided in sections 280A.71 and 280A.72.

Sec. 6. 1990 Iowa Acts, Senate File 2410,* section 76, subsections 1, 2, and 3, are amended to read as follows:

1. As used in this section and section 280A.72, unless the context otherwise requires, ~~"authority"~~:

a. "Authority" means the Iowa finance authority.

b. "Bonds" means revenue bonds which are payable solely as provided in this section and section 280A.72.

2. The authority shall cooperate with the state board for community colleges, individual community colleges, and private developers, acting in conjunction with a community college to build ~~self-liquidating~~ housing facilities in connection with the community college, in the

*Chapter 1253 herein

creation, administration, and funding of a community college dormitory bond program to finance ~~self-liquidating~~ housing facilities, such as dormitories, in connection with a community college.

3. The authority may issue its bonds and notes for the purpose of funding the nonrecurring cost of acquiring, ~~or~~ constructing, and equipping a community college related facility, such as a dormitory.

Sec. 7. 1990 Iowa Acts, Senate File 2410,* section 77, subsection 1, is amended to read as follows:

1. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 280A.71 that the principal of, premium, and interest on the bonds or notes are payable from any of the following and may pledge the same to its bonds and notes:

~~a. The income and receipts or other moneys derived from the projects financed with the proceeds of the bonds or notes.~~

~~b. The income and receipts or other money derived from designated projects whether or not the projects are financed in whole or in part with the proceeds of the bonds or notes.~~

a. From the net rents, profits, and income arising from the project or property pledged or mortgaged.

b. From the net rents, profits, and income which has not been pledged for other purposes arising from any similar housing facility under the control and management of the community college or state board for community colleges.

c. From the fees or charges established by the community college or state board for community colleges for students attending the institution who are living in the housing facility for which the obligation was incurred.

d. From the income derived from gifts and bequests made to the institutions under the control of the community college or state board for community colleges for such purposes.

~~e~~ e. ~~The~~ From the amounts on deposit in the name of a community college or a private developer or operator of a community college facility, including but not limited to revenues from a purchase, rental, or lease agreement, loan agreement, or dormitory charges.

~~d~~ f. ~~The~~ From the amounts payable to the authority, the community college board of directors, the state board for community colleges, or a private developer or operator, pursuant to a loan agreement, lease agreement, or sale agreement.

~~e~~ g. ~~Any~~ From the other funds or accounts established by the authority in connection with the program or the sale and issuance of its bonds or notes.

No obligation created hereunder shall ever be or become a charge against the state of Iowa but all such obligations, including principal and interest, shall be payable solely as provided in this section and section 280A.71.

Sec. 8. 1990 Iowa Acts, Senate File 2410,* section 77, subsection 6, is amended by striking the subsection.

Sec. 9. 1990 Iowa Acts, Senate File 2410,* section 93, is amended to read as follows:

SEC. 93. Section 286A.2, subsection 4, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

The total contact hours for an area school in a cost center for a budget year for purposes of determining state general aid under this chapter are the average of the total contact hours offered by the area school in that cost center for the base year and the two fiscal years preceding the base year. However, commencing July 1, ~~1991~~ 1992, total contact hours in a cost center for a budget year shall be the average of the total contact hours offered by the area school in that cost center for the base year and the fiscal year preceding the base year.

Sec. 10. 1990 Iowa Acts, Senate File 2410,* section 95, is amended by striking the section and inserting in lieu thereof the following:

SEC. 95. Section 286A.3, Code 1989, is amended by adding the following new unnumbered paragraph:

*Chapter 1253 herein

NEW UNNUMBERED PARAGRAPH. For each of the fiscal years beginning July 1, 1991, and July 1, 1992, the percent multiplier of the state average cost per contact hour shall be increased by an additional one-half of one percent, and on July 1 of each of the next four fiscal years, shall be increased by an additional one percent until the state foundation support level per contact hour for each instructional cost center equals seventy percent of the state average cost per contact hour.

Sec. 11. 1990 Iowa Acts, Senate File 2410,* section 97, is amended by striking the section and inserting in lieu thereof the following:

SEC. 97. Section 286A.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For each of the fiscal years beginning July 1, 1991, and July 1, 1992, the percent multiplier of the area school's general institutional function cost shall be increased by an additional one-half of one percent, and on July 1 of each of the next four fiscal years shall be increased by an additional one percent until the foundation support level for the general institutional function reaches seventy percent of the area school's general institutional support function cost.

Sec. 12. 1990 Iowa Acts, Senate File 2410,* section 98, is amended to read as follows:

SEC. 98. Section 286A.6, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The foundation support level per contact hour eligible for state general aid for the student services function cost for an area school is the foundation support level per contact hour for the base year plus a student services support allowable growth amount. The allowable growth amount is determined by the department of management by multiplying the state percent of growth for the budget year by the state average student services function cost per contact hour for the base year. The total is then multiplied by the number of eligible contact hours in the area school to determine the foundation support for the student services function cost for a budget year.

For the fiscal ~~period~~ year commencing July 1, 1991, ~~and ending June 30, 1995,~~ twenty-five percent of noneligible contact hours shall be added to the eligible contact hours ~~each fiscal year~~, for purposes of determining the foundation support for the student services function cost~~, until all contact hours are eligible for determining the foundation support level~~. In succeeding fiscal years, ~~all~~ the number of noneligible contact hours ~~shall be eligible~~ added to eligible contact hours for purposes of determining the foundation support level for the student services function cost shall be the number of noneligible contact hours used to determine the foundation support level for the fiscal year commencing July 1, 1991.

Sec. 13. 1990 Iowa Acts, Senate File 2410,* section 99, is amended by striking the section and inserting in lieu thereof the following:

SEC. 99. Section 286A.6, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For each of the fiscal years beginning July 1, 1991, and July 1, 1992, the percent multiplier of the state average student services function cost per contact hour shall be increased by an additional one-half of one percent, and on July 1 of each of the next four fiscal years shall be increased by an additional one percent until the foundation support level for the student services function cost equals seventy percent of the state average student services function cost per contact hour.

Sec. 14. 1990 Iowa Acts, Senate File 2410,* section 100, is amended by striking the section and inserting in lieu thereof the following:

SEC. 100. Section 286A.7, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For each of the fiscal years beginning July 1, 1991, and July 1, 1992, the percent multiplier of the state average cost per square foot for the physical plant maintenance cost shall be increased by an additional one-half of one percent, and on July 1 of each of the next four fiscal years shall be increased by an additional one percent until the foundation support level per square foot for the physical plant maintenance cost equals seventy percent of the state average cost per square foot.

*Chapter 1253 herein

Sec. 15. 1990 Iowa Acts, Senate File 2410,* section 102, is amended by striking the section and inserting in lieu thereof the following:

SEC. 102. Section 286A.7, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For each of the fiscal years beginning July 1, 1991, and July 1, 1992, the percent multiplier of the state average cost per cubic foot for the physical plant utility cost shall be increased by an additional one-half of one percent and on July 1 of each of the next four fiscal years shall be increased by an additional one percent until the foundation support level per cubic foot for the physical plant utility cost equals seventy percent of the state average cost per cubic foot.

Sec. 16. 1990 Iowa Acts, Senate File 2410,* section 104, is amended by striking the section and inserting in lieu thereof the following:

SEC. 104. Section 286A.8, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For each of the fiscal years beginning July 1, 1991, and July 1, 1992, the percent multiplier of the area school's library function cost shall be increased by an additional one-half of one percent and on July 1 of each of the next four fiscal years shall be increased by an additional one percent until the foundation support level for the library function cost equals seventy percent of the area school's library function cost.

Sec. 17. 1990 Iowa Acts, Senate File 2410,* section 105, unnumbered paragraph 3, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

For each of the fiscal years beginning July 1, 1991, and July 1, 1992, the percent multiplier of the area school's equipment purchase function cost shall be increased by an additional one-half of one percent, and on July 1 of each of the next four fiscal years, shall be increased by an additional one percent until the foundation support level for the equipment purchase function cost reaches seventy percent of the area school's equipment purchase function cost.

Sec. 18. 1990 Iowa Acts, Senate File 2410,* section 107, unnumbered paragraph 1, is amended to read as follows:

The department of education shall provide for the establishment of a community college excellence 2000 account in the office of the treasurer of state for deposit of moneys appropriated to the account for purposes of funding quality instructional centers and program and administrative sharing agreements under sections 280A.45 and 280A.46. There is appropriated from the general fund of the state to the department of education, for the fiscal year beginning July 1, 1991, ~~an amount equal to two and five-tenths percent of the total state general aid generated for all community colleges during the base year under chapter 286A~~ one million two hundred thousand dollars. ~~In the next succeeding four fiscal years, the percent multiplier shall be increased in equal increments until the multiplier reaches ten percent. In succeeding fiscal years the percent multiplier used to determine the appropriation under this section shall be ten percent.~~ There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1992, an amount equal to two and five-tenths percent of the total state general aid generated for all community colleges during the budget year under chapter 286A for deposit in the community college excellence 2000 account. In the next succeeding two fiscal years, the percent multiplier shall be increased in equal increments until the multiplier reaches seven and one-half percent of the total state general aid generated for all community colleges during the budget year.

Sec. 19. 1990 Iowa Acts, Senate File 2410,* section 107, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. It is the intent of the general assembly that the general assembly enact legislation by July 1, 1995, that will increase the maximum percent multiplier established in this section from seven and five-tenths percent to ten percent.

*Chapter 1253 herein

Sec. 20. 1990 Iowa Acts, Senate File 2410, section 112, is amended to read as follows:
SEC. 112.

~~If funds are appropriated for that purpose, the~~ The *department of personnel shall conduct a study of educational opportunities for state employees. The study shall include, but is not limited to, current utilization of educational leave by state employees, programs and services available currently to state employees, state employee needs for increased education, and the development of a plan to coordinate available resources and programs with employees in need of educational services. The department shall submit its findings, together with the plan for increasing educational opportunities, in a report to the general assembly by December 1, 1991.**

Sec. 21. 1990 Iowa Acts, Senate File 2410, section 113, is amended to read as follows:
SEC. 113.

~~If funds are appropriated for that purpose, the~~ The *department of education, in consultation with the state board of regents, shall develop recommendations relating to the programs offered under the postsecondary enrollment options Act contained in chapter 261C. The recommendations shall include any funding changes needed to enhance utilization of the postsecondary enrollment options Act by students, including changes in targeted dollar amounts.*

*The recommendations shall also include an examination of the relationship between the offering of advanced placement courses at the secondary school level and the options available for delivery of postsecondary courses through the postsecondary enrollment options Act. The department shall submit its findings together with its recommendations in a report to the general assembly by January 15, 1991.**

Sec. 22. 1990 Iowa Acts, Senate File 2410, section 114, is amended to read as follows:
SEC. 114.

~~If funds are appropriated for that purpose, the~~ The *state board of regents shall conduct a study to determine whether public service assistance is included as one of the criteria for determining institutional compensation and whether faculty members at institutions under its control who do provide public service assistance on a state or national basis receive remuneration for providing the assistance. The board shall submit its findings, along with any recommendations, in a report to the general assembly by December 1, 1990.**

Sec. 23. 1990 Iowa Acts, Senate File 2410, section 115, is amended to read as follows:
SEC. 115.

~~If funds are appropriated for that purpose, the~~ The *department of education, in conjunction with the department of economic development and the department of employment services, shall conduct a study of the job and career information programs available through the public education system and state agencies. The study shall include assessment and monitoring of the coordination between the programs offered, the relationship between the programs and statewide job training programs, the identification of areas in which new programs need to be offered or existing programs strengthened, and the development of recommendations for creation of an information delivery system to provide continuing updates of the relative workforce training and personnel needs as compared to the numbers of students enrolled in the various programs. The department of education shall submit the findings, along with any recommendations, in a report to the general assembly by December 1, 1991.**

Sec. 24. 1990 Iowa Acts, Senate File 2410, section 116, is amended to read as follows:
SEC. 116.

~~If funds are appropriated for that purpose, the~~ The *department of education in cooperation with the boards of trustees of each community college shall conduct a study of the child care needs of students, faculty, and staff at each of the community colleges. The department shall submit its findings, along with any recommendations, in a report to the general assembly by December 1, 1991.**

Sec. 25. 1990 Iowa Acts, Senate File 2410, section 117, is amended to read as follows:

*Item veto; see message at end of the Act

SEC. 117.

~~If funds are appropriated for that purpose, the~~ The *department of education shall conduct a study of offering special programs at the community colleges versus initiating tuition reciprocity or subvention agreements with similar higher education institutions in surrounding states. The department shall submit its findings in a report to the general assembly by December 1, 1991.**

**Sec. 26. 1990 Iowa Acts, Senate File 2410, section 118, is amended to read as follows:*

SEC. 118.

~~If funds are appropriated for that purpose, the~~ The *higher education strategic planning council shall explore the creation of an Iowa "electronic university" and the marketing of courses from Iowa to students in other states through the use of telecommunications.**

**Sec. 27. 1990 Iowa Acts, Senate File 2410, section 119, is amended to read as follows:*

SEC. 119.

~~If funds are appropriated for that purpose, the~~ The *board of educational examiners in cooperation with the department of education and community college trustees shall conduct a study of the practitioner licensing standards for instructional personnel teaching at the community colleges. The study shall include evaluation of current standards in light of current needs, a comparison of the standards with those of other institutions of higher education in the state and comparable institutions in other states, and evaluation of the educational requirements for nursing educators under 655 Iowa Administrative Code, Rule 2.3 (2)(d)(2), Rule 2.6 (1)(a)(1)(1.), and Rule 2.6 (2)(c), as the requirements relate to community colleges. In addition, this study, done in cooperation with the board of nursing, shall include an assessment of the state's supply of nursing educators who possess the educational qualifications identified in the administrative rules. The board of nursing shall by rule delay enforcement of the nursing educator administrative rules being studied until completion of the study, submission of any findings, and a review of the rules and the completed study by the administrative rules review committee. The board of educational examiners shall submit the findings, along with any recommended changes in the standards, in a report to the general assembly by July 1, 1991.**

Sec. 28. 1990 Iowa Acts, Senate File 2410,** section 123, is amended to read as follows:

SEC. 123.

The initial voting members of the higher education strategic planning council shall serve terms of office beginning July 1, 1990, as follows: four members shall serve four-year terms and three members shall serve two-year terms. Members serving four-year terms shall include the public member and one member from each of the three other categories of voting members.

Sec. 29. Section 12.30, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. "Authority" means a department, or public or quasi-public instrumentality of the state including, but not limited to, the authority created under chapter 175, 175A, 220, 261A, 307B, or 442A, which has the power to issue obligations, except that "authority" does not include the state board of regents or the Iowa finance authority to the extent it acts pursuant to chapter 280A.

Sec. 30. NEW SECTION. 286A.17 STUDY OF STATE FOUNDATION SUPPORT LEVEL.

It is the intent of the general assembly that the general assembly and the governor enact legislation to increase the state foundation support level for the instructional cost centers and the noninstructional function costs to the seventy-five percent level by July 1, 2001.

**Sec. 31.*

*The higher education strategic planning council shall recommend a process for assessing quality of instruction and for assessment of student learning. The council shall submit recommendations in a report to the general assembly by December 1, 1991.**

*Item veto; see message at end of the Act

**Chapter 1253 herein

Sec. 32.

It is the intent of the general assembly that the general assembly shall review and evaluate the needs and funding relating to the providing of remedial education at the community colleges and to establish an appropriate remedial cost center within the area school foundation formula by the fiscal year which commences July 1, 1992.

Sec. 33. 1990 Iowa Acts, Senate File 2410,* sections 90 and 91 are repealed.

Approved May 6, 1990, except the items which I hereby disapprove and which are designated as sections 20, 21, 22, 23, 24, 25, 26, and 27 in their entirety; and section 31 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 2430, an Act relating to higher education including the funding, administration, and authority for dormitory bonding of community colleges, coordination of higher education sectors, and studies relating to educational opportunities.

Senate File 2430 amends Senate File 2410, which I have previously approved. Primarily, Senate File 2430 revises the provisions of Senate File 2410 which increase funding for community colleges and which authorize the issuance of community college dormitory bonds. These changes reflect the fiscal constraints of the state while maintaining the commitment to provide quality postsecondary educational opportunities for Iowans.

Senate File 2430 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Sections 20, 21, 22, 23, 24, 25, and 27, in their entirety. These sections would remove provisions which I have previously approved in 1990 Iowa Acts, Senate File 2410. Those provisions in Senate File 2410 would make a variety of studies by the Department of Personnel, the Department of Education, the Board of Regents and the Board of Educational Examiners conditional upon the appropriation of funds. I have asked state agencies to curtail expenditures for hiring personnel and for travel and equipment due to the fiscal constraints of the state. Given these circumstances, I am unable to approve these sections.

I am unable to approve the item designated as Section 26, in its entirety. This section would amend 1990 Iowa Acts, Senate File 2410, Section 118. Because I did not approve that section of Senate File 2410, it would be incongruous to approve this section.

I am unable to approve the item designated as Section 31, in its entirety. This provision would require the Higher Education Strategic Planning Council to recommend a process for assessing the quality of instruction and student learning. It is inappropriate for the General Assembly to single out this issue for study by the Strategic Planning Council. The Council should be responsible for determining the issues to be included in a strategic plan for higher education in Iowa. However, I concur that the assessment of instruction and student learning is an important concern, and I would encourage each sector of higher education to examine this issue.

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 2430 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

*Chapter 1253 herein

CHAPTER 1255

FINANCIAL PROVISIONS – APPROPRIATION OF LOTTERY REVENUES – ENVIRONMENT, AGRICULTURE, AND NATURAL RESOURCES

S.F. 2153

AN ACT relating to the environment, agriculture, and natural resources including making a commitment to the environment, agriculture, and natural resources by making appropriations from Iowa lottery revenues and providing for funding for rural water districts, and for an income tax credit for establishing permanent grass and buffer zones including erosion control structures, providing a penalty, and providing effective and applicability dates.

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

Section 1. Section 12.61, subsection 2, unnumbered paragraph 3, Code Supplement 1989, is amended to read as follows:

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. 2. Section 15.108, subsection 1, paragraphs f and g, Code Supplement 1989, are amended by striking the paragraphs.

Sec. 3. Section 15.251, subsection 2, Code Supplement 1989, is amended to read as follows:

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~~ a job training fund created in the office of the treasurer of state 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~~ job training fund 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.

**Sec. 4. Section 99E.9, subsection 3, paragraph m, Code 1989, is amended to read as follows:*

*m. The form and type of marketing, informational, and educational material to be permitted. Marketing material and campaigns shall include the concept of investing in Iowa's ~~economic development~~ environment, agriculture, and natural resources and show the ~~economic development initiatives~~ environmental, agricultural, and natural resources programs funded from lottery revenue.**

**Sec. 5. Section 99E.10, subsection 1, paragraph b, Code 1989, is amended to read as follows:*

*b. An amount equal to four percent of the gross sales price of each ticket or share sold shall be deducted as the sales tax on the sale of that ticket or share, remitted to the treasurer of state and deposited into the ~~state general fund~~ rural community 2000 bond security account established under section 220.142, subsection 8.**

Sec. 6. Section 99E.10, subsection 1, unnumbered paragraph 3, Code 1989, is amended to read as follows:

The ~~Iowa plan~~ committing the lottery to environment, agriculture, and natural resources fund ~~for economic development~~, also to be known as the ~~Iowa plan~~ CLEAN fund, is created

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in the office of the treasurer of state. Lottery revenue remaining after expenses are determined shall be transferred to the ~~Iowa plan~~ CLEAN fund on a monthly basis. Revenues generated during the last month of the fiscal year which are transferred to the ~~Iowa plan~~ CLEAN fund during the following fiscal year shall be considered revenues transferred during the previous fiscal year for purposes of the allotments made to and appropriations made from the separate accounts in the ~~Iowa plan~~ CLEAN fund for that previous fiscal year. However, upon the request of the director and subject to approval by the treasurer of state, an amount sufficient to cover the foreseeable administrative expenses of the lottery for a period of twenty-one days may be retained from the lottery revenue. Prior to the monthly transfer to the ~~Iowa plan~~ CLEAN fund, the director may direct that lottery revenue shall be deposited in the lottery fund and in interest bearing accounts designated by the treasurer of state in the financial institutions of this state or invested in the manner provided in section 452.10. Interest or earnings paid on the deposits or investments is considered lottery revenue and shall be transferred to the ~~Iowa plan~~ CLEAN fund in the same manner as other lottery revenue. Money in the ~~Iowa plan~~ CLEAN fund shall be deposited in interest bearing accounts in financial institutions in this state or invested in the manner provided in section 452.10. The interest or earnings on the deposits or investments shall be considered part of the ~~Iowa plan~~ CLEAN fund and shall be retained in the fund unless appropriated by the general assembly.

Sec. 7. Section 99E.10, subsection 2, Code 1989, is amended by striking the subsection.

Sec. 8. Section 99E.10, subsection 3, Code 1989, is amended to read as follows:

~~3~~ 2. ~~Funds equal to any initial appropriation from the general fund to the lottery shall be returned to the general fund from the receipts of the sale of tickets or shares not later than July 1, 1986.~~ The director of management shall not include lottery revenues in the director's fiscal year revenue estimates. Moneys in the ~~Iowa plan~~ CLEAN fund shall not be considered ~~to be~~ a part of the Iowa economic emergency fund.

Sec. 9. Section 99E.20, subsection 2, Code 1989, is amended to read as follows:

2. A lottery fund is created in the office of the treasurer of state. The fund consists of all revenues received from the sale of lottery tickets or shares and all other moneys lawfully credited or transferred to the fund. The commissioner shall certify monthly that portion of the fund that is transferred to the ~~Iowa plan~~ CLEAN fund under section 99E.10 and shall cause that portion to be transferred to the ~~Iowa plan~~ CLEAN fund of the state. The commissioner shall certify before the twentieth of each month that portion of the fund resulting from the previous month's sales to be transferred to the ~~Iowa plan~~ CLEAN fund.

Sec. 10. NEW SECTION. 99E.34 APPROPRIATIONS — TEN FISCAL YEARS.

1. The treasurer of state shall, for each fiscal year of the fiscal period beginning July 1, 1990, and ending June 30, 2000, make allotments of the moneys within the CLEAN fund created in section 99E.10 to separate accounts within that fund as follows:

a. For each fiscal year, sixty-two and five-tenths percent to the Iowa resources enhancement and protection fund created in section 455A.18 and which amount is appropriated for the purposes of that fund. However, the total amount allotted under this paragraph in any single fiscal year shall not exceed twenty-five million dollars.

b. *For each fiscal year, eighteen percent to the environmental protection account.

c. For each fiscal year, six percent to the soil conservation account.

**d. *For each fiscal year, eight percent to the energy efficiency account.*

e. For each fiscal year, five and five-tenths percent plus the amount, if any, that would have been allotted to paragraph "a" but for the dollar limitation specified in paragraph "a" to the annual appropriations account. It is the intent of the general assembly that moneys in this account be appropriated annually for environmentally related programs and purposes.

2. For each fiscal year of the fiscal period, moneys allotted to the environmental protection account shall be appropriated as follows:

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a. Fifty-nine and five-tenths percent to the waste volume reduction and recycling fund to be used as follows:

(1) One-half of the moneys deposited under this lettered paragraph shall be used for the purposes specified pursuant to section 455D.15, subsection 2. The moneys shall be allocated to each county on the basis of population. The county allocation shall be distributed quarterly by the department to each county. The county shall immediately distribute the funds to the cities based upon the proportion of the city's respective population to the total county population, and the county shall retain the portion of the funds based upon the proportion of the unincorporated area of the county to the total population of the county. The funds shall be used by the county and the cities for the implementation of the comprehensive plan elements required pursuant to section 455B.306 and relative to chapter 455D.

(2) One-half of the moneys deposited under this lettered paragraph shall be used for the purposes designated pursuant to section 455D.15, subsection 3.

b. Four and one-tenths percent to the agricultural management account of the groundwater protection fund as provided in section 455E.11, subsection 2, paragraph "b", to be used for plugging abandoned wells and cisterns.

c. Three and five-tenths percent to the department of natural resources to implement and administer the state and local government waste management program established pursuant to section 455B.484 and section 455B.510.

d. Seven percent to the groundwater protection fund created in section 455E.11, to be used for the household hazardous waste cleanup program established in section 455F.8. The department may use this allocation to fund its administration of the program and to provide assistance to local communities in holding cleanup events and operating the collection centers.

e. Seven percent to the groundwater protection fund created in section 455E.11, to be used to finance household hazardous material collection sites established pursuant to section 455F.8A and the local government education programs established pursuant to section 455F.8B.

f. Three and five-tenths percent to the groundwater protection fund created in section 455E.11 to provide grants to counties for rural water testing under section 455B.172, subsection 5.

g. Four and nine-tenths percent to the environmental protection division of the department of natural resources for an ongoing air quality toxics monitoring, permitting, and inspection program.

h. Two percent to the Iowa state university of science and technology for allocation to the Iowa state university water research institute for the purposes and under the conditions specified in section 99E.32, subsection 4, paragraph "e".

i. Seven percent to the environmental protection division of the department of natural resources to be used for the assessment and evaluation of surface water streams and rivers.

*j. One and five-tenths percent to the environmental advertising board created in section 190C.2 for purposes of chapter 190C.**

3. For each fiscal year of the fiscal period, moneys in the soil conservation account are appropriated to the department of agriculture and land stewardship to be allocated as follows:

a. Sixty-two and four-tenths percent to the soil conservation division of the department of agriculture and land stewardship to provide state soil and water conservation cost-sharing funds pursuant to sections 467A.42 through 467A.75.

b. Eighteen and eight-tenths percent to the water protection fund created in section 467F.4, to be used for filter strips and waterways projects. The governing body of each soil and water conservation district shall identify those critical areas within the district where permanent grass and buffer zones would mitigate the effects of concentrated runoff on surface water quality. The governing body shall notify the landowners of those critical areas and provide the landowners with recommendations to establish these permanent grass and buffer zones, including any erosion control structures that may be appropriate, to mitigate the effects of concentrated runoff on surface water quality. In providing this notification and these recommendations, the governing body shall also inform the landowners that the establishment of these

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zones along with any erosion control structures may be eligible for financial assistance under the incentive programs within the water protection fund pursuant to section 467F.4 and may also qualify for cost-sharing funds pursuant to section 467A.48.

c. Eighteen and eight-tenths percent to the soil conservation division of the department of agriculture and land stewardship for reforestation programs.

*4. *For each fiscal year of the fiscal period, moneys allotted to the energy efficiency account shall be appropriated as follows:*

a. Twelve percent to the energy and geological resources division of the department of natural resources, to be used to establish the ethanol research and technology office at the state university of Iowa. The office shall coordinate its ethanol research with Iowa state university of science and technology in regard to the use of alternative agricultural products and distillation efforts. Up to ten percent of the funds appropriated in this paragraph may be awarded by the office to communities to study the feasibility of opening processing plants which are dry milling ethanol facilities.

b. Fourteen and one-tenth percent, to the Iowa energy center of which up to one-third, not to exceed one hundred fifty thousand dollars, may be used for administration costs of the center and the remainder shall be used for transportation studies and projects which enhance energy efficiency and self-sufficiency.

c. Fourteen and one-tenth percent, to the department of agriculture and land stewardship, for on-farm alternative fuels demonstration projects.

*d. Twenty-two and three-tenths percent to the Iowa energy center established pursuant to Senate File 2403,** if enacted by the Seventy-third General Assembly, 1990 Session, to be used for competitive grants to communities for comprehensive, communitywide, low-income home weatherization projects. Applications shall be made in conjunction with a community action agency designated pursuant to section 601K.93.*

*e. Thirty-one and three-tenths percent to the Iowa energy center established pursuant to Senate File 2403,** if enacted by the Seventy-third General Assembly, 1990 Session to be used for competitive grants, for comprehensive, in-depth, communitywide projects to reduce energy consumption and enhance energy self-sufficiency. Cities, clusters of cities and counties are eligible to apply for grants. Applications may be limited to building efficiency or vehicle efficiency or may contain both and shall contain a component for ongoing education concerning the goals of the plan and how to achieve those goals. The moneys under this paragraph shall be allocated equally for building efficiency and vehicle efficiency. However, if the moneys allocated to either category are not used or dedicated by April 1 of the fiscal year, the moneys may be reallocated to the other category.*

*f. Six and two-tenths percent to the department of natural resources for the administration of energy efficiency programs and projects created in this Act or in Senate File 2403,** if enacted by the Seventy-third General Assembly, 1990 Session.*

5. For the fiscal year beginning July 1, 1990, moneys allotted to the annual appropriations account shall be appropriated as follows:

a. Three hundred thousand dollars to the center for health effects of environmental contamination established in section 263.17, to be used for research involving environmental exposure and risk from contamination of the air, soil, and water and for the state rural well water survey in conjunction with the department of natural resources.

b. Seven hundred thousand dollars to the department of natural resources to be used for the completion of the Three-mile lake reservoir.

c. One hundred thousand dollars to the department of natural resources to be used for the restoration of Springbrook lake.

d. Three hundred thousand dollars to the department of natural resources to be used to contract for a statewide analysis of town and country water systems and development of a plan for the efficient delivery of water to Iowa citizens through municipal, county, and rural water systems.

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e. One hundred fifty thousand dollars to the department of agriculture and land stewardship to be used for the purpose of funding the development of a program to preserve the state's crop and native plant seed stocks.

The department of agriculture and land stewardship shall employ an Iowa seed crop curator to work in cooperation with the United States department of agriculture's north central plant introduction station at Ames and with the Iowa state university of science and technology.

The department of agriculture and land stewardship in conjunction with the Iowa state university of science and technology and the north central plant introduction station at Ames shall establish an advisory committee to conduct a study to identify crop and native plant seed stocks for the purpose of preserving threatened plant genetic resources. The committee shall include representatives of the department of natural resources, the department of agriculture and land stewardship, the state department of transportation, the Iowa state university of science and technology, and representatives of other public and private organizations. The committee shall submit a report of its findings to the general assembly by January 1, 1992. The department of agriculture and land stewardship may contract with the Iowa state university of science and technology to assist in the collection, cataloging, and maintenance of the crop and native plant seed stocks.

f. Three hundred twenty-five thousand dollars to the center for global and regional environmental research at the state university of Iowa to study the regional impact of environmental change. The center shall consult with Iowa state university of science and technology and the university of northern Iowa.

g. One hundred thousand dollars to the department of natural resources to be transferred immediately to the Iowa resources enhancement and protection fund created in section 455A.18 to replace funds advanced to the designated counties in the designated amounts for purposes of the agreements entered into with the department to restore and repair lowhead dams in the counties as provided in 1989 Iowa Acts, chapter 311, section 9, subsection 4:

(1) Lyon county, the sum of thirty-three thousand three hundred thirty-three dollars.

(2) Jasper county, the sum of sixteen thousand six hundred sixty-seven dollars.

(3) Buena Vista county, the sum of sixteen thousand six hundred sixty-seven dollars.

(4) Jones county, the sum of thirty-three thousand three hundred thirty-three dollars.

h. One hundred thousand dollars, to the department of natural resources to be used in grant programs for towns with a population of three thousand five hundred or less for the construction of swimming pools.

i. One hundred thousand dollars, to the Poweshiek rural water association for costs relating to the laying of water pipelines to cross the Iowa river.

j. Twenty-five thousand dollars, to the department of natural resources for a pilot project on energy efficiency and savings from computerizing energy use.

*If the amount of funds in the annual appropriations account is insufficient to fund all the amounts appropriated under this subsection, each appropriation made in this subsection shall be reduced by the percent by which the amount of funds is insufficient.**

6. The moneys appropriated in subsection 1, paragraph "a", and subsections 2, 3, 4, and 5 shall remain in the appropriate account of the CLEAN fund until such time as the agency, entity, or 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 CLEAN 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.

7. The agency, entity, or fund to which moneys are appropriated under this section shall to the extent feasible make every effort to maximize the impact of these moneys through matching government and private funds unless otherwise provided by law.

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8. The agency or entity to which moneys are appropriated or which oversee a fund to which moneys are appropriated under this section may use some of those moneys for administrative costs relating to the use of those moneys, including additional full-time equivalent positions. The acquisition of additional full-time equivalent positions authorized under this subsection are not subject to any freeze, set by the governor, or the limit, set by the general assembly, on the number of full-time equivalent positions that such agency or entity may have. The agency or entity that adds additional full-time equivalent positions shall report the fact and the purpose at the end of the applicable quarter to the fiscal committee of the legislative council.

*Sec. 11. NEW SECTION. *190C.1 DEFINITIONS.*

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

1. "Board" means the environmental advertising board created in section 190C.2.

2. "Degradable" means as defined in section 455B.301.

3. "Degradable package" means package which is at least fifty percent composed of a product designated by the Iowa department of agriculture and land stewardship pursuant to section 159.30, subsection 1.

4. "Ecologically or environmentally sound or safe" means an absence of long-term harmful effects to the ecology or environment as a result of use or disposal.

5. "Recyclable material" means a material which would otherwise become waste, except that processes and markets exist which would allow the material to be returned to use in the form of raw materials or products. A material is recyclable when the board determines that processes and markets are available to a degree that makes recycling reasonably possible within Iowa.

6. "Recycled material" means a material whose ratio of recycled substance to original substance exceeds fifty percent, unless a lower ratio of the recycled substance is required to maintain a property of a material necessary for the material's intended use.

*Sec. 12. NEW SECTION. *190C.2 ENVIRONMENTAL ADVERTISING BOARD.*

There is established within the waste management authority of the department of natural resources a five-member environmental advertising board consisting of the following persons:

1. The secretary of agriculture, or the secretary's designee.

2. The director of the department of natural resources, or the director's designee.

3. The director of the Iowa department of public health, or the director's designee.

4. The director of the center for health effects of environmental contamination established pursuant to section 263.17, subsection 1, or the director's designee.

5. A member of the advisory committee established in section 190C.4.

*Sec. 13. NEW SECTION. *190C.3 GENERAL POWERS AND DUTIES OF THE BOARD.*

The board:

1. Has rulemaking authority under chapter 17A.

2. May employ a director and staff.

3. Shall monitor the development of national standards relating to claims of environmental benefit made for products, seek to assist in their development, and seek to host periodically, as necessary, national and regional forums on the issue.

4. Shall educate the public on the issue.

5. Gather information relating to claims of environmental benefit made for products sold in the state and provide periodic reports to the consumer protection division of the attorney general's office.

6. May develop a program using a logo or logos authorized for use in promoting the environmental benefit of products. Standards shall be developed as a part of the program.

In authorizing the use of a logo under this program, the board, the state, and any state agency, official, or employee involved in the authorization, is immune from a civil suit for damages, including but not limited to a suit based on contract, breach of warranty, negligence, strict liability, or tort. Authorization of the use of a logo by the board, the state, or any state agency,

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official, or employee, is not an express or implied guarantee or warranty concerning the environmental benefit of the applicant's product. This paragraph does not create a duty of care to the applicant or any other person.

*7. May use fees for the purposes of this chapter. Fees received by and appropriations made to the board shall not revert.**

**Sec. 14.* NEW SECTION. *190C.4 ADVISORY COMMITTEE.*

*There is established an advisory committee to provide technical assistance and advice to the board. The advisory committee shall consist of at least three members and not more than nine members. The members shall be appointed by the governor, subject to confirmation by the senate. To the extent possible, members shall have an expertise in environmental and health issues. The members serve at the pleasure of the governor. Members of the advisory committee shall receive a per diem of forty dollars and actual and necessary expenses incurred in the performance of their duties. The advisory committee shall designate one of its members to be the fifth member of the board. The advisory committee shall seek input from manufacturers of and consumers of products and packages as to the issues, trends, and technologies emerging in the environmental safety area.**

**Sec. 15. Section 220.142, Code Supplement 1989, is amended by adding the following new subsection:*

NEW SUBSECTION. *8. a. The authority shall establish a rural community 2000 bond security account, which shall consist of all revenues designated in section 99E.10, subsection 1, paragraph "b" to be deposited in the account and all other appropriations, grants, or gifts received by the authority for use under this subsection. The authority may transfer to this account any other funds not obligated for any other purpose.*

*b. In a fiscal year in which moneys in a reserve fund established under section 220.142, subsection 2, are insufficient to fully meet obligations to pay principal and interest on the bonds or notes, moneys in the security account established under paragraph "a" shall first be used to eliminate the insufficiency. However, the moneys in the security account that have not been spent for such payments by March 1 of the fiscal year shall be immediately transferred to the general fund of the state.**

Sec. 16. Section 280C.6, subsection 1, Code 1989, is amended to read as follows:

1. There is established for the area schools an area school job training fund under the supervision of the treasurer of state. The area school job training fund consists of two separate accounts containing moneys as follows:

a. A permanent school fund repayment account to which shall be credited the interest and principal from repayment of loans originating from the permanent school fund appropriation in section 280C.8, made to employers for program costs, and interest earned from moneys in the account. Moneys in this account shall be used to repay the appropriation from the permanent school fund. At the end of each calendar quarter, the treasurer of state shall transfer the moneys in the account ~~and any moneys in the surplus account of the Iowa plan fund for economic development created in section 99E.31~~ to the permanent school fund as repayment of the loan from the permanent school fund. If there are moneys in the permanent school fund repayment account after the permanent school fund loan has been fully repaid, those moneys shall be transferred to the revolving loan account provided in paragraph "b" ~~of this section~~.

b. A revolving loan account to which shall be credited moneys appropriated for the fiscal year beginning July 1, 1987, and for succeeding fiscal years for the purposes of this chapter plus the interest and principal from repayment of advances made to employers for program costs and interest earned from moneys in the revolving loan account. Moneys in this account shall be used to provide advances to employers for program costs upon request of boards of directors of the area schools. Beginning July 1, 1995, the Iowa department of economic development shall reserve a portion of the moneys in the revolving loan account to pay a portion of the original one million dollar appropriation in section 280C.8 which, based upon projections of the state treasurer, may still be owed to the permanent school fund on June 30, 1996. The

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department shall reserve a portion of the moneys in the revolving loan account only if the moneys in the permanent school fund repayment account created in paragraph "a" ~~and moneys in the "surplus" account of the Iowa plan fund for economic development created in section 99E.31, subsection 1, paragraph "c",~~ are insufficient to repay the loan from the permanent school fund.

Sec. 17. Section 280C.8, Code 1989, is amended to read as follows:

280C.8 APPROPRIATIONS.

Notwithstanding sections 8.6, 302.1, and 302.1A, there is appropriated from the permanent school fund, for the fiscal period beginning July 1, 1985, and ending June 30, 1996, the sum of one million dollars to provide funds for the purposes of and deposits in the area school job training fund created in section 280C.6. The money appropriated under this section is a loan from the permanent school fund to the area school job training fund. The interest on the loan shall be prepaid for a three-year period from funds appropriated by this section. The rate of interest shall be determined by the treasurer of state.

At the end of each calendar quarter the treasurer of state shall transfer moneys to repay the amount of the loan from the permanent school fund from the ~~following sources:~~

~~1. Moneys~~ moneys in the permanent school fund repayment account created in section 280C.6, subsection 1, paragraph "a".

~~2. Moneys to be credited to the "surplus" account of the Iowa plan fund for economic development created in section 99E.31.~~

On and after June 30, 1996, the moneys reserved by the Iowa department of economic development from the revolving loan account created in section 280C.6, subsection 1, paragraph "b", shall be used to repay a portion of the loan from the permanent school fund provided the conditions stated in section 280C.6, subsection 1, paragraph "b", are met.

Sec. 18. Section 331.441, subsection 2, paragraph b, Code Supplement 1989, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (12) Funding the construction, reconstruction, improvement, repair, and equipping of waterworks, water mains and extensions, ponds, reservoirs, wells, dams, pumping installations or other facilities for the storage, transportation, or utilization of potable water owned and operated by a rural water district established pursuant to chapter 357A, only when the rural water district and a sufficient number of participating members have entered into agreements which satisfy the board of supervisors that sufficient revenue to retire the principal and interest on the county general obligation bonds will be generated by the rural water district, and the rural water district and the board of supervisors have agreed that the interest and principal on the county general obligation bonds will be retired from the rural water district revenues.

If the rural water district revenues are insufficient to pay the principal and interest on the county's general obligation bonds, the county's debt service tax levy for the county general obligation bonds shall not be levied against property located in any city except a city which has entered into the chapter 28E agreement with the rural water district.

The county and the cities entering into the rural water district agreement may provide in the agreement for a different rate of the county's debt service tax levy against property in unincorporated areas of the county and property within those cities.

Sec. 19. Section 357A.11, subsection 7, Code 1989, is amended to read as follows:

7. Have power to borrow from, co-operate with and enter into ~~such~~ agreements as deemed necessary with any agency of the federal government, this state, or a county of this state, and to accept financial or other aid from any agency of the federal government. To evidence any indebtedness the obligations may be one or more bonds or notes and the obligations may be sold at private sale.

Sec. 20. Section 357A.11, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Finance all or part of the cost of the construction or purchase of a project necessary to carry out the purposes for which the district is incorporated or to refinance all or part of the original cost of that project, including, but not limited to, obligations originated by the district as a nonprofit corporation under chapter 504A and assumed by the district reorganized under this chapter. Financing or refinancing carried out under this subsection shall be in accordance with the terms and procedures set forth in the applicable provisions of sections 384.83 through 384.88, 384.92, and 384.93. References in these sections to a city shall be applicable to a rural water district operating under this chapter, and references in that division to a city council shall be applicable to the board of directors of a rural water district. This subsection shall not create a lien against the property of a person who is not a rural water subscriber.

**Sec. 21. Section 422.43, subsection 2, Code 1989, is amended to read as follows:*

*2. There is imposed a tax of four percent upon the gross receipts derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles and bingo games as defined in chapter 99B, operated or conducted within the state of Iowa, the tax to be collected from the operator in the same manner as is provided for the collection of taxes upon the gross receipts of tickets or admission as provided in this section. The tax shall also be imposed upon the gross receipts derived from the sale of lottery tickets or shares pursuant to chapter 99E. The tax on the lottery tickets or shares shall be included in the sales price and distributed ~~to the general fund~~ as provided in section 99E.10.**

Sec. 22. Section 455A.18, subsection 4, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

For each fiscal year of the fiscal period beginning July 1, 1990, and ending June 30, ~~2000~~ 2001, there is appropriated from the general fund, to the Iowa resources enhancement and protection fund, the amount of ~~$20,000,000~~ thirty million dollars, except that for the fiscal year beginning July 1, 1990, the amount is twenty million dollars, to be used as provided in this chapter. However, in any fiscal year of the fiscal period, if moneys from the lottery are appropriated by the state to the fund, the amount appropriated under this subsection shall be reduced by the amount appropriated from the lottery.

Sec. 23. Section 455B.173, subsection 6, paragraph b, Code Supplement 1989, is amended to read as follows:

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~~ three 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.

Sec. 24. Section 455B.306, subsection 1, Code Supplement 1989, is 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

*Item veto; see message at end of the Act

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. If both a public agency managing the waste stream for a city or county pursuant to chapter 28E, and one or more of the public agency's member cities or counties file a comprehensive plan under this subsection, the director shall, following notice to the agency, make a determination that any plan filed by a member city or county is compatible with the comprehensive plan of the chapter 28E public agency. If the director determines that the comprehensive plan of a city or county is not compatible with the comprehensive plan of a chapter 28E public agency, the director shall require the city or county to provide justification for approval of the comprehensive plan based upon the innovative nature of the comprehensive plan, the urgency of implementation, or other unique features of the comprehensive plan of the city or county, and that the plan otherwise complies with the provisions of this chapter. This subsection does not prevent the director from approving pilot projects which otherwise comply with the provisions of this chapter. 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.

**Sec. 25.* NEW SECTION. *455B.510 STATE AND LOCAL GOVERNMENT WASTE MANAGEMENT PROGRAM.*

1. The department shall establish and administer, in cooperation with other state agencies, local governments, and school districts, a program to manage the wastes generated by state and local governments as a part of a comprehensive pollution prevention program for governments in Iowa. The program shall emphasize hazardous and toxic waste minimization and recycling and shall include assistance in the disposal of nonrecyclable wastes.

2. The department shall:

a. Develop and implement programs to train state, local government, and school officials in pollution prevention, waste minimization, and waste management. This shall include the creation of intergovernmental pollution prevention teams to serve the local governments and school districts of each county.

b. Assist local governments and school districts in finding nonhazardous or nontoxic substitutes for hazardous and toxic materials currently used in their business activities.

c. Assist local governments and school districts in recycling or disposing of toxic and hazardous wastes currently stored. This may include the creation of a cooperative waste pickup and disposal program that is jointly financed by the department and the participants.

d. Provide financial assistance to local governments and school districts in the implementation of pollution prevention, waste minimization, and waste management programs.

3. Local governments and school districts shall:

a. Participate in establishing intergovernmental pollution prevention teams by January 1, 1991.

b. Arrange to have a pollution prevention team review their facilities.

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*Item veto; see message at end of the Act

c. File a waste minimization and waste management report with the department by January 1, 1992. A progress report shall be filed every subsequent two years.

*4. Once the governmental waste management program is established, the department, other state agencies, local governments, and school districts shall cooperate with conditionally exempt small quantity hazardous and toxic waste generators in handling waste minimization and waste management problems by providing technical assistance and allowing those generators to participate in governmental recycling and waste disposal programs at cost.**

Sec. 26. 1990 Iowa Acts, Senate File 2364, section 12, subsection 1, unnumbered paragraph 1, is amended to read as follows:*

There is appropriated from the general fund of the state *to the department of natural resources for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount or so much thereof as is necessary, to be used for the purpose designated:**

Sec. 27. 1990 Iowa Acts, Senate File 2364,** section 25, is amended to read as follows:

SEC. 25. Section 455B.304, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this chapter regarding the requirement of the equipping of a sanitary landfill with a leachate control system and the establishment and continuation of a postclosure account, the department shall adopt rules which provide for an exemption from the requirements to equip a publicly owned sanitary landfill with a leachate control system and to establish and maintain a postclosure account if the sanitary landfill operator is a public agency, if the sanitary landfill has closed or will close by July 1, 1992, and will no longer accept waste for disposal after that date, and if at the time of closure of the sanitary landfill monitoring of the groundwater does not reveal the presence of leachate. The ~~rules may~~ department shall require postclosure groundwater monitoring and shall establish the requirements for the implementation of leachate collection and control in cases in which leachate is found during postclosure monitoring. The ~~rules~~ department shall provide for a closure completion period following the date of closure of a sanitary landfill. Notwithstanding the provisions of this paragraph, the public agency shall retain financial responsibility for closure and postclosure requirements applicable to sanitary disposal projects.

**Sec. 28. Section 455D.15, subsections 2 and 3, Code Supplement 1989, are amended to read as follows:*

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.~~ One-half of the moneys deposited in the fund shall be allocated to each county on the basis of population. The county allocation shall be distributed quarterly by the department to each county. The county shall immediately distribute the funds to the cities based upon the proportion of the city's respective population to the total county population, and the county shall retain the portion of the funds based upon the proportion of the unincorporated area of the county to the total population of the county. The funds shall be used by the county and the cities for the implementation of the comprehensive plan elements required pursuant to section 455B.306 and relative to chapter 455D.

3. ~~The~~ One-half of the moneys deposited in 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~~ a. To provide financial assistance to public and private entities to develop and implement waste reduction and minimization programs for Iowa industries.

*Item veto; see message at end of the Act

**Chapter 1260 herein

e b. *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 c. *The department may utilize up to* ~~ten~~ twenty *percent of the fund to administer the provisions of this chapter.*

~~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 3, 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. 29. NEW SECTION. 455D.19 PACKAGING — HEAVY METAL CONTENT.

1. The general assembly finds and declares all of the following:

a. The management of solid waste can pose a wide range of hazards to public health and safety and to the environment.

b. Packaging comprises a significant percentage of the overall solid waste stream.

c. The presence of heavy metals in packaging is a concern in light of the likely presence of heavy metals in emissions or ash when packaging is incinerated or in leachate when packaging is landfilled.

d. Lead, mercury, cadmium, and hexavalent chromium, on the basis of available scientific and medical evidence, are of particular concern.

e. It is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of heavy metals to packaging.

f. The intent of the general assembly is to achieve reduction in toxicity without impeding or discouraging the expanded use of postconsumer materials in the production of packaging and its components.

2. As used in this section unless the context otherwise requires:

a. "Distributor" means a person who takes title to products or packaging purchased for resale.

b. "Manufacturer" means a person who offers for sale or sells products or packaging to a distributor.

c. "Package" means a container which provides a means of marketing, protecting, or handling a product including a unit package, intermediate package, or a shipping container. "Package" also includes but is not limited to unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

d. "Packaging component" means any individual assembled part of a package including but not limited to interior and exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, or labels.

3. No later than July 1, 1992, a manufacturer or distributor shall not offer for sale or sell, or offer for promotional purposes a package or packaging component, in this state, which includes, in the package itself, or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements and which exceed the concentration level established by the department.

*Item veto; see message at end of the Act

4. No later than July 1, 1992, a manufacturer or distributor shall not offer for sale or sell, or offer for promotional purposes, in this state, a product in a package which includes in the package itself or in any of the packaging components, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements and which exceed the concentration level established by the department.

5. The concentration levels of lead, cadmium, mercury, and hexavalent chromium present in a package or packaging component shall not exceed the following:

a. Six hundred parts per million by weight by July 1, 1992.

b. Two hundred fifty parts per million by weight by July 1, 1993.

c. One hundred parts per million by weight by July 1, 1994.

Concentration levels of lead, cadmium, mercury, and hexavalent chromium shall be determined using American standard of testing materials test methods, as revised, or United States environmental protection agency test methods for evaluating solid waste, S-W 846, as revised.

6. The following packaging and packaging components are exempt from the requirements of this section:

a. Packaging or packaging components with a code indicating a date of manufacture prior to July 1, 1990.

b. Packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of federal law or for which there is no feasible alternative if the manufacturer of a package or packaging component petitions the department for an exemption from the provisions of this paragraph for a particular package or packaging component. The department may grant a two year exemption, if warranted, by the circumstances, and an exemption may, upon meeting either criterion of this paragraph be renewed for two years. For purposes of this paragraph, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents.

Packages and packaging components that would not exceed the maximum contaminant levels established but for the addition of postconsumer materials.

7. By July 1, 1992, a manufacturer or distributor of packaging or packaging components shall make available to purchasers, to the department, and to the general public upon request, certificates of compliance which state that the manufacturer's or distributor's packaging or packaging components comply with, or are exempt from, the requirements of this section.

If the manufacturer or distributor of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer or distributor shall provide an amended or new certificate of compliance for the reformulated or new package or packaging component.

8. The commission shall adopt rules to implement this section and report to the general assembly on the effectiveness of this section no later than forty-two months following the enactment of this section and recommend any other toxic substances contained in packaging to be added to the list in order to further reduce the toxicity of packaging waste.

9. A manufacturer or distributor who does not comply with the requirements of this section is guilty of a simple misdemeanor.

Sec. 30. Section 455E.11, subsection 2, paragraph b, subparagraph (3), subparagraph subdivision (b), Code Supplement 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 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 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 and cisterns. For purposes of this subparagraph subdivision, "cistern" means an artificial reservoir constructed underground for the purpose of storing rainwater.

Sec. 31. Section 455E.11, subsection 2, paragraph c, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

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 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~~ and the efforts of the department to support a collection system for household hazardous materials, including public education programs, training, and consultation of local governments in the establishment and operation of permanent collection systems, and the management of collection sites, 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.

Sec. 32. Section 455F.8, Code 1989, is amended to read as follows:

455F.8 HOUSEHOLD HAZARDOUS WASTE CLEANUP PROGRAM CREATED.

The department shall conduct programs to collect and dispose of small amounts of hazardous wastes which are being stored in residences or on farms. The program shall be known as "Toxic Cleanup Days". The department shall promote and conduct the program and shall by contract with a qualified and bonded waste handling company, collect and properly dispose of wastes believed by the person disposing of the waste to be hazardous. The department shall establish maximum amounts of hazardous wastes to be accepted from a person during the "Toxic Cleanup Days" program. Amounts accepted from a person above the maximum shall be limited by the department and may be subject to a fee set by the department, but the department shall not assess a fee for amounts accepted below the maximum amount. The department shall designate the times and dates for the collection of wastes. ~~The department shall have as a goal twelve "Toxic Cleanup Days" during the period beginning July 1, 1987, and ending October 31, 1988. In any event, the department shall offer the number of days that can be properly and reasonably conducted with funds deposited in the household hazardous waste account.~~ In order to achieve the maximum benefit from the program, the department shall offer "Toxic Cleanup Days" on a statewide basis and provide at least one "Toxic Cleanup Day" in each departmental region. "Toxic Cleanup Days" shall be offered in both rural and urban areas to provide a comparison of response levels and to test the viability of multicounty "Toxic Cleanup Days". ~~The department may also offer at least one "Toxic Cleanup Day" at a previously serviced location to test the level of residual demand for the event and the effect of the existing public awareness on the program.~~ The department shall prepare an annual report citing the results and costs of the program for submittal to the general assembly.

Sec. 33. NEW SECTION. 455F.8A HOUSEHOLD HAZARDOUS MATERIAL COLLECTION SITES.

1. By January 1, 1991, the department shall complete an assessment of the needs of local governments for temporary collection sites for household hazardous materials. Upon completion of the assessment, the department shall design a model facility which would adequately serve the needs identified. During the design phase, the department shall also identify facility permit requirements.

2. a. Following the completion of the assessment and design of the model facility, the department shall set a goal of establishing a three-year competitive grant program to assist in the development of five pilot household hazardous waste reduction and collection programs. **The grants shall be in the amount of one hundred thousand dollars.**

b. The grant program shall provide for the establishment of five pilot sites so that both rural and urban populations are served.

c. The department shall develop criteria to evaluate proposals for the establishment of sites. The criteria shall give priority to proposals for sites which provide the most efficient services and which provide local, public, and private contributions for establishment of the sites. The criteria shall also include a requirement that the recipient of a grant design and construct a facility sufficient for the collection, sorting, and packaging of materials prior to transportation of the materials to the final disposal site. Final review of design and construction of the proposed facilities shall be by the department.

d. The recipients of grants shall provide for collection of hazardous wastes from conditionally exempt small quantity generators in the area of the facility established. The facility shall require payment for collection from conditionally exempt small quantity generators if the amount of waste disposed is greater than ten pounds. Conditionally exempt small quantity generators which deliver their hazardous wastes to the site shall not be required to obtain a permit to transport the hazardous waste to the site.

Sec. 34. NEW SECTION. 455F.8B LOCAL GOVERNMENT EDUCATION PROGRAMS.

A recipient of a household hazardous waste reduction and collection program grant shall do all of the following:

1. Identify a regional or local agency to coordinate a public education effort, and provide for staff to implement the education program.

2. Establish an intensive three-year educational project to educate the local population regarding alternatives to the purchase or disposal of toxic materials. The educational project shall include efforts to promote the use of household hazardous materials labeling required pursuant to chapter 455F.

3. Establish a community education effort to be integrated within the existing educational system regarding household hazardous waste reduction and recycling.

4. Develop a plan for the recycling of hazardous substances not minimized by the public. The plan shall optimize resource use while minimizing waste and shall include a formal arrangement for the exchange of materials at no cost to the participants and an arrangement for the acceptance by the department of general services or the local or regional government agency of hazardous materials useful in its operations.

Sec. 35. Section 467A.48, subsection 1, Code Supplement 1989, is amended to read as follows:

1. a. 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.

b. The owner or occupant of land is eligible to receive state cost-sharing funds to establish a permanent grass and buffer zone, including an erosion control structure or an erosion control practice to mitigate the effects of concentrated runoff on surface water quality.

*Item veto; see message at end of the Act

c. The amount of cost-sharing funds made available shall not exceed ~~seventy-five~~ fifty percent of the estimated cost as established by the commissioners of a permanent soil and water conservation practice, or ~~seventy-five~~ fifty percent of the actual cost, whichever is less, or an amount set by the 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 amount of cost-sharing funds made available to establish a permanent grass and buffer zone may be up to one hundred percent of the estimated cost as established by the commissioners or one hundred percent of the actual cost, whichever is less.

PARAGRAPH DIVIDED. 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.

Sec. 36.

The appropriation to the Iowa resources enhancement and protection fund in 1989 Iowa Acts, chapter 307, section 35, shall be considered an appropriation for a separate fiscal year for purposes of the allocation to be made to the conservation education board under section 455A.19, subsection 1, unnumbered paragraph 1. Up to 3 percent of the amount allocated to the conservation education board as a result of this section, shall be used, or so much thereof as is necessary, by the department of education, in cooperation with the department of cultural affairs, to distribute to all public libraries, libraries at state institutions, college libraries, and libraries at public and nonpublic schools in the state, and to each member of the Iowa general assembly, the publication "50 simple things you can do to save the earth".

Sec. 37.

1. Notwithstanding the nonreversion provision in section 99E.32, subsection 7, or any other provision, all unencumbered or unobligated moneys remaining on June 30, 1990, and all encumbered or obligated moneys as of June 30, 1990, from appropriations made from the surplus account, jobs now account, education and agricultural research and development account, and the jobs now capitals account to the department of economic development for purposes for which moneys are appropriated for the fiscal year beginning July 1, 1990, in Senate File 2327,* if enacted by the Seventy-third General Assembly, 1990 Session, shall be transferred to the general fund of the state and shall be available for expenditure for those same purposes as provided in Senate File 2327,* if enacted and are in addition to moneys appropriated for those same purposes for the fiscal year beginning July 1, 1990.

2. Except as otherwise provided in subsection 1, notwithstanding the nonreversion provision in section 99E.32, subsection 7, or any other provision, all unencumbered or unobligated moneys remaining in the surplus account, jobs now account, education and agricultural research and development account, and the jobs now capitals account on June 30, 1991, or remaining on June 30, 1991, from appropriations made from any of those accounts shall revert to the CLEAN fund for allocation and expenditure as provided in this Act for the fiscal year beginning July 1, 1991.

3. The agency, board, commission, or overseer of the funds to which moneys have been appropriated from any of the accounts in the Iowa plan fund for economic development for any of the fiscal years beginning July 1, 1985, July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, shall provide by December 15, 1990, to the department of management a status report and any encumbered or obligated moneys remaining unspent on June 30, 1990, from moneys appropriated from the Iowa plan fund for any fiscal year, except the fiscal year beginning July 1, 1989, shall be available for expenditure by the department of economic development for purposes of chapter 15. The status report shall specify the status of the moneys appropriated as of June 30, 1990, or such later date as designated by the department of management, and the amount of loans outstanding, if any, that were made from those moneys appropriated, and

*Chapter 1262 herein

other information relating to the status of the moneys appropriated as required by the department of management.

**Sec. 38.*
*Section 5 of this Act is effective July 1, 1991.**

Approved May 8, 1990, except the items which I hereby disapprove and which are designated as section 4 in its entirety; section 5 in its entirety; section 10, subsection 1, paragraphs b, d, and e in their entirety; section 10, subsection 2 in its entirety; section 10, subsection 4 in its entirety; section 10, subsection 5 in its entirety; section 10, subsection 8 in its entirety; section 11 in its entirety; section 12 in its entirety; section 13 in its entirety; section 14 in its entirety; section 15 in its entirety; section 21 in its entirety; section 25 in its entirety; section 26 in its entirety; section 28 in its entirety; that portion of section 33, subsection 2, paragraph a, which is herein bracketed in ink and initialed by me; and section 38 in its entirely. 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 2153, an Act relating to the environment, agriculture, and natural resources including making a commitment to the environment, agriculture, and natural resources by making appropriations from Iowa lottery revenues and providing for funding for rural water districts, and for an income tax credit for establishing permanent grass and buffer zones including erosion control structures, providing a penalty, and providing effective and applicability dates.

Senate File 2153 provides for the appropriation of funds to programs for the improvement and protection of our natural resources. By approving the expenditure of up to $27.4 million per year for fiscal year 1990-91, I am supporting a substantial increase in Iowa's commitment to a quality environment.

Up to $25 million per year will be allocated to the Iowa Resources Enhancement and Protection Fund (REAP). These funds are to be used for the acquisition and maintenance of open spaces; county conservation activities; soil and water enhancement activities such as reforestation, the protection of erodible soils and clean water programs; the acquisition and maintenance of parks and open spaces in Iowa cities; the maintenance and expansion of state lands; historical resources development; and for roadside vegetation and beautification.

I have also approved the expenditure of about $2.4 million for soil and water conservation cost-sharing activities and for surface water protection and reforestation programs.

While I continue to place a high priority on activities to protect the environment in Iowa, I also have a constitutional responsibility to assure that the state budget is balanced. Unfortunately, the General Assembly has left me little choice but to disapprove some new programs, some of which I recommended to the General Assembly in January.

The state of Iowa must live within its financial resources, be they from sales taxes, income taxes, or from the sale of lottery tickets. I renew my recommendations to the General Assembly that proceeds from the Iowa Lottery be deposited in the state general fund.

Senate File 2153 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

*Item veto; see message at end of the Act

I am unable to approve the item designated as Section 4, in its entirety. This provision would require the marketing activities of the Iowa Lottery to focus on the concept of investing in Iowa's environment, agriculture, and natural resources. Marketing for the lottery would no longer be required to focus on economic development.

Given the action that I have taken on other portions of Senate File 2153, it is possible the revenues derived from the lottery may be used for purposes other than the environment. Under that circumstance, marketing activities of the Iowa Lottery may include initiatives of the state of Iowa in many areas including economic development, transportation, education, as well as the environment.

I am unable to approve the items designated as Sections 5, 15, 21, and 38, in their entirety. These provisions establish the possibility of raising revenues through debt financing to augment the Rural Community 2000 Program. Bonds issued under this program would be backed by a security account funded by diverting the four percent tax on the sale of lottery tickets from the general fund. This mechanism for securing debt obligated by the Iowa Finance Authority would set a dangerous precedent. The earmarking of general fund revenues is not a good management practice and would inhibit the state's ability to effectively manage its finances.

I am unable to approve the items designated as Section 10, subsection 1, lettered paragraphs b, d, and e, in their entirety; and Section 10, subsections 2, 4, 5, and 8, in their entirety. These items would have appropriated up to $12.6 million for environmental protection, energy efficiency, and other miscellaneous activities. While I recognize that this action does not directly improve the condition of the state general fund, the effect will be to retain revenues from the Iowa Lottery which, given current revenue projections, will be needed to avoid a deficit in the future.

I am unable to approve the items designated as Sections 11, 12, 13, and 14, in their entirety. These items would establish an Environmental Advertising Board. Since I have disapproved the appropriations for this program, it would be incongruous to approve the provisions creating it.

I am unable to approve the item designated as Section 25, in its entirety. This provision would establish a state and local government waste management program. Because I have disapproved the appropriations for this program, it would be inappropriate to require the Department of Natural Resources to implement it.

I am unable to approve the item designated as Section 26, in its entirety. Since I have previously disapproved a related provision from 1990 Iowa Acts, Senate File 2364, it would be inappropriate to approve this section.

I am unable to approve the item designated as Section 28, in its entirety. This provision would distribute moneys from the waste volume reduction and recycling fund to cities and counties on the basis of population. Because I have disapproved the appropriation to the fund and because future appropriations to the fund are uncertain, it is prudent to retain the current waste management grant program.

I am unable to approve the designated portion of Section 33, subsection 2, lettered paragraph a. This provision would require that grants made under the household hazardous waste reduction and collection program be in the amount of $100,000. The Department of Natural Resources should have the discretion to establish the amount of a grant within the limits of resources available for the program.

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 2153 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1256

COMPENSATION FOR PUBLIC OFFICIALS AND EMPLOYEES

S.F. 2422

AN ACT relating to the compensation and benefits for faculty, public officials, employees, and certain legislators by providing adjustments for salaries, by specifying properly related matters, and by making appropriations 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, 1990, 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 an Act of the general assembly or if the appropriation is not sufficient, from the salary adjustment fund created in section 8.43.

2. The following annual salary rates shall be paid to the person holding the executive position indicated:

a. OFFICE OF THE GOVERNOR

Salary for the governor:

..... $ 76,700

b. DEPARTMENT OF JUSTICE

Salary for the attorney general:

..... $ 73,600

c. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Salary for the secretary of agriculture:

..... $ 60,000

d. OFFICE OF THE AUDITOR OF STATE

Salary for the auditor of state:

..... $ 60,000

e. OFFICE OF THE SECRETARY OF STATE

Salary for the secretary of state:

..... $ 60,000

f. OFFICE OF THE TREASURER OF STATE

Salary for the treasurer of state:

..... $ 60,000

Sec. 2.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1990, 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 an Act of the general assembly or if the appropriation is not sufficient, from the salary adjustment fund created in section 8.43.

2. The following annual salary rates shall be paid to the persons holding the judicial positions indicated:

a. Chief justice of the supreme court:

..... $ 87,200

b. Each justice of the supreme court:

..... $ 84,000

c. Chief judge of the court of appeals:

..... $ 83,900

d. Each associate judge of the court of appeals:

..... $ 80,700

e. Each chief judge of a judicial district:

..... $ 79,900

f. Each district judge except the chief judge of a judicial district:
..... $ 76,700
g. Each district associate judge:
..... $ 66,900
h. Each judicial magistrate:
..... $ 16,800

Sec. 3.

Persons receiving the salary rates established under sections 1 and 2 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 4.

The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 5 of this Act within the range provided by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinates' salaries. However, the attorney general shall establish the salary for the consumer advocate and the state fair board shall establish the salary of the secretary of the state fair board each within the salary range provided in section 5 of this Act. A person selected to act for another for an appointed nonelected position shall not receive more than the salary range allows for a person appointed to that nonelected position.

The governor, in establishing salaries as provided in section 5 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established pursuant to section 5 of this Act and who is a full-time permanent employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law. However, this restriction does not exclude the reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 5.

The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 1990, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 4 of this Act 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 beginning with the fiscal year beginning July 1, 1990, and as otherwise provided in this section:

	Minimum	Maximum
a. Range 1	$ 7,500	$22,700
b. Range 2	$27,300	$45,400
c. Range 3	$37,500	$53,000
d. Range 4	$45,400	$60,700
e. Range 5	$53,000	$68,300

2. The following are range 1 positions: There are no range 1 positions as of the fiscal year beginning July 1, 1990.

3. 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.

4. The following are range 3 positions: administrator of the library division of the department of cultural affairs, administrator of the division of community action agencies of the department of human rights, and chairperson and members of the employment appeals board of the department of inspections and appeals.

5. 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, **executive director of the board of educational examiners,** and chairperson and members of the board of parole.

6. The following are range 5 positions: chairperson and members of the utilities board, consumer advocate, job services commissioner, labor commissioner, industrial commissioner, insurance commissioner, administrators of the historical division and the public broadcasting division of the department of cultural affairs, the administrator of the state racing and gaming commission, and the secretary of the state fair board.

7. The following salary ranges are effective beginning with the fiscal year beginning July 1, 1990, and as otherwise provided in this section:

SALARY RANGES

	Minimum	Maximum
a. Range 6	$41,000	$55,000
b. Range 7	$56,100	$68,900
c. Range 8	$60,100	$80,000
d. Range 9	$67,100	$95,100

8. The following are 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.

9. The following are range 7 positions: director of the department of cultural affairs, director of the department of personnel, director of the department of public health, 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, and director of the department of inspections and appeals.

10. The following are range 8 positions: executive director of the Iowa finance authority, director of the department of management, director of revenue and finance, director of the department of natural resources, director of the department of corrections, director of the department of employment services, and the state court administrator.

11. The following are range 9 positions: director of the department of education, director of the department of human services, director of the department of economic development, executive secretary of the state board of regents, director of the state department of transportation, and lottery commissioner.

Sec. 6.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1990, 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:
..... $ 53,000

b. Two members of the public employment relations board:
..... $ 49,200

Sec. 7.

The annual salary rates or ranges provided in sections 1, 2, 5, and 6 of this Act become effective for the fiscal year beginning July 1, 1990, with the pay period beginning June 22, 1990.

*Item veto; see message at end of the Act

Sec. 8.

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 9 and 10 of this Act for employees not covered by a collective bargaining agreement.

Sec. 9.

1. All pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 1990, 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 5 percent for the fiscal year beginning July 1, 1990, effective with the pay period beginning June 22, 1990. 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.

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 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. 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. 10.

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, 1990, and ending June 30, 1991, an average base salary increase of 5 percent for the fiscal year beginning July 1, 1990, of the base salaries of professional and scientific staff members, except board office employees as provided for in section 8 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, 1990, and ending June 30, 1991, by increasing the salary levels for each grade and step within the plans by 5 percent for the fiscal year beginning July 1, 1990. 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, 1990, and ending June 30, 1991, an average base salary increase for the fiscal year beginning July 1, 1990, 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, 1990, or according to a different procedure that is agreeable to both parties.

Sec. 11.

1. There is appropriated from the road use tax fund to the salary adjustment fund for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly:

..... $ 1,785,755

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly:

..... $ 5,213,662

3. Except as otherwise provided in this Act, the amounts appropriated in subsections 1 and 2 and section 12 of this Act 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. 12.

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, 1990, and ending June 30, 1991, 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, commissions, councils, boards, or offices and local agencies or programs listed:

1. EXECUTIVE COUNCIL:

..... $ 1,481

2. GENERAL SERVICES:
a. Administration
..... $ 29,113
b. Communications
..... $ 19,801
c. Director's office
..... $ 3,695
d. Materials management
..... $ 4,067
e. Property management
..... $ 147,465
f. Printing and mail
..... $ 27,632
g. Records management
..... $ 19,987
h. Information services division
..... $ 295,930
i. Micrographic staff
..... $ 1,238
3. GOVERNOR'S OFFICE:
a. General office
..... $ 41,944
b. Terrace Hill
..... $ 4,823
c. Administrative rules
..... $ 6,699
d. Drug enforcement coordinator office
..... $ 2,489
4. GOVERNOR, LIEUTENANT:
..... $ 5,784
5. DEPARTMENT OF MANAGEMENT:
..... $ 89,303
6. DEPARTMENT OF PERSONNEL:
a. Operations
..... $ 201,629
b. Pretax dependent care
..... $ 3,457
c. Safety
..... $ 2,531
d. FOAB-IOASI
..... $ 5,705
7. DEPARTMENT OF REVENUE AND FINANCE:
a. Administration
..... $ 38,048
b. Processing
..... $ 109,681
c. Accounting
..... $ 47,586
d. Operations, systems and statistics
..... $ 91,215
e. Local government
..... $ 62,096

f. Office review
..... $ 100,666
g. In-state field audit
..... $ 113,523
h. Out-of-state field audit
..... $ 43,554
i. Taxpayer service
..... $ 67,198
j. Collections
..... $ 136,299
k. Tax policy and appeals
..... $ 42,081
l. Increased enforcement
..... $ 50,140
8. SECRETARY OF STATE:
..... $ 74,690
9. STATE-FEDERAL RELATIONS:
..... $ 6,659
10. TREASURER OF STATE:
..... $ 54,121
11. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP:
a. Administration division
..... $ 68,090
b. Farm commodity division
..... $ 51,907
c. Regulatory division
..... $ 206,627
d. Laboratory division
..... $ 20,436
e. Soil conservation operations
..... $ 140,252
12. DEPARTMENT OF NATURAL RESOURCES:
..... $ 596,903
13. DEPARTMENT OF ECONOMIC DEVELOPMENT:
a. General office
..... $ 53,209
b. Tourism promotion
..... $ 39,990
c. International marketing
..... $ 13,985
d. Hong Kong office
..... $ 4,491
e. National marketing
..... $ 27,840
f. Film office
..... $ 3,662
g. Small business program
..... $ 13,193
h. Community progress
..... $ 19,372
i. Youth corps
..... $ 3,648
j. Displaced homemaker
..... $ 405

k. Community development block grant
..... $ 18,102
14. COLLEGE AID COMMISSION:
..... $ 10,498
15. DEPARTMENT OF CULTURAL AFFAIRS:
a. Iowa arts council
..... $ 25,429
b. State historical society
..... $ 100,887
c. State library
..... $ 48,676
d. Terrace Hill
..... $ 6,636
e. Administration
..... $ 20,198
f. Iowa public television
..... $ 173,604
16. DEPARTMENT OF EDUCATION:
a. Administration
..... $ 249,799
b. Vocational education
..... $ 43,382
c. Professional teaching practices
..... $ 2,416
d. Career information services
..... $ 15,608
e. Special programs and projects
..... $ 5,059
f. Vocational rehabilitation
..... $ 105,448
g. Independent living
..... $ 253
17. DEPARTMENT FOR THE BLIND:
..... $ 33,614
18. CIVIL RIGHTS COMMISSION:
..... $ 37,501
19. DEPARTMENT OF ELDER AFFAIRS:
..... $ 24,726
20. IOWA DEPARTMENT OF PUBLIC HEALTH:
a. Central administration
..... $ 45,880
b. Professional licensure
..... $ 18,082
c. Health planning
..... $ 25,879
d. Disease prevention
..... $ 76,783
e. Substance abuse
..... $ 28,596
f. Dental examiners
..... $ 7,050
g. Medical examiners
..... $ 37,062

h. Nursing board
..... $ 33,721
i. Pharmacy examiners
..... $ 23,166
j. Family and community health
..... $ 53,128
k. Emergency medical services
..... $ 6,675
l. Rural health
..... $ 3,878
21. DEPARTMENT OF HUMAN RIGHTS:
a. Administration
..... $ 11,960
b. Children, youth and families
..... $ 8,621
c. Deaf services division
..... $ 15,495
d. Persons with disabilities
..... $ 9,663
e. Spanish-speaking people
..... $ 2,891
f. Status of women
..... $ 10,879
g. Status of blacks
..... $ 1,225
h. Criminal and juvenile justice
..... $ 13,338
22. DEPARTMENT OF HUMAN SERVICES:
a. General administration
..... $ 465,586
b. Community services
..... $ 2,790,872
c. Child support recovery
..... $ 87,355
d. Collection services center
..... $ 17,639
e. Toledo juvenile home
..... $ 199,635
f. Eldora
..... $ 368,002
g. Marshalltown
..... $ 1,250,413
h. Cherokee
..... $ 692,126
i. Clarinda
..... $ 329,187
j. Independence
..... $ 683,069
k. Mt. Pleasant
..... $ 303,526
l. Glenwood
..... $ 1,997,006

m. Woodward
..... $ 1,530,181
23. ATTORNEY GENERAL:
a. General office
..... $ 242,123
b. Prosecuting attorney training
..... $ 6,663
24. DEPARTMENT OF CORRECTIONS:
a. Central office
..... $ 77,172
b. Training center
..... $ 13,727
c. Ft. Madison
..... $ 1,128,566
d. Anamosa
..... $ 740,626
e. Oakdale
..... $ 559,392
f. Newton
..... $ 146,017
g. Mt. Pleasant
..... $ 579,061
h. Rockwell City
..... $ 150,020
i. Clarinda
..... $ 243,141
j. Mitchellville
..... $ 205,741
k. Community-based corrections — district 1
..... $ 218,460
l. Community-based corrections — district 2
..... $ 173,747
m. Community-based corrections — district 3
..... $ 93,257
n. Community-based corrections — district 4
..... $ 92,017
o. Community-based corrections — district 5
..... $ 289,652
p. Community-based corrections — district 6
..... $ 242,898
q. Community-based corrections — district 7
..... $ 166,958
r. Community-based corrections — district 8
..... $ 74,756
25. JUDICIAL DEPARTMENT:
..... $ 2,817,937
26. BOARD OF PAROLE:
..... $ 23,348
27. AUDITOR OF STATE:
..... $ 86,046
28. CAMPAIGN FINANCE DISCLOSURE COMMISSION:
..... $ 9,640

29. DEPARTMENT OF EMPLOYMENT SERVICES:
a. Industrial services ..... $ 82,687
b. Labor services ..... $ 98,236
30. DEPARTMENT OF INSPECTIONS AND APPEALS:
a. Operations ..... $ 201,124
b. Foster care review board ..... $ 14,114
c. Public defender ..... $ 232,576
d. Employment appeal board ..... $ 2,069
31. PUBLIC EMPLOYMENT RELATIONS BOARD: ..... $ 26,033
32. LAW ENFORCEMENT ACADEMY: ..... $ 50,269
33. DEPARTMENT OF PUBLIC DEFENSE:
a. Operations ..... $ 70,428
b. Veterans affairs ..... $ 4,984
c. Disaster services ..... $ 14,374
34. DEPARTMENT OF PUBLIC SAFETY:
a. Administration ..... $ 91,104
b. Communications ..... $ 142,132
c. Division of criminal investigation ..... $ 263,531
d. Narcotics enforcement ..... $ 93,871
e. Fire marshal ..... $ 58,402
f. Capitol security ..... $ 63,451
35. REGENTS, BOARD OFFICE: ..... $ 47,790
36. STATE UNIVERSITY OF IOWA – GENERAL UNIVERSITY:
a. Faculty ..... $ 7,654,088
b. Professional and scientific ..... $ 2,019,152
c. Merit ..... $ 2,202,497
37. STATE UNIVERSITY OF IOWA – UNIVERSITY HOSPITALS:
a. Faculty ..... $ 16,795
b. Professional and scientific ..... $ 832,866

c. Merit
..... $ 559,154
38. STATE UNIVERSITY OF IOWA — PSYCHIATRIC HOSPITAL:
a. Faculty
..... $ 93,585
b. Professional and scientific
..... $ 182,251
c. Merit
..... $ 111,261
39. STATE UNIVERSITY OF IOWA — HOSPITAL SCHOOL:
a. Faculty
..... $ 25,018
b. Professional and scientific
..... $ 200,473
c. Merit
..... $ 141,132
40. STATE UNIVERSITY OF IOWA — OAKDALE CAMPUS:
a. Professional and scientific
..... $ 28,928
b. Merit
..... $ 86,458
41. STATE UNIVERSITY OF IOWA — HYGIENIC LABORATORY:
a. Professional and scientific
..... $ 112,585
b. Merit
..... $ 84,448
42. STATE UNIVERSITY OF IOWA — FAMILY PRACTICE PROGRAM:
a. Faculty
..... $ 91,492
b. Professional and scientific
..... $ 9,220
c. Merit
..... $ 7,506
43. STATE UNIVERSITY OF IOWA — SPECIALIZED CHILD HEALTH SERVICES:
a. Faculty
..... $ 11,928
b. Professional and scientific
..... $ 21,335
c. Merit
..... $ 4,982
44. IOWA STATE UNIVERSITY — GENERAL UNIVERSITY:
a. Faculty
..... $ 6,747,479
b. Professional and scientific
..... $ 1,521,587
c. Merit
..... $ 2,109,108
45. IOWA STATE UNIVERSITY — AGRICULTURAL EXPERIMENT STATION:
a. Faculty
..... $ 774,470
b. Professional and scientific
..... $ 152,857

c. Merit
..... $ 287,302
46. IOWA STATE UNIVERSITY – COOPERATIVE EXTENSION:
a. Faculty
..... $ 397,901
b. Professional and scientific
..... $ 702,679
c. Merit
..... $ 215,297
47. UNIVERSITY OF NORTHERN IOWA:
a. Faculty
..... $ 2,457,020
b. Professional and scientific
..... $ 619,981
c. Merit
..... $ 635,133
48. SCHOOL FOR THE DEAF:
a. Faculty
..... $ 164,268
b. Professional and scientific
..... $ 27,696
c. Merit
..... $ 103,505
49. BRAILLE AND SIGHT-SAVING SCHOOL:
a. Faculty
..... $ 80,499
b. Professional and scientific
..... $ 6,446
c. Merit
..... $ 99,705
50. SALARY ADJUSTMENT FUND – EARLY RETIREMENT:
..... $ 285,000

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, 1990, a distributive schedule as of July 1, 1990, for necessary upward or downward adjustments to each account for consideration during the 1991 regular session of the general assembly.

It is the intent of the general assembly to fund critical unmet needs that result from the elimination of the past practice of the state board of regents, of diverting salary adjustment funds to equipment purchases, utility costs, and other nonsalary needs. If after expending all of the salary adjustment funds to increase salaries, the state board of regents have critical unmet needs that the board had planned on meeting with salary adjustment funds, the board shall submit a list of those needs to the education appropriations subcommittees no later than February 1, 1991.

52. Notwithstanding section 8.33, the moneys appropriated in 1989 Iowa Acts, chapter 303, section 6, subsections 36 through 49, that remain unencumbered or unobligated on June 30, 1990, shall not revert to the general fund but shall be available to the institutions to which appropriated for expenditures during the fiscal year beginning July 1, 1990, for salaries.

Sec. 13.

There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To pay the cost of full-year increases for professional and scientific employees at the university of northern Iowa, the school for the deaf, and the Braille and sight-saving school:
..... $ 208,723

Sec. 14.

There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:
..... $ 47,043

2. Substance abuse treatment facilities:
..... $ 235,880

3. Local boards of health:
..... $ 81,249

4. Local homemaker and chore service programs:
..... $ 261,159

5. Local maternal and child health programs:
..... $ 113,715

6. Services contracted by the department of public health from the university of Iowa hospitals and clinics for specialized child health care:
..... $ 3,953

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. 15.

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. 16.

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, 1990, and ending June 30, 1991.

Sec. 17.

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. 18.

Beginning July 1, 1990, the lieutenant governor shall be paid at an annual salary rate of $26,700 until the next inauguration of the lieutenant governor at which time the lieutenant governor shall be paid at an annual salary rate of $60,000 for the remainder of the fiscal year. 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 until the next inauguration of the lieutenant governor. 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. 19. Section 2.10, subsections 1 and 3, Code 1989, as amended by 1989 Iowa Acts, chapter 302, section 10 and 1989 Iowa Acts, chapter 303, sections 13 and 18, are amended to read as follows:

1. Every member of the general assembly except the ~~president~~ presiding officer of the senate, the speaker of the house, and majority and minority floor leader of each house shall receive an annual salary of eighteen thousand one hundred dollars for the year 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 leader of each house shall receive an annual salary of ~~twenty-five~~ twenty-seven thousand nine hundred ~~seventy-five~~ dollars for the year 1991 and subsequent years while serving in the capacity. In addition, each such member shall receive the sum of 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 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, presiding officer of the senate, and majority floor leader of each house shall receive an annual salary of twenty-seven thousand nine hundred dollars for the year 1991 and subsequent years while ~~the speaker of the house~~ serving in that capacity. The president pro tempore of the senate and the speaker pro tempore of the house shall receive an annual salary of nineteen thousand one hundred dollars for the year 1991 and subsequent years while serving in that capacity. Expense and travel allowances shall be the same for the speaker of the house and the presiding officer of the senate, the president pro tempore of the senate and the speaker pro tempore of the house, and the majority and minority leader of each house as provided for other members of the general assembly.

**Sec. 20. Section 421.31, subsections 2 and 6, Code Supplement 1989, are amended to read as follows:*

2. Preaudit system. To establish and fix a reasonable imprest cash fund for each state department and institution for disbursement purposes where needed. These revolving funds shall be reimbursed only upon vouchers approved by the director. It is the purpose of this subsection to establish a preaudit system of settling all claims against the state, but the preaudit system is not applicable to the institutions under the control of the state board of regents, to the Iowa finance authority, or to the state fair board.

6. Fair board, Iowa finance authority, and board of regents. To control the financial operations of the state fair board, Iowa finance authority, and the institutions under the state board of regents:

*Item veto; see message at end of the Act

a. By charging all warrants issued to the respective educational institutions, Iowa finance authority, *and the state fair board to an advance account to be further accounted for and not as an expense which requires no further accounting.*

b. By charging all collections made by the educational institutions, Iowa finance authority, *and state fair board to the respective advance accounts of the institutions,* Iowa finance authority, *and state fair board, and by crediting all* ~~such~~ the *repayment collections to the respective appropriations and special funds.*

c. By charging all disbursements made to the respective allotment accounts of each educational institution, Iowa finance authority, *or state fair board and by crediting all* ~~such~~ the *disbursements to the respective advance and inventory accounts.*

d. By requiring a monthly abstract of all receipts and of all disbursements, both money and stores, and a complete account-current each month from each educational institution, Iowa finance authority, *and the state fair board.**

Sec. 21. Section 422B.1, subsections 4 and 5, Code Supplement 1989, are amended to read as follows:

4. The county commissioner of elections shall submit the question of imposition of a local option tax at a state general election or at a special election held at any time other than the time of a city regular election ~~which may~~. The election shall not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the type and rate of tax and in the case of a vehicle tax the classes that will be exempt and in the case of a local sales and services tax the date it will be imposed. The ballot proposition shall also specify the approximate amount of local option tax revenues that will be used for property tax relief and shall contain a statement as to the specific purpose or purposes for which the revenues shall otherwise be expended. If the county board of supervisors decides under subsection 5 to specify a date on which the local option sales and services tax shall automatically be repealed, the date of the repeal shall also be specified on the ballot. The rate of the vehicle tax shall be in increments of one dollar per vehicle as set by the petition seeking to impose the tax. The rate of a local sales and services tax shall not be more than one percent as set by the governing body. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

5. a. If a majority of those voting on the question of imposition of a local option tax favor imposition of a local option tax, the governing body of that county shall impose the tax at the rate specified for an unlimited period. However, in the case of a local sales and services tax, the county shall not impose the tax in any incorporated area or the unincorporated area if the majority of those voting on the tax in that area did not 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~~ shall be imposed in each of those contiguous cities only if the majority of those voting on the tax in the total area covered by the contiguous cities ~~favor~~ favored its imposition. The local option tax may be repealed or the rate increased or decreased ~~only~~ after an election at which a majority of those voting on the question of repeal or rate change ~~favor~~ favored the repeal or rate change. The election at which the question of repeal or rate change is offered shall be called and held in the same manner and under the same conditions as provided in subsections 3 and 4 for the election on the imposition of the local option tax. However, in the case of a local sales and services tax where the tax has not been imposed countywide, the question of repeal or imposition shall be voted on only by the qualified electors of the areas of the county where the tax has been imposed or has not been imposed, as appropriate.

When submitting the question of the imposition of a local sales and services tax, the county board of supervisors may direct that the question contain a provision for the repeal, without election, of the local sales and services tax on a specific date, which date shall be the end of a calendar quarter.

b. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of a local option tax, the governing body shall

*Item veto; see message at end of the Act

give written notice to the director of revenue and finance or, in the case of a local vehicle tax, to the director of the department of transportation, of the result of the election.

Sec. 22. Section 28B.4, Code 1989, is amended to read as follows:

28B.4 REPORT.

The commission shall report to the governor and to the legislature within fifteen days after the convening of each general assembly, and at ~~such~~ other time as it deems appropriate. Its members and the members of all committees which it establishes shall be reimbursed for their travel and other necessary expenses in carrying out their obligations under this chapter and legislative members shall be paid a per diem ~~of forty dollars~~ as specified in section 7E.6 for each day in which engaged in the performance of their duties, ~~such~~ the per diem and legislators' expenses to be paid from funds appropriated by sections 2.10 and 2.12. Expenses of administrative officers, state officials, or state employees who are members of the Iowa commission on interstate co-operation or a committee appointed by the commission shall be paid from funds appropriated to the agencies or departments which ~~such~~ persons represent except as may otherwise be provided by the general assembly. Expenses of citizen members who may be appointed to committees of the commission may be paid from funds as authorized by the general assembly. Expenses of the secretary or employees of the secretary and support services in connection with the administration of the commission shall be paid from funds appropriated to the legislative service bureau unless otherwise provided by the general assembly. Expenses of commission members shall be paid upon approval of the chairperson or the secretary of the commission.

Sec. 23. Section 42.5, subsection 1, paragraph d, Code 1989, is amended to read as follows:

d. Members of the commission shall receive a per diem ~~of forty dollars~~ as specified in section 7E.6, travel expenses at the rate provided by section 79.9, and reimbursement for other necessary expenses incurred in performing their duties under this section and section 42.6. The per diem and expenses shall be paid from funds appropriated by section 2.12.

Sec. 24. Section 56.9, subsection 3, Code 1989, is amended to read as follows:

3. Members of the commission shall, while serving on the business of the commission, be entitled to receive a per diem ~~of forty dollars~~ as specified in section 7E.6 and actual and necessary expenses actually incurred in the performance of their duties.

Sec. 25. Section 67.12, Code 1989, is amended to read as follows:

67.12 COMPENSATION AND EXPENSES OF COMMISSIONERS.

These commissioners shall be paid a ~~forty-dollar~~ per diem as specified in section 7E.6 and be reimbursed for actual and necessary expenses, which sum shall be paid out of any unappropriated funds in the state treasury.

Sec. 26. Section 68B.10, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The two individuals appointed by the chief justice of the supreme court shall receive a per diem ~~of forty dollars~~ as specified in section 7E.6 and travel expenses at the same rate as paid members of interim committees for attending meetings of the ethics committee. Members of the general assembly shall receive a per diem ~~of forty dollars~~ as specified in section 7E.6 and travel expenses at the same rate as paid members of interim committees for attending meetings held when the general assembly is not in session. The per diem and expenses shall be paid from funds appropriated by section 2.12.

Sec. 27. Section 80B.8, Code 1989, is amended to read as follows:

80B.8 COMPENSATION AND EXPENSES.

The members of the council, who are not employees of the state or a political subdivision, shall be paid a ~~forty-dollar~~ per diem as specified in section 7E.6. All members of the council shall be reimbursed for necessary and actual expenses incurred in attending meetings and in the performance of their duties. All per diem and expense moneys paid to nonlegislative members shall be paid from funds appropriated to the Iowa law enforcement academy. Legislative members of the council shall receive payment pursuant to section 2.10 and section 2.12.

Sec. 28. Section 97B.76, subsection 2, Code 1989, is amended to read as follows:

2. The members of the committee shall be reimbursed for actual and necessary expenses incurred in the performance of their duties and shall be paid ~~forty dollars~~ a per diem as specified in section 7E.6 for each day in which they engaged in the performance of their duties. However, per diem compensation and expenses shall not be paid when the general assembly is actually in session at the seat of government. Expenses and per diem shall be paid from funds appropriated pursuant to section 2.12.

Sec. 29. Section 103A.14, subsection 5, Code 1989, is amended to read as follows:

5. Each member of the council shall receive per diem compensation at the rate ~~of forty dollars per day~~ as specified in section 7E.6 for each day spent in the performance of the member's duties, but not to exceed twenty-five hundred dollars per year. All members of the council shall receive necessary expenses incurred in the performance of their duties.

Sec. 30. Section 135.62, subsection 2, paragraph c, Code 1989, is amended to read as follows:

c. MEETINGS. The council shall hold an organizational meeting in July of each odd-numbered year, or as soon thereafter as the new appointee or appointees are confirmed and have qualified. Other meetings shall be held at least once each month, and may be held more frequently if necessary to enable the council to expeditiously discharge its duties. Meeting dates shall be set upon adjournment or by call of the chairperson upon five days' notice to the other members. Each member of the council shall receive a ~~forty dollar~~ per diem as specified in section 7E.6 and reimbursement for actual expenses while engaged in official duties.

Sec. 31. Section 169.5, subsection 4, Code 1989, is amended to read as follows:

4. Members of the board shall, in addition to necessary traveling and other expenses, set their own per diem compensation at a rate not exceeding ~~forty dollars per day~~ the per diem specified in section 7E.6 for each day actually engaged in the discharge of their duties including compensation for the time spent traveling to and from the place of conducting the examination and for a reasonable number of days for the preparation of examination and the reading of papers, in addition to the time actually spent in conducting examinations, within the limits of funds appropriated to the board.

Sec. 32. Section 173.8, Code 1989, is amended to read as follows:

173.8 COMPENSATION AND EXPENSES.

A member of the board elected at the annual convention shall be paid a ~~forty dollar~~ per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses incurred while engaged in official duties. All per diem and expense moneys paid to a member shall be paid from funds of the state fair board.

Sec. 33. Section 173.12, Code 1989, is amended to read as follows:

173.12 SALARY OF TREASURER.

The treasurer shall receive such compensation for services as the board may fix, not to exceed five hundred dollars a year, and shall be paid a ~~forty-dollar~~ per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses incurred while engaged in official duties.

Sec. 34. Section 175.3, subsection 4, Code 1989, is amended to read as follows:

4. The appointed members of the authority are entitled to receive ~~forty dollars~~ a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

Sec. 35. Section 175A.3, subsection 4, Code 1989, is amended to read as follows:

4. The members of the authority appointed pursuant to subsection 1 are entitled to receive ~~forty dollars~~ a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

Sec. 36. Section 217.4, Code 1989, is amended to read as follows:

217.4 MEETINGS OF COUNCIL.

The council shall meet at least monthly. Additional meetings shall be called by the chairperson or upon written request of any three members thereof as necessary to carry out the duties of the council. The chairperson shall preside at all meetings or in the absence of the chairperson the vice chairperson shall preside. The members of the council shall be paid a per diem ~~of forty dollars per day~~ as specified in section 7E.6 and their reasonable and necessary expenses.

Sec. 37. Section 220.2, subsection 1, paragraph c, Code 1989, is amended to read as follows:

c. Members of the board are entitled to receive ~~forty dollars~~ a per diem as specified in section 7E.6 for each day spent in performance of duties as members and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

Sec. 38. Section 220.2, subsection 4, Code 1989, is amended to read as follows:

4. Members of the authority are entitled to receive ~~forty dollars~~ a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

Sec. 39. Section 225C.5, subsection 3, Code 1989, is amended to read as follows:

3. Members of the commission shall qualify by taking the oath of office prescribed by law for state officers. At its first meeting of each year, the commission shall organize by electing a chairperson and a vice chairperson for terms of one year. Commission members are entitled to ~~forty dollars~~ a per diem as specified in section 7E.6 and reimbursement for actual and necessary expenses incurred while engaged in their official duties, to be paid from funds appropriated to the department.

Sec. 40. Section 246.803, subsection 2, Code 1989, is amended to read as follows:

2. Biennially, the industries board shall organize by election of a chairperson and a vice chairperson, as soon as reasonably possible after the new appointees have been named. Other meetings shall be held at the call of the chairperson or of any three members, as necessary to enable the industries board to discharge its duties. Board members shall be reimbursed for expenses actually and necessarily incurred in the discharge of their duties, and those members not state employees shall also be entitled to ~~forty dollars~~ a per diem as specified in section 7E.6 for each day they are so engaged.

Sec. 41. Section 249A.4, subsection 8, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

For each council meeting, other than those held during the time the general assembly is in session, each legislative member of the council shall be reimbursed for actual traveling and other necessary expenses and shall receive a per diem ~~of forty dollars~~ as specified in section 7E.6 for each day in attendance, as shall the public representatives, regardless of whether the general assembly is in session.

Sec. 42. Section 249D.13, Code 1989, is amended to read as follows:

249D.13 MEETINGS — OFFICERS.

Members of the commission shall elect from the commission's membership a chairperson, and other officers as commission members deem necessary, who shall serve for a period of two years. The commission shall meet at regular intervals at least six times each year and may hold special meetings at the call of the chairperson or at the request of a majority of the commission membership. The commission shall meet at the seat of government or such other place as the commission may designate. Members shall be paid ~~forty dollars~~ a per diem as specified in section 7E.6 and shall receive reimbursement for actual expenses for their official duties.

Sec. 43. Section 258A.7, subsection 3, Code 1989, is amended to read as follows:

3. Licensees appointed to serve on a hearing panel pursuant to section 258A.6, subsection 2, shall be compensated at the rate ~~of forty dollars~~ specified in section 7E.6 for each day of actual duty, and shall be reimbursed for actual expenses reasonably incurred in the performance of duties.

Sec. 44. Section 261.4, Code 1989, is amended to read as follows:

261.4 FUNDS – COMPENSATION AND EXPENSES OF COMMISSION.

The director of revenue and finance shall keep an accounting of all funds received and expended by the commission. The members of the commission, except those members who are employees of the state, shall be paid a ~~forty-dollar~~ per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses. All per diem and expense moneys paid to nonlegislative members shall be paid from funds appropriated to the commission. Legislative members of the commission shall receive payment pursuant to section 2.10 and section 2.12.

Sec. 45. Section 307B.6, subsection 4, Code 1989, is amended to read as follows:

4. Members of the board are entitled to receive ~~forty dollars~~ a per diem as specified in section 7E.6 for each day spent in performance of their functions and duties as members and reimbursement for all actual and necessary expenses incurred in the performance of their functions and duties as members.

Sec. 46. Section 333A.3, subsection 2, Code 1989, is amended to read as follows:

2. Each member is entitled to reimbursement for actual and necessary expenses incurred in the performance of committee duties. Each member, except officers and employees of the state and full-time elected county officials, is entitled to receive a per diem ~~of forty dollars~~ as specified in section 7E.6 for each day spent in the performance of committee duties.

Sec. 47. Section 442A.5, subsection 4, Code 1989, is amended to read as follows:

4. The appointed members of the authority receive ~~forty dollars~~ a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

Sec. 48. Section 455B.444, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Temporary members who may be appointed under this section shall serve on the commission only during discussion and proceedings relating to the application for a site license which the temporary members were appointed to consider and shall vote only on questions relating to the issuance of that site license. Temporary members shall serve on the commission until final action is taken on the application for the site license which the temporary members were appointed to consider. Temporary members who are not public employees shall receive ~~forty dollars~~ a per diem as specified in section 7E.6 and actual and necessary expenses incurred in performance of their official duties. Temporary employees who are public employees shall receive reimbursement for expenses only. Per diem and expenses under this section shall be paid by the state.

Sec. 49. Section 543A.4, subsection 1, Code Supplement 1989, is amended to read as follows:

1. The Iowa grain indemnity fund board is established to advise the department on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary of agriculture or a designee who shall serve as president; the commissioner of insurance or a designee who shall serve as secretary; the state treasurer or a designee who shall serve as treasurer; and four representatives of the grain industry appointed by the governor, subject to confirmation by the senate, two of whom shall be representatives of producers and who shall be actively participating producers, and two of whom shall be representatives of grain dealers and warehouse operators and who shall be actively participating grain dealers and warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the grain industry

representatives is three years, and the representatives are eligible for reappointment. However, only actively participating producers, and grain dealers and warehouse operators are eligible for reappointment. The grain industry representatives are entitled to ~~forty dollars~~ a per diem as specified in section 7E.6 for each day spent in the performance of the duties of the board, plus actual expenses incurred in the performance of those duties. Four members of the board constitute a quorum, and the affirmative vote of four members 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 the rights and perform all the duties of the board.

Sec. 50. Section 568.9, Code 1989, is amended to read as follows:

568.9 COMMISSIONERS' COMPENSATION AND EXPENSES.

Commissioners, for their services in making such appraisement shall be paid a ~~forty-dollar~~ per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses. All per diem moneys paid to the commissioners shall be paid from funds appropriated to the secretary of state.

Sec. 51. Section 601A.4, Code 1989, is amended to read as follows:

601A.4 COMPENSATION AND EXPENSES — RULES.

Commissioners shall be paid a ~~forty-dollar~~ per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses incurred while on official commission business. All per diem and expense moneys paid to commissioners shall be paid from funds appropriated to the commission. The commission shall adopt, amend or rescind ~~such~~ rules as ~~shall be~~ necessary for the conduct of its meetings. A quorum shall consist of four commissioners.

Sec. 52. Section 601K.54, Code 1989, is amended to read as follows:

601K.54 MEETINGS OF THE COMMISSION.

The commission shall meet at least six times each year, and shall hold special meetings on the call of the chairperson. The commission shall adopt rules pursuant to chapter 17A as it deems necessary for the commission and division. The members of the commission shall receive a per diem ~~of forty dollars~~ as specified in section 7E.6 and be reimbursed for actual expenses while engaged in their official duties. ~~Members may also be eligible to receive compensation as provided in section 7E.6.~~ Legislative members of the commission shall receive payment pursuant to sections 2.10 and 2.12.

Sec. 53. Section 602.1513, Code 1989, is amended to read as follows:

602.1513 PER DIEM COMPENSATION.

The supreme court shall set the per diem compensation under sections 602.1511 and 602.1512 at ~~forty dollars~~ a rate per day not exceeding the rate specified in section 7E.6.

Sec. 54. Section 602.10106, Code 1989, is amended to read as follows:

602.10106 OATH — COMPENSATION.

The members thus appointed shall take and subscribe an oath to be administered by one of the judges of the supreme court to faithfully and impartially discharge the duties of the office. The members shall, in addition to receiving actual and necessary expenses, set the per diem compensation for themselves and the temporary examiners appointed under section 602.10107 at a rate not exceeding ~~forty dollars~~ the per diem specified in section 7E.6 for each day actually engaged in the discharge of their duties. ~~Such~~ The duties shall include the traveling to and from the place of examination, the preparation and conducting of examinations, and the reading of the examination papers. The per diem authorized under this section shall be reasonably apportioned in relation to the funds appropriated to the board.

Sec. 55. Section 679B.7, Code 1989, is amended to read as follows:

679B.7 COMPENSATION AND EXPENSES.

The members of the board shall be paid a ~~forty-dollar~~ per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses, these moneys to be payable out of the state treasury upon warrants drawn by the director of revenue and finance.

Sec. 56. Section 19 of this Act is effective January 1, 1991.

Approved May 7, 1990, except the items which I hereby disapprove and which are designated as that portion of section 5, subsection 5, which is herein bracketed in ink and initialed by me; and section 20 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 2422, an Act relating to the compensation and benefits for faculty, public officials, employees, and certain legislators by providing adjustments for salaries, by specifying properly related matters, and by making appropriations and providing an effective date.

Senate File 2422 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 5, subsection 5. This item would place the Executive Director of the Board of Educational Examiners in salary range four. The salary range established for this position would be higher than for comparable positions which are responsible for the administration of other licensing programs in state government. The salary for this position should be established by the Department of Personnel in cooperation with the Board of Educational Examiners.

I am unable to approve the item designated as Section 20, in its entirety. This provision would exempt the Iowa Finance Authority from the preaudit and central accounting systems of the Department of Revenue and Finance. It is important that the Iowa Finance Authority continue to operate within the preaudit and central accounting systems of state government. Information about the financial transactions of the Authority should be handled in a manner which is consistent with the rest of state government in order to assure integrity in the expenditure of public funds. Additionally, the establishment of separate preaudit, payroll, and accounting systems for the Authority would be expensive and inefficient.

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 2422 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1257

DEPARTMENTAL SUPPLEMENTAL APPROPRIATIONS

S.F. 2212

AN ACT relating to and making supplemental appropriations or decreasing appropriations to the department of human services, Iowa department of public health, state board of regents, department of general services, department of inspections and appeals, department of employment services, department of commerce, state department of transportation, department of corrections, department of public safety, department of justice, judicial department, department of elder affairs, department of agriculture and land stewardship, department of natural resources, department of cultural affairs, department of education, and college aid commission for the remainder of the fiscal year ending June 30, 1990, 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 medical assistance to be used for the same purposes and to supplement funds appropriated by 1989 Iowa Acts, chapter 318, section 2:

..... $ 5,373,000

2. For foster care to be used for the same purposes and to supplement funds appropriated by 1989 Iowa Acts, chapter 318, section 12:

..... $ 635,316

3. For the juvenile home at Toledo to be used for the same purposes and to supplement funds appropriated by 1989 Iowa Acts, chapter 318, section 11:

..... $ 70,175

4. For the Iowa veterans home at Marshalltown to cover a shortfall in funds previously appropriated for administrative costs for the fiscal year ending June 30, 1990:

..... $ 180,000

**Sec. 2. NURSING FACILITY REIMBURSEMENT — APRIL 1990 ADJUSTMENT.*

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 purpose designated:

For adjustment of nursing facility reimbursement rates in accordance with this section:

..... *$ 1,000,000*

*Effective April 1, 1990, the maximum reimbursement rate for nursing facilities shall be the 74th percentile of facility costs as calculated from the March 31, 1990, unaudited compilation of cost and statistical data.**

Sec. 3. 1989 Iowa Acts, chapter 318, section 4, unnumbered paragraphs 1 and 2, are amended to read as follows:

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 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~~
17,102,888

Sec. 4. 1989 Iowa Acts, chapter 318, section 23, unnumbered paragraph 1, is amended to read as follows:

*Item veto; see message at end of the Act

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~~
3,479,600

**Sec. 5. 1989 Iowa Acts, chapter 318, section 23, is amended by adding the following new subsections:*

NEW SUBSECTION. *12. 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, and shall not be transferred for deposit pursuant to subsection 13 until county expenditures are reimbursed pursuant to subsection 6.*

NEW SUBSECTION. *13. 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 supplementation of federal social services block grant 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 supplementation of federal social services block grant fund for this purpose shall be used in addition to moneys appropriated in the fiscal year beginning July 1, 1990, for this purpose.**

IOWA DEPARTMENT OF PUBLIC HEALTH

Sec. 6. 1989 Iowa Acts, chapter 320, 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, 1989, and ending June 30, 1990, the amount of ~~$101,000~~176,000, 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. 1989 Iowa Acts, chapter 304, section 1104, unnumbered paragraphs 1 and 2, are amended to read as follows:

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~~
50,000
..... FTEs 2.0

STATE BOARD OF REGENTS

Sec. 8.

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:

UNIVERSITY OF NORTHERN IOWA

For opening new buildings:

..... $ 60,000

Sec. 9.

There is appropriated from the general fund of the state to the state board of regents for the fiscal period beginning July 1, 1989, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For continuation of the agricultural health and safety service pilot program:

..... $ 40,000

*Item veto; see message at end of the Act

DEPARTMENT OF GENERAL SERVICES

Sec. 10.

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 the payment of the computer lease-purchase:

..... $ 600,000

For capitol restoration:

..... $ 1,700,000

Sec. 11. 1989 Iowa Acts, chapter 315, section 7, subsection 6, is amended to read as follows:

6. PRINTING AND MAIL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~445,439~~
535,439

..... FTEs 22.5

Sec. 12. 1989 Iowa Acts, chapter 315, section 8, subsection 2, is amended to read as follows:

2. UTILITY COSTS

For payment of utility costs:

..... $ ~~1,667,302~~
1,867,302

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.

DEPARTMENT OF INSPECTIONS AND APPEALS

Sec. 13. 1989 Iowa Acts, chapter 321, section 7, subsection 1, is amended to read as follows:

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~~
251.00

Of the amount appropriated, $38,700, or so much thereof as is necessary, shall be expended for 1 FTE and necessary expenses in connection with the administration of payment claims to court-appointed counsel for adult and juvenile indigent defense costs.

3 FTEs responsible for conducting alcoholic beverage audits shall be transferred to the alcoholic beverage division of the department of commerce.

Sec. 14. 1989 Iowa Acts, chapter 321, section 8, unnumbered paragraph 3, is amended to read as follows:

For indigent court-appointed attorney fees for adults and juveniles, and to help process claims notwithstanding section 232.141 and chapter 815:

..... $ ~~7,200,000~~
9,200,000

Sec. 15. 1989 Iowa Acts, chapter 321, section 4, subsection 2, is amended by adding the following new paragraph after paragraph "b":

NEW PARAGRAPH. bb. The division may expend up to $120,000 from the fund to offset the federal unemployment insurance shortfall.

DEPARTMENT OF COMMERCE

Sec. 16. 1989 Iowa Acts, chapter 321, section 11, subsection 1, unnumbered paragraphs 1 and 2, are amended to read as follows:

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~~
694,675

..... FTEs ~~9.0~~
10.0

**Sec. 17. 1989 Iowa Acts, chapter 321, section 13, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *Any unencumbered or unobligated moneys, up to $375,000, that remain from the appropriation for the fiscal year beginning July 1, 1989, and ending June 30, 1990, to the alcoholic beverages division from the beer and liquor control fund, shall not revert to the beer and liquor control fund but may be expended by the division for the purchase of computer hardware and software to support its alcoholic liquor wholesale operation and its licensing and regulation bureau.**

STATE DEPARTMENT OF TRANSPORTATION

Sec. 18. 1989 Iowa Acts, chapter 317, section 13, subsection 2, is amended to read as follows:

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~~
32,000

Sec. 19. 1989 Iowa Acts, chapter 317, section 14, is amended to read as follows:

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~~
70,080

Sec. 20. 1989 Iowa Acts, chapter 317, section 15, subsection 1, paragraph e, is amended to read as follows:

e. Highways:

..... $ 124,381,000

..... FTEs ~~2,870.0~~
2,871.0

Sec. 21. 1989 Iowa Acts, chapter 317, section 15, subsection 3, is amended to read as follows:

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~~
646,000

Sec. 22. 1989 Iowa Acts, chapter 317, section 16, is amended to read as follows:

*Item veto; see message at end of the Act

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~~
1,331,540

DEPARTMENT OF CORRECTIONS

Sec. 23.

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:

To establish individualized, personal development life management programs:

..... $ 100,000

These programs shall include multisensory, sequential learning modules with an individualized plan of action for each client involving such areas as finance, career, employment, physical, health, education, family, home, spiritual, ethical, social, and cultural needs. These programs, which must be accredited by the recognized college oversight association, must result in the possibility of earned college credits or continuing education units, where applicable. These voluntary programs, shall be motivational, aid in development of responsible attitudes and habits, problem-solving and decision-making abilities, emotional control, and job seeking skills. The programs shall foster improved family and social relations. These programs shall be relevant, timely, convenient, portable, and accessible for clients, and must have been updated in the previous 2 years.

The department of corrections shall contract for this project with a provider of programs which have at least 15 years of working with criminal offender/ex-offender populations. The contract for this project shall be awarded to a private, nongovernmental organization created under chapter 496A. The department shall use the fixed price method of contracting authorized by the federal procurement regulation, f.p.r. 1-3.404.2, which imposes a minimum administrative burden on the department. The programs shall be made available to the first and sixth judicial district departments of correctional services, and at the correctional facility or facilities designated by the department. The contractor shall also provide health screening tests for the prevention of illness and disease, a plan for physical fitness, and an aptitude career assessment.

Sec. 24.

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:

To provide for financial arrangements for the acquisition or construction by lease-purchase of real and personal property not exceeding a maximum cost, excluding the cost of interest expense and various fees associated with the acquisition of lease-purchase financing, of a total project cost of $17,532,000 for land acquisition, for expanded prison facilities, for consolidation of certain community-based corrections district's facilities, and to supplement 1989 Iowa Acts, chapter 316 in the manner provided in the following subsections:

..... $ 200,000

Notwithstanding section 8.33, moneys remaining unencumbered and unobligated on June 30, 1990, from the appropriation made in this section shall not revert but shall remain available for expenditure for purposes of this section for the fiscal year beginning July 1, 1990.

1. Up to $3,900,000 for construction of 120 additional medium security dormitory style beds at the Rockwell City correctional facility.

2. Up to $4,000,000 for construction of 100 additional medium security dormitory style beds at the Oakdale corrections campus.

3. Up to $2,363,000 for construction of 50 additional minimum security cottage style or residential dormitory style beds at the Mitchellville correctional facility. The architectural plan shall include living units designed to promote and accomplish the goals of the family preservation program established in section 246.207.

4. Up to $1,300,000 for construction of 60 minimum security dormitory style beds located in Polk county.

As a condition, limitation, and qualification of this appropriation, the beds shall be used for a 30-to-60-day shock revocation program for parole and probation violators. The beds shall be administered by the state department of corrections.

5. Up to $3,500,000 for the addition of 200 community-based corrections residential beds with the locations to be determined by the state department of corrections, with at least 25 residential beds being dedicated for women. The construction of the 200 beds shall not begin until the department has notified and provided an explanation for the placement of the beds to the legislative council, the legislative fiscal committee, the joint justice system appropriations subcommittee, and the legislative fiscal bureau.

*6. *Up to $849,000 for the remodeling of administrative offices and the consolidation of certain district operations in the fifth judicial district department of correctional services.**

7. Up to $120,000 to supplement funds appropriated by 1989 Iowa Acts, chapter 316, section 7, subsection 6, for providing financing to begin construction of the 36 residential beds authorized under paragraph "d" for the eighth judicial district department of correctional services.

8. Up to $1,000,000 for supplementing the appropriations available under subsections 4 and 5 for land acquisition costs and architectural fees if the appropriations available under those subsections are insufficient to pay all costs of land acquisition and architectural fees.

8A. Up to $500,000 for the consolidation of work release, OWI, field services, and administrative offices for the sixth judicial district department of correctional services.

9. Notwithstanding the limitation on the amount available for use for each of the projects designated in subsections 1 through 8A, the dollar limitation may be exceeded for any project provided that the dollar limitations for other projects are reduced in the cumulative by that excess. However, a dollar limitation shall not be increased unless notification is provided to the legislative council, legislative fiscal committee, legislative fiscal bureau, and department of management prior to the increase in the dollar limitation.

10. Notwithstanding section 453.7, interest earned on the proceeds from the lease-purchase arrangement are available for the projects designated in subsections 1 through 8A.

Sec. 25. 1989 Iowa Acts, chapter 316, section 4, subsection 1, is amended to read as follows:

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 294 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~~
	14,080,184
..... FTEs	325.0

As a condition, limitation, and qualification of this appropriation, the facility shall employ 193 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.

*Item veto; see message at end of the Act

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~~
9,313,882
..... FTEs 246.5

As a condition, limitation, and qualification of this appropriation, the facility shall employ 126 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~~
2,415,632
..... FTEs 57.5

As a condition, limitation, and qualification of this appropriation, the facility shall employ 20 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~~
10,151,241
..... FTEs 259.28

As a condition, limitation, and qualification of this appropriation, the facility shall employ 141 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~~
2,578,822
..... FTEs 67.0

As a condition, limitation, and qualification of this appropriation, the facility shall employ 39 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~~
3,831,947
..... FTEs 105.65

As a condition, limitation, and qualification of this appropriation, the facility shall employ 62 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~~
3,247,708
..... FTEs 86.5

As a condition, limitation, and qualification of this appropriation, the facility shall employ 49 correctional officers. The additional correctional officers may be used to provide security for any increased activity of the inmate work detail program.

Sec. 26.

As a condition, limitation, and qualification of the supplemental appropriation made in section 25 of this Act, the funds may be used to supplement each institution listed in section 25 of this Act and employ 5 additional positions at Mitchellville, 28 additional positions at Anamosa, and 3 additional positions at Oakdale.

Sec. 27. 1989 Iowa Acts, chapter 316, section 5, subsections 2 and 3, are amended to read as follows:

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~~
239,580

3. For federal prison reimbursement and miscellaneous contracts:

..... $ ~~300,000~~
360,000

The department of corrections shall use funds appropriated by this subsection to continue to contract for the service of a Muslim imam.

Sec. 28. 1989 Iowa Acts, chapter 316, section 7, subsection 2, unnumbered paragraph 1, is amended to read as follows:

For job training and development grant programs to award grants under contract to nonprofit organizations for community-based correctional clients:

..... $ ~~400,000~~
200,000

Sec. 29. 1989 Iowa Acts, chapter 316, section 8, subsection 1, is amended to read as follows:

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~~
3,717,320

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~~
2,995,637

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~~
1,700,930

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~~
1,680,897

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~~
5,025,572

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~~
3,747,405

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~~
3,186,854

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~~
1,605,634

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

Sec. 30. 1989 Iowa Acts, chapter 316, section 9, is amended to read as follows:

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 for the planning, financing, land acquisition, and construction of a fifty-bed residential facility to replace the current twenty-five bed leased facility:

..... $ 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.~~ The district may enter into financial arrangements for a direct loan, a lease, or a lease-purchase agreement to obtain land or to construct the facility. The fifty-bed facility shall include ten beds designated primarily for the OWI program.

Notwithstanding section 8.33, unobligated or unencumbered funds remaining on June 30, 1990, of the appropriation made in this section shall not revert to the general fund but shall be available for expenditure for the purposes for which appropriated in this section for the fiscal year beginning July 1, 1990.

DEPARTMENT OF PUBLIC SAFETY

Sec. 31.

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 the purposes designated:

For funding the department's administrative functions to implement the accreditation for law enforcement agencies:

..... *$ 25,000**

**Sec. 32.*

There is appropriated from the general fund of the state to the department of public safety for the fiscal period beginning July 1, 1989, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To purchase a new office facility as a law enforcement headquarters for the department:

..... *$ 220,000*

*Proceeds from the sale of an existing facility shall be deposited in the general fund of the state.**

Sec. 33.

There is appropriated from the general fund of the state 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 riverboat gambling activities:

..... $ 400,000

Sec. 34. 1989 Iowa Acts, chapter 317, section 10, subsection 3, is amended to read as follows:

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~~
175,544

*Item veto; see message at end of the Act

DEPARTMENT OF JUSTICE

Sec. 35.

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:

For the victim compensation fund:

..... $ 211,053

Sec. 36. 1989 Iowa Acts, chapter 316, section 1, subsection 3, is amended to read as follows:

3. Preparation of a new domestic abuse manual and updating of the desk manual for prosecutors:

..... $ 15,000

Notwithstanding section 8.33, the moneys appropriated in this subsection that remain unencumbered or unobligated on June 30, 1990, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1990.

JUDICIAL DEPARTMENT

Sec. 37.

There is appropriated from the general fund of the state to the judicial department for the fiscal period beginning July 1, 1989, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for the purposes designated:

For the purchase of computer hardware and software for the child support system:

..... $ 900,000

DEPARTMENT OF ELDER AFFAIRS

Sec. 38.

There is appropriated from the general fund of the state to the department of elder affairs for the fiscal period beginning July 1, 1989, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for the purposes designated:

For contractual services for the elder law education program:

..... $ 50,000

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

**Sec. 39. 1989 Iowa Acts, chapter 311, section 1, subsection 1, paragraph a, is amended to read as follows:*

a. From the general fund for salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~1,191,977~~
1,236,777*

Sec. 40. 1989 Iowa Acts, chapter 311, section 1, subsection 2, paragraph a, is amended to read as follows:

a. From the general fund for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $ ~~1,308,381~~
1,028,381

..... FTEs 26.00

Sec. 41. 1989 Iowa Acts, chapter 311, section 1, subsection 5, paragraph a, is amended to read as follows:

a. From the general fund for salaries, support, maintenance, and miscellaneous purposes:

..... $ ~~799,671~~
818,571

*Item veto; see message at end of the Act

Notwithstanding section 8.33, $18,900 from the amount appropriated in this paragraph that remains unencumbered or unobligated on June 30, 1990, shall not revert to the general fund of the state but shall remain available for the purposes of a statewide gypsy moth detection survey during the fiscal year beginning July 1, 1990.

DEPARTMENT OF NATURAL RESOURCES

Sec. 42. 1989 Iowa Acts, chapter 311, section 6, subsection 1, paragraph a, is amended to read as follows:

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~12,850,534~~
12,820,534
..... FTEs 973.10

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 43. 1989 Iowa Acts, chapter 319, section 1, subsection 4, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~1,977,406~~
1,827,406
..... FTEs 40.5

Sec. 44. 1989 Iowa Acts, chapter 319, section 1, subsection 5, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ ~~6,860,000~~
6,792,500
..... FTEs 103.0

Sec. 45. 1989 Iowa Acts, chapter 319, section 1, subsection 7, unnumbered paragraph 1, is amended to read as follows:

For state aid:

..... $ ~~1,539,785~~
1,489,785

DEPARTMENT OF EDUCATION

**Sec. 46.*

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 is necessary, to be used for the purposes designated:

To provide funds for the employment resources center administered by the fifth judicial district's department of correctional services to assist clients:

..... *$ 20,000**

COLLEGE AID COMMISSION

Sec. 47.

The appropriation made to the college aid commission for student aid programs under 1989 Iowa Acts, chapter 319, section 7, subsection 2, shall be reduced for the fiscal year beginning July 1, 1989, from $700,000 to $500,000.

Sec. 48. 1989 Iowa Acts, chapter 319, section 10, is amended to read as follows:

*Item veto; see message at end of the Act

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~~
		2,587,980
.....	FTEs	31.23

Sec. 49.

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

Approved March 23, 1990, except the items which I hereby disapprove and which are designated as section 2 in its entirety; section 5 in its entirety; section 17 in its entirety; section 24, subsection 6 in its entirety; sections 31 and 32 in their entirety; section 39 in its entirety; and section 46 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 2212, an Act relating to and making supplemental appropriations or decreasing appropriations to the department of human services, Iowa department of public health, state board of regents, department of general services, department of inspections and appeals, department of employment services, department of commerce, state department of transportation, department of corrections, department of public safety, department of justice, judicial department, department of elder affairs, department of agriculture and land stewardship, department of natural resources, department of cultural affairs, department of education, and college aid commission for the remainder of the fiscal year ending June 30, 1990, and providing an effective date.

Senate File 2212 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 2, in its entirety. This section would appropriate $1 million to the Department of Human Services for nursing facility reimbursement at the 74th percentile of facility costs as calculated from the March 31, 1990, unaudited compilation of cost and statistical data. This would become effective on April 1, 1990, three months earlier than my recommendation. I cannot approve this earlier increase in reimbursement rates due to fiscal constraints.

I am unable to approve the item designated as Section 5, in its entirety. This provision would require that any funds not spent for enhanced mental health, mental retardation, developmental disabilities services not revert but be deposited in the State Supplementation of Federal Social Services Block Grant Fund, after county expenditures for candidate services are reimbursed. Unexpended funds appropriated for one purpose should not be automatically transferred and, therefore, made available for another purpose, thereby circumventing the appropriation process.

I am unable to approve the item designated as Section 17, in its entirety. This section authorizes the Alcoholic Beverages Division to spend $375,000 for a new computer for the liquor warehouse. Although it is important that this division have the equipment and facilities necessary to adequately perform the responsibilities with which they have been statutorily charged, I am not convinced that purchasing a new computer is the most efficient or effective way of meeting the Division's data processing needs. This may be a good opportunity for the Division to work with the Information Services Division of the Department of General Services to incorporate its data processing needs in the state's central data processing system. Although this is an expenditure from the Alcoholic Beverages Revolving Fund, any money saved in that fund will benefit the General Fund because any amounts in excess of that agency's expenses are transferred to the General Fund.

I am unable to approve the item designated as Section 24, subsection 6. This calls for up to $849,000 for the remodeling of administrative offices and the consolidation of certain district operations in the Fifth Judicial District Department of Correctional Services. This project was not recommended by the Board of Corrections and has not been examined through the normal budgetary channels. Architectural estimates have not been furnished to the Department of Corrections and this project cannot be justified as a high priority when compared to other more pressing needs and with consideration of the state's fiscal condition.

I am unable to approve the item designated as Section 31, in its entirety. This section would appropriate $25,000 from the general fund to the Department of Public Safety to implement the accreditation for law enforcement agencies. This $25,000 would only be the beginning of accreditation costs and does not reflect salary costs of personnel who would be assigned to the accreditation project. Nebraska utilized nine officers and Missouri intends to utilize eleven. Other contiguous states are incurring costs as great as $200,000. Reaccreditation is required every five years, indicating ongoing costs. The quality of Iowa law enforcement will not suffer if this new program is not implemented.

I am unable to approve Section 32, in its entirety. This section appropriates $220,000 to purchase a new office facility as a law enforcement headquarters for the Department. The Department of Public Safety did not request new headquarters and the current and forecasted fiscal picture requires spending restraint. I can not at this time approve of this item.

I am unable to approve Section 39, in its entirety. This section would partially fund information specialists and support of accounting section positions at the Department of Agriculture and Land Stewardship with a $44,800 appropriation. Due to fiscal constraints, I can not approve additional administrative expenses at this time.

I am unable to approve Section 46, in its entirety. This section would appropriate $20,000 to the Department of Education for the lift-up program in the Fifth Judicial District. The Department of Corrections has advised me that funds are now available within the Fifth Judicial District, therefore, a supplemental appropriation is no longer required and I am unable to approve this section.

I find Senate File 2212 to contain many worthwhile provisions including many of my recommendations. Supplementary medical assistance, Capitol restoration, and the beginning of a major expansion in our correctional system are necessary and key portions of this bill. I object to the use of lease-purchase and prefer paying cash for these facilities, however, the legislature has made it clear that lease-purchase is the only method they will consider to finance the expansion of the correctional system.

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 2212 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1258

APPROPRIATIONS AND AMENDMENTS RELATING TO MEDICAL ASSISTANCE

S.F. 2365

AN ACT relating to and making appropriations to the department of human services and the Iowa department of public health and providing other properly related matters and providing an effective date.

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

Section 1. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

..... $ 2,480,000

1. Of the funds appropriated by this section, $1,350,000 is allocated to provide medical assistance to certain individuals who would be eligible for federal supplementary security income except for excess income and resources and are eligible for medical assistance pursuant to section 4 of this Act.

2. Of the funds appropriated by this section, $1,050,000 is allocated to provide for medical assistance expenditures related to the increase in the community spouse resource allowance established under section 6 of this Act.

3. Of the funds appropriated by this section, $60,000 is allocated for expenditures related to the increase in the resource allowance for persons who are medically needy established under section 2 of this Act.

4. Of the funds appropriated by this section, $20,000 is allocated to develop or to contract for the development of a pharmaceutical assistance program to provide assistance to persons who have a chronic health condition requiring continuing, substantial expenditures for prescription drugs and durable medical equipment which are not reimbursed under the federal medicare program. The department of human services shall establish a task force which includes the department of elder affairs and providers of pharmaceutical drugs to develop the program. In developing the program, the task force shall give special consideration to individuals whose income is above the medical assistance eligibility limit and who have monthly medical expenditures which reduce their income below the eligibility limit. The task force, in consultation with the Iowa medical society and the Iowa association of area agencies on aging, shall also give consideration to linking the pharmaceutical assistance program with the medicare partners program sponsored by the Iowa medical society and the Iowa association of area agencies on aging and to seeking cooperation from participating pharmacists if the programs are linked. The pharmaceutical assistance program design shall seek to minimize administrative costs, encourage pharmacist participation, and address the needs of persons with continuing, substantial expenditures for prescription drugs and durable medical equipment. The department of human services shall submit the task force report to the general assembly on or before January 1, 1991. The department of human services shall submit a program design for the pharmaceutical program and the task force's recommendations for its implementation to the general assembly on or before January 1, 1991.

Sec. 2. MEDICALLY NEEDY RESOURCE LIMIT.

The department of human services shall adopt rules pursuant to chapter 17A, increasing resource limits for persons under the medically needy program to $10,000 and the rules shall take effect upon filing unless a later date is specified in the rules.

**Sec. 3. IOWA DEPARTMENT OF PUBLIC HEALTH — HOME HEALTH PROVIDERS.*

There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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

For grants to county boards of supervisors for the homemaker-home health aide program:
..... *$ 150,000*
*Funds appropriated under this section 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 15 percent of the funds appropriated under this section may be used to provide chore services. The funds shall not be used for any other purposes.**

**Sec. 4. Section 249A.3, subsection 2, Code Supplement 1989, is amended by adding the following new paragraph after paragraph f:*
NEW PARAGRAPH. *g. Individuals who meet all eligibility requirements for federal supplementary security income except for excess income and resources, who have income which 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, and who have resources which are within limits established by the department for individuals eligible for medical assistance under paragraph "h" of this section.**

**Sec. 5. Section 249A.3, subsection 2, paragraphs g and h, Code Supplement 1989, are amended to read as follows:*
~~g~~ h. *Individuals and families who would be eligible under subsection 1 or 2 of this section except for excess income or resources, or a reasonable category of those individuals and families.*
~~h~~ i. *Individuals who have attained the age of twenty-one but have not yet attained the age of sixty-five who qualify on a financial basis for, but who are otherwise ineligible to receive, federal supplementary security income or aid to dependent children.**

Sec. 6. Section 249A.3, Code Supplement 1989, is amended by adding the following new subsection:
NEW SUBSECTION. 9. Beginning October 1, 1990, in determining the eligibility of an institutionalized individual for assistance under this chapter, the department shall establish a minimum community spouse resource allowance amount of twenty-four thousand dollars to be retained for the benefit of the institutionalized individual's community spouse in accordance with the federal Social Security Act, section 1924(f) as codified in 42 U.S.C. § 1396r-5(f).

Sec. 7. 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 2,*4,* and 6 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. 8. TRANSFER OF FUNDS.*
*For accounting purposes, funds appropriated in this Act to the Iowa department of public health shall be considered to be part of the appropriations to the department for grants to county boards of supervisors for the homemaker-home health aide program contained in House File 2371, if House File 2371 is enacted by the Seventy-third General Assembly, 1990 Session.**

Sec. 9. EFFECTIVE DATE.
This Act takes effect October 1, 1990.

Approved April 3, 1990, except the items which I hereby disapprove and which are designated as section 1, subsection 1 in its entirety; section 1, subsection 4 in its entirety; sections 3, 4, and 5 in their entirety; that portion of section 7 which is herein bracketed in ink and initialed by me; and section 8 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*

*Item veto; see message at end of the Act

Dear Madam President:

I hereby transmit Senate File 2365, an Act relating to and making appropriations to the department of human services and the Iowa department of public health and providing other properly related matters and providing an effective date.

This bill doubles the spousal impoverishment exemption from $12,000 to $24,000. I am pleased to approve this important provision, which will allow many spouses of persons residing in care facilities to avoid depletion of their resources.

Senate File 2365 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 1, in its entirety. This provision increases spending for the state's Medicaid program by $1.35 million. Given the fiscal constraints of the state, I cannot approve this additional expenditure for the Medicaid program at this time.

I am unable to approve the item designated as Section 1, subsection 4, in its entirety. This provision would allocate funding to the Department of Human Services to establish a task force to develop a pharmaceutical assistance program. The Department of Human Services has estimated that such a program could cost the state in excess of $3.6 million a year. Before we commit to the development of such a costly program, more study should be devoted to the concept, including other states' experiences with such programs.

I am unable to approve the item designated as Section 3, in its entirety. This provision appropriates $150,000 to the Department of Public Health for the Homemaker-Home Health Aide Program. This appropriation would be in addition to the $8,699,000 included for the program in House File 2371, which increases the funding by $223,799 above last year's appropriation. Given the fiscal constraints of the state, I cannot approve this additional funding increase beyond that which I have approved in House File 2371.

I am unable to approve Sections 4 and 5, in their entirety. These provisions provide the statutory language changes necessary to implement Section 1, subsection 1, of this bill. Since this item has been vetoed, these provisions are unnecessary.

I am unable to approve the designated portion of Section 7 which grants authority to the Department of Human Services to adopt rules necessary to implement Section "4" of the bill. I have item vetoed Section 4, therefore, rulemaking authority relating to its provisions are unnecessary.

I am unable to approve the item designated as Section 8, in its entirety. With the item veto of Section 3, this language 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 2365 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1259

APPROPRIATIONS AND OTHER PROVISIONS RELATING TO HEALTH, HUMAN RIGHTS, AND ELDER AFFAIRS

H.F. 2371

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, 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 Iowa state civil rights commission for the fiscal year beginning July 1, 1990 and ending June 30, 1991, 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:

.....	$	1,051,000
.....	FTEs	37.00

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, 1990 and ending June 30, 1991, 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:

.....	$	242,000
.....	FTEs	9.00

2. SPANISH-SPEAKING PEOPLE DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	127,000
.....	FTEs	3.50

3. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	191,000
.....	FTEs	4.00

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

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	211,000
.....	FTEs	4.10

b. For the displaced homemaker program:

.....	$	140,000

5. CHILDREN, YOUTH AND FAMILIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	181,000
.....	FTEs	8.00

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:

.....	$	307,000
.....	FTEs	10.00

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:

.....	$	69,000
.....	FTEs	1.50

8. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	223,000
.....	FTEs	7.00

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.

*9. *RECREATION AND EDUCATIONAL GRANTS PROGRAM*

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	*$*	*400,000*
.....	*FTEs*	*1.00*

a. Of the amount appropriated under this subsection, $300,000 shall be used as follows:

(1) 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 120 percent above the federal poverty level.

(2) To be eligible for state funds under this paragraph, 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 are 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.

(3) Grants awarded under this paragraph shall be awarded on a competitive basis to fund low-income youth programs in both urban and rural areas throughout the state.

b. Of the amount appropriated under this subsection, $100,000 shall be used for exemplary social and community-based organizations whose activities are primarily targeted toward minority populations in the state. Grants awarded under this paragraph shall be awarded on a competitive basis.

*Item veto; see message at end of the Act

c. Of the funds appropriated under this subsection, 8 percent of the funds may be used for administrative purposes of the department of human rights.

*d. Notwithstanding section 8.33, moneys appropriated under this subsection for the fiscal year beginning July 1, 1990, shall not revert to the general fund of the state at the end of the fiscal year but shall be available for expenditure during the fiscal year beginning July 1, 1991, for the purposes designated.**

Sec. 3.

Notwithstanding section 8.33, moneys appropriated from the jobs now account for the fiscal year beginning July 1, 1989, pursuant to section 99E.32, subsection 5, paragraph "v", which remain unexpended on June 30, 1990, shall not revert to any fund but shall be available for expenditure for the purposes designated during the fiscal year beginning July 1, 1990, and shall be in addition to any other moneys available for those purposes.

Sec. 4.

There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 1,458,800
..... FTEs 103.50

Of the funds appropriated under this section, $7,800 shall be used to fund the position of 1 additional counselor in the vending program to provide needed management assistance to the blind vending operators throughout the state.

Sec. 5.

There is appropriated from the general fund of the state to the department of elder affairs 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 506,000
..... FTEs 33.00

It is the intent of the general assembly that the department employ an alternative housing coordinator and a long-term care coordinator as 2 of the full-time equivalent positions.

Of the funds appropriated under this subsection, $50,000 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:

..... $ 165,000

3. For the long-term care residents' advocate and the care review committees at the local area agency on aging level:

..... $ 120,000

As a condition, qualification, and limitation of the funds appropriated by this subsection, a local area agency on aging shall match the funds appropriated with funds from other sources on a $4 to $1 basis.

4. For the retired Iowans community employment program:

..... $ 104,000

5. For the older Iowans' legislature:

..... $ 13,000

6. a. For existing retired senior volunteer program projects:

..... $ 58,000

b. For two additional retired senior volunteer program projects:

..... $ 25,000

7. For elderly services programs:

..... $ 1,531,000

*Item veto; see message at end of the Act

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 60 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 on aging 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, 1990, and ending June 30, 1991, area agencies on aging shall expend no less than $250,000 on adult day care programs.

Of the funds appropriated in this subsection, $150,000, or so much thereof as is necessary, shall be used for case management for the frail elderly.

8. For the Alzheimer's disease support program:

..... $ 75,000

**9. For an elder law program:*

..... *$ 100,000*

*It is the intent of the general assembly that the funds appropriated under this subsection be used by the department to establish, in cooperation with the area agencies on aging, a program to provide legal services to elders. An area agency on aging shall contract with the nonprofit legal services organization which is in closest proximity to the area agency on aging, to provide the services of a full-time attorney to elders in the service area of the area agency on aging.**

Sec. 6.

There is appropriated from the general fund of the state to the Iowa department of public health 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. CENTRAL ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 829,096

..... FTEs 57.00

As a condition, limitation, and qualification of the appropriation made in this subsection, the director of the Iowa department of public health or the director's designee shall participate in an interagency working committee convened by the governor's planning council for developmental disabilities to examine the feasibility of establishing an office of disability prevention within state government.

2. HEALTH PLANNING DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,171,296

..... FTEs 15.75

The department shall allocate from the funds appropriated under this subsection $754,500 for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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.

*Item veto; see message at end of the Act

b. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for the office of rural health:

..... $ 187,000
..... FTEs 4.00

(1) Of the funds appropriated in this paragraph, $57,000 is allocated for the continuation of the office of rural health.

(2) Of the funds appropriated in this paragraph, $100,000 is allocated to the office of rural health to provide technical assistance to rural areas in the area of health care delivery, including technical assistance in the recruitment of physicians and health care professionals.

(3) Of the funds appropriated in this paragraph, $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.

As used in this subparagraph, "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 subparagraph, a person is engaged in agriculture if the person is consistently exposed to a related activity described in this subparagraph.

c. For the health data clearinghouse of the health data commission:

..... $ 375,000

3. DISEASE PREVENTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,484,709
..... FTEs 78.50

(1) Of the funds appropriated under this paragraph, $100,000 shall be used for chlamydia testing.

(2) Of the funds appropriated in this paragraph, $15,000 is allocated to support the surveillance and reporting of disabilities suffered by persons engaged in agriculture resulting from diseases or injuries, including identifying the amount and severity of agriculture-related injuries and diseases in the state, identifying causal factors associated with agriculture-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 in accomplishing these duties.

(3) (a) Of the funds appropriated under this paragraph, $10,000 shall be used by the Iowa department of public health to establish an acquired immune deficiency syndrome (AIDS) services task force. It is the intent of the general assembly that the AIDS services task force do all of the following:

(i) Collect comprehensive information regarding existing programs and services to persons who have tested positive for the human immunodeficiency virus or who have acquired immune deficiency syndrome in the state.

(ii) Identify barriers to existing programs and services.

(iii) Develop policy recommendations based upon the scope of the problem of the disease and the determined needs of persons with acquired immune deficiency syndrome and their families.

(iv) Make recommendations to the Iowa department of public health for an acquired immune deficiency syndrome services grant program.

(b) The task force shall include all of the following members:

(i) A physician who is knowledgeable about acquired immune deficiency syndrome and its treatment.

(ii) A social worker experienced in working with persons with acquired immune deficiency syndrome.

(iii) An administrator of a community or regional-based agency or organization that provides services to persons with acquired immune deficiency syndrome.

(iv) One male and one female representative of the homosexual community.

(v) A representative of the Black community.

(vi) A representative of the Hispanic community.

(vii) A representative of an AIDS coalition.

(viii) A person with acquired immune deficiency syndrome or a person who has tested positive for the human immunodeficiency virus.

(ix) A mental health worker.

(c) The task force membership shall be geographically balanced to the extent possible. Members of the task force shall be reimbursed for actual and necessary expenses incurred by the members in the discharge of their official duties.

(d) The AIDS services task force shall report its recommendations to the general assembly by January 1, 1991.

(4) The university of Iowa hospitals and clinics shall not receive indirect costs from the funds appropriated under this paragraph.

b. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	1,014,000
	FTEs	5.00

It is the intent of the general assembly that the moneys appropriated under this paragraph shall be used for the training of emergency medical services (EMS) 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:

	$	639,748
	FTEs	13.50

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	223,428
	FTEs	4.00

6. STATE BOARD OF MEDICAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	971,955
	FTEs	19.00

7. STATE BOARD OF NURSING EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	773,995
	FTEs	17.00

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 606,268
..... FTEs 12.00

9. 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.

10. SUBSTANCE ABUSE DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 514,012
..... FTEs 15.00

b. For program grants:

..... $ 7,382,000

11. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,945,020
..... FTEs 87.60

The department shall allocate from the funds appropriated under this paragraph at least $631,000 for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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, $124,000 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:

..... $ 341,500

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 specialty clinics under subparagraph (1), $101,500 shall be used for a specialized medical home care program providing care planning and coordination of community support services for children who require technical medical care in the home.

The university of Iowa hospitals and clinics shall not receive indirect costs from the funds for each program.

Of the funds appropriated under this paragraph, $1,750,000 shall be used for maternal and child health services, and shall be allocated for the following purposes:

(1) For outreach services and the hiring of 4 half-time paraprofessionals to be located in and surrounding the areas of Black Hawk, Tama, Woodbury, and Scott counties:

..... $ 50,000

*(2) *For the provision of physician care for pregnant women who are not eligible for services under the maternal and child health centers guidelines based upon their income, but whose incomes are between 185 and 300 percent of the poverty guidelines published by the United States department of health and human services:*

..... *$ 300,000*

*The physician services shall be subject to managed care and selective contracting provisions and shall be used to provide treatment of the pregnant women in a physician's office and shall include coverage of diagnostic procedures and prescription drugs required for the treatment. Services provided under this subparagraph shall be reimbursed according to Title XIX reimbursement rates.**

(3) Of the funds appropriated under this paragraph for prevention services for women to decrease problems of pregnancy and to reduce the incidences of low birth weights, priorities shall be given to communities with a high concentration of minorities.

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":

..... $ 10,000

c. For grants to local boards of health for the public health nursing program:

..... $ 2,668,000

Funds appropriated under this paragraph shall be used to maintain and expand the existing public health nursing program for elderly and low-income persons with the objective of preventing or reducing inappropriate institutionalization. The funds shall not be used for any other purpose. As used in this paragraph, "elderly person" means a person who is 60 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.

*Item veto; see message at end of the Act

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 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:
..... $ 8,699,000

Funds appropriated under this paragraph shall be used to provide homemaker-home health aide services with emphasis on services to elderly and persons below the poverty level and children and adults in need of protective services with the objective of preventing or reducing inappropriate institutionalization. In addition, up to 15 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 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 windowpanes, 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 60 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. 15 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: 60 percent according to the number of elderly persons living in the county; 20 percent according to the number of persons below the poverty level living in the county; and 20 percent according to the number of substantiated cases of child abuse in the county during the 3 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. An agency requesting service or financial information about a current subcontractor shall provide similar information concerning its own homemaker-home health aide or chore program to the current subcontractor. The proposal may provide that a maximum of 15 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 70 percent or more of the workers' paid time and that not more than 35 percent of the total cost of the service be included 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 10 months' expenditures for each county in May of each year, to determine if any counties possess 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:

..... $ 655,000

Appropriations made in this paragraph shall be provided by a formula to well-elderly clinics located in counties which provide funding on a matching basis for the well-elderly clinics.

f. For the physician care for children program:

..... $ 450,000

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 paragraph shall be reimbursed according to Title XIX reimbursement rates.

Sec. 7.

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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:

..... $ 176,000

Sec. 8.

The licensing boards for which general fund appropriations have been provided in section 6, 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 and exceed funds budgeted for examinations. Before a licensing board included in section 6, subsections 4, 5, 6, 7, and 8 of this Act expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the board and the board does not have other funds from which examination expenses can be paid. Upon approval of the department of management the licensing board may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2, subsection 5.

Sec. 9. 1989 Iowa Acts, chapter 304, section 1108, is amended to read as follows:

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.

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~~ purposes of this section during the fiscal period beginning July 1, 1990.

Sec. 10. Section 135.11, subsection 19, Code Supplement 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 also, through cooperation and collaborative agreements with the department of human services and the mobile and regional child health specialty clinics, establish common intake proceedings for maternal and child health services. 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. 11.

Sections 3 and 9 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 3, 1990, except the items which I hereby disapprove and which are designated as section 2, subsection 9 in its entirety; section 5, subsection 9 in its entirety; and section 6, subsection 11a, second paragraph numbered 2 in its entirety. 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 2371, 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, and providing an effective date.

House File 2371, is therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 2, subsection 9, in its entirety. This provision would appropriate $400,000 from the general fund for recreational and educational activities. During the fiscal year beginning July 1, 1989, funds were appropriated from the Iowa Plan for this purpose, which are being carried forward into the fiscal year beginning July 1, 1990, under Section 3 of this Act. Funds are available to fulfill obligations made by the Department of Human Rights for programs during the summer of 1990. Due to fiscal constraints and because funds for this special program would now be provided from the general fund rather than the Iowa Plan, I am unable to approve this subsection.

I am unable to approve the item designated as Section 5, subsection 9, in its entirety, which would appropriate $100,000 for an elder law program and direct the Department of Elder Affairs to establish a program to provide legal services for elders in cooperation with the Area Agencies on Aging. Area Agencies on Aging are currently required to spend three percent of federal funds received for legal services for elders. And, I have previously approved a $50,000 supplemental appropriation for contractual services for the elder law education program and funds to continue this program are expected to be approved for fiscal year 1991. In addition, other forms of free legal services for the elderly are available.

I am unable to approve the item designated as Section 6, subsection 11a, second paragraph numbered 2, in its entirety, which reads as follows:

> (2) For the provisions of physician care for pregnant women who are not eligible for services under the maternal and child health centers guidelines based upon their income, but whose incomes are between 185 and 300 percent of the poverty guidelines published by the United States department of health and human services:
> ..... $ 300,000
> The physician services shall be subject to managed care and selective contracting provisions and shall be used to provide treatment of the pregnant women in a physician's office and shall include coverage of diagnostic procedures and prescription drugs required for the treatment. Services provided under this subparagraph shall be reimbursed according to Title XIX reimbursement rates.

This provision would provide prenatal services at no cost to pregnant women whose incomes are between 185 and 300 percent of poverty through the maternal and child health centers. Such services are currently available on a sliding fee scale to women whose incomes exceed 185 percent of poverty. Given the fiscal constraints of the state, I cannot approve funding for this purpose.

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 2371 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1260

APPROPRIATIONS AND OTHER PROVISIONS RELATING TO AGRICULTURE AND NATURAL RESOURCES

S.F. 2364

AN ACT relating to and making appropriations to the department of agriculture and land stewardship, the Iowa state fair authority, and the department of natural resources, changing the distribution of certain fees, and providing an effective date.

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

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1.

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, 1990, and ending June 30, 1991, 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 of the state for salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,274,018

b. From the fertilizer fund to be transferred to the administration division:

..... $ 51,147

c. From the dairy trade practice fund to be transferred to the administration division:

..... $ 96,290

d. From the commercial feed fund to be transferred to the administration division:

..... $ 51,147

e. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

..... FTEs 42.20

f. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a", $35,000 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.

2. FARM COMMODITY DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $ 1,097,748

..... FTEs 23.0

3. FARMERS' MARKET COUPON PROGRAM

From the general fund of the state 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 of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $ 4,053,440

..... FTEs 140.20

b. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a", $3,342 shall be used by the regulatory division for purchase of equipment used to detect sulfamethazine contamination.

5. LABORATORY DIVISION

a. From the general fund of the state for salaries, support, maintenance, and miscellaneous purposes:

..... $ 858,472

b. From the commercial feed fund to be transferred to the laboratory division:

..... $ 600,609

c. From the pesticide fund to be transferred to the laboratory division:

..... $ 662,296

d. From the fertilizer fund to be transferred to the laboratory division:

..... $ 764,566

*e. *As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a", $37,577 shall be used for the support of an assistant attorney general.*

*f. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a", $28,000 shall be used to support the position of program planner to perform pesticide case reviews.**

*Item veto; see message at end of the Act

g. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

..... FTEs 84.0

The amount of full-time equivalent positions allocated under this paragraph "g" may be exceeded, if all of the following conditions are satisfied:

(1) Additional funding other than from the state general fund is available during the fiscal year beginning July 1, 1990, and ending June 30, 1991.

(2) The legislative council is notified of the additional funding and the number of full-time equivalent positions to be increased.

(3) The department of management approves the increase in full-time equivalent positions recommended by the legislative council.

6. SOIL CONSERVATION DIVISION

a. From the general fund of the state for salaries, support, maintenance, assistance to soil conservation districts, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,462,287

..... FTEs 193.79

b. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "a", $350,000 shall be allocated from the appropriation to support additional soil conservation technicians for field offices. Also as a condition, limitation, and qualification of the appropriation, all documentation relating to employing persons as soil conservation technicians shall be transmitted to the department of personnel and to the department of management by July 1, 1990, and the positions shall commence by July 1, 1990. Persons shall be employed to fill these additional positions by September 1, 1990.

c. To provide financial incentives for soil conservation practices in accordance with paragraph "d":

..... $ 6,789,972

d. As a condition, limitation, and qualification of the appropriation from the general fund under paragraph "c", the following requirements apply to the funds appropriated by paragraph "c":

(1) Not more than 5 percent may be allocated for cost sharing to abate complaints filed under section 467A.47 and 467A.48.

(2) Not more than 10 percent may be allocated for financial incentives not exceeding 75 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 1989 Iowa Acts, chapter 311, section 15.

(3) The soil conservation district commissioners may allocate financial incentives not exceeding 60 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 50 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 30 percent of a district's allocation may be allocated by the soil conservation district commissioners for the establishment of management practices to control soil erosion on land that is now row cropped.

(7) The financial incentive payments may be used in combination with department of natural resources funds.

e. The provisions of section 8.33 shall not apply to the funds appropriated by paragraph "c". Unencumbered or unobligated funds remaining on June 30, 1994, from funds appropriated for the fiscal year beginning July 1, 1990, shall revert to the general fund on September 30, 1994.

Sec. 2.

There is appropriated from the funds available under section 99D.13 to the regulatory division of the department of agriculture and land stewardship for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as necessary, to be used for the purposes designated:

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:

..... $ 159,072
..... FTEs 4.0

Sec. 3.

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, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

*1. *RURAL REVITALIZATION*

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, as provided in section 99E.32, subsection 3, paragraph "i":

..... *$ 250,000**

2. PILOT LAMB AND WOOL MANAGEMENT EDUCATION PROJECTS

To fund pilot lamb and wool management education projects approved by the department at area schools selected as project sites as provided in section 99E.32, subsection 3, paragraph "m":

..... $ 250,000

**Sec. 4.*

*The department shall not make transfers from the funds established in chapter 192A, 198, 200, and 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 2 weeks to review and comment on the proposed transfer before the transfer of funds is made.**

**Sec. 5.*

*For the fiscal year beginning July 1, 1990, and ending June 30, 1991, the increased fee revenues resulting to the fertilizer fund and to the pesticide fund during the 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.**

Sec. 6.

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... $ 250,000

IOWA STATE FAIR AUTHORITY

Sec. 7.

There is appropriated from the general fund of the state to the Iowa state fair authority for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

For capital projects or major maintenance improvements at the Iowa state fairgrounds:

..... $ 300,000

As a condition, limitation, and qualification of the appropriation made under this section, $100,000 shall be allocated from the appropriation to be used only on a matching basis from

*Item veto; see message at end of the Act

private contributions. The name of a private contributor may be associated with any project or improvement upon approval by the Iowa state fair board.

DEPARTMENT OF NATURAL RESOURCES

Sec. 8.

There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. OFFICE OF DIRECTOR

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	115,891
..... FTEs	5.95

2. ADMINISTRATIVE SERVICES DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	1,903,642
..... FTEs	124.15

3. COORDINATION AND INFORMATION DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	788,691
..... FTEs	42.08

4. ENERGY AND GEOLOGICAL RESOURCES DIVISION

a. From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	1,260,841
..... FTEs	59.62

5. ENVIRONMENTAL PROTECTION DIVISION

a. From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	2,105,780
..... FTEs	142.55

6. FISH AND WILDLIFE DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	0
..... FTEs	332.24

7. FORESTS AND FORESTRY DIVISION

From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	1,581,069
..... FTEs	55.71

8. PARKS AND PRESERVES DIVISION

a. From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	5,415,886
..... FTEs	208.05

b. *As a condition, limitation, and qualification of the appropriation under paragraph "a", $30,000 from the appropriation shall be used to support the position of environmental specialist II for the development of preserves management plans.

9. WASTE MANAGEMENT AUTHORITY

a. From the general fund of the state for salaries, support, maintenance, miscellaneous purposes, and for the following full-time equivalent positions:

..... $	0
..... FTEs	11.00

*Item veto; see message at end of the Act

10. For reimbursement to federal agencies for cooperative contracts:
..... $ 185,983

11. 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:
..... $ 230,500
..... FTEs 18.69

12. If an amount is expended in excess of the amount designated for any purpose, including any division specified under this section, 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.

Sec. 9.

There is appropriated from the state fish and game protection fund to the division of fish and game of the department of natural resources 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. From the state fish and game protection fund for administrative support during the fiscal year beginning July 1, 1990, and ending June 30, 1991:
..... $ 2,754,472

2. From the state fish and game protection fund for the law enforcement bureau of the fish and wildlife division for salaries, support, maintenance, equipment, and miscellaneous purposes during the fiscal year beginning July 1, 1990, and ending June 30, 1991:
..... $ 4,953,493

3. From the state fish and game protection fund for the fisheries bureau of the fish and wildlife division for salaries, support, maintenance, equipment, and miscellaneous purposes during the fiscal year beginning July 1, 1990, and ending June 30, 1991:
..... $ 4,506,802

4. From the state fish and game protection fund for the wildlife bureau of the fish and wildlife division for salaries, support, maintenance, equipment, and miscellaneous purposes during the fiscal year beginning July 1, 1990, and ending June 30, 1991:
..... $ 5,004,526

5. From the state fish and game protection fund for division management of the fish and wildlife division, for salaries, support, maintenance, equipment, and miscellaneous purposes, during the fiscal year beginning July 1, 1990, and ending June 30, 1991:
..... $ 180,847

6. 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

7. 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

*8. *As a condition, limitation, and qualification of the appropriation under this section, if reductions in expenditures are determined to be necessary to avoid a budget deficit in the fish and game protection fund, the department shall take all actions necessary to avoid using license receipts or other income for capitals and acquisitions, unless the Code specifically designates the use. The department shall not reduce personnel until all other actions necessitated by the expenditure reduction are exhausted.**

Sec. 10.

There is appropriated from the marine fuel tax fund to the department of natural resources 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 maintenance and development of boating facilities and access to public waters:
..... $ 400,000

*Item veto; see message at end of the Act

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, 1990, and ending June 30, 1991, is appropriated for the purposes provided in section 324.79, subsections 1, 2, 3, and 5. Notwithstanding section 8.33, the unencumbered or unobligated balances of funds specifically allocated for such projects for the fiscal year ending June 30, 1991, shall revert to the fund from which appropriated on September 30, 1993.

Sec. 11.

The department of natural resources, by October 1, 1990, shall conduct a public hearing in Pocahontas county relating to the possible restoration and preservation of Lizard Lake.

*Sec. 12. *LOWHEAD DAM REPAIR.*

1. There is appropriated to the department of natural resources for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount or so much thereof as is necessary, to be used for the purpose designated:

For use by the department to transfer immediately to the county board of supervisors of Jones county in order to enter into an agreement with the department to restore and repair a lowhead dam in the county:

..... *$ 50,000*

*2. The unencumbered or unobligated balance of the appropriation made for the fiscal term as provided under this section shall revert to the state treasury pursuant to section 8.33.**

Sec. 13.

The department of agriculture and land stewardship, in cooperation as necessary with the department of management and the department of personnel, shall provide a list to the legislative fiscal bureau, on a quarterly basis, of all permanent positions added to or deleted from the department's table of organization in the previous fiscal quarter. This list shall include at least the position number, salary range, projected funding source or sources of each position, and the reason for the addition or deletion. The legislative fiscal bureau may use this information to assist in the establishment of the FTE limits contained in the appropriation bill for the department.

Sec. 14.

The department of natural resources, in cooperation as necessary with the department of management and the department of personnel, shall provide a list to the legislative fiscal bureau, on a quarterly basis, of all permanent positions added to or deleted from the department's table of organization in the previous fiscal quarter. This list shall include at least the position number, salary range, projected funding source or sources of each position, and the reason for the addition or deletion. The legislative fiscal bureau may use this information to assist in the establishment of the FTE limits contained in the appropriation bill for the department.

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 "d", 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.

*Item veto; see message at end of the Act

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.**

**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.

During the fiscal year for which funds are appropriated by section 8 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. 20. 1987 Iowa Acts, chapter 233, section 204, subsection 5, as amended by 1989 Iowa Acts, chapter 311, section 21, 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, ~~1990~~ 1994.

Sec. 21. Section 29C.8A, subsection 1, Code 1989, is amended to read as follows:

1. An emergency response fund is created in the state treasury. The first one hundred thousand dollars received annually by the treasurer of state for the civil penalties and fines imposed by the court pursuant to sections 455B.146, 455B.191, 455B.386, 455B.417, 455B.454, 455B.466, and 455B.477 shall be deposited in the ~~general~~ waste volume reduction and recycling fund ~~of the state~~ created in section 455D.15. The next hundred thousand dollars shall be deposited in the emergency response fund and any additional moneys shall be deposited in the household hazardous waste account. All moneys received annually by the treasurer of the state for the fines imposed by sections 716B.2, 716B.3, and 716B.4 shall also be deposited in the emergency response fund.

**Sec. 22. 1989 Iowa Acts, chapter 311, section 9, subsection 4, unnumbered paragraph 1, is amended to read as follows:*

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 lowhead 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,

*Item veto; see message at end of the Act

*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.**

Sec. 23.

There is appropriated from the fees deposited in the portion of the solid waste account of the groundwater protection fund pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (2), subparagraph subdivision (d), subparagraph subdivision part (ii), which were deposited prior to July 1, 1990, to the Iowa center for applied research in metal casting at the university of northern Iowa, the following amount, or so much thereof as is necessary, to be used to conduct a feasibility study to determine the economic and technical feasibility of thermoreclamation of foundry sand. The study shall include an evaluation of the types of foundry sand in Iowa, an economic analysis of thermoreclamation of foundry sand, and the environmental benefits and acceptability of thermoreclamation of foundry sand:

..... $ 130,000

Sec. 24. Section 206.33, Code Supplement 1989, is amended to read as follows:

206.33 DAMINOZIDE — PROHIBITION.

A person shall not offer for sale, sell, purchase, apply, or use a pesticide containing daminozide in this state if the pesticide is sold, purchased, applied, or used for purposes of enhancing or improving a product produced to be consumed.

Sec. 25. Section 455B.304, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this chapter regarding the requirement of the equipping of a sanitary landfill with a leachate control system and the establishment and continuation of a postclosure account, the department shall adopt rules which provide for an exemption from the requirements to equip a sanitary landfill with a leachate control system and to establish and maintain a postclosure account if the sanitary landfill operator is a public agency, if the sanitary landfill has closed or will close by July 1, 1992, and will no longer accept waste for disposal after that date, and if at the time of closure of the sanitary landfill monitoring of the groundwater does not reveal the presence of leachate. The rules may require postclosure groundwater monitoring and shall establish the requirements for the implementation of leachate collection and control in cases in which leachate is found during postclosure monitoring. The rules shall provide for a closure completion period following the date of closure of a sanitary landfill. Notwithstanding the provisions of this paragraph, the public agency shall retain financial responsibility for closure and postclosure requirements applicable to sanitary disposal projects.

Sec. 26. NEW SECTION. 455B.500 WASTE MANAGEMENT RESEARCH BY PERSONS IN CONJUNCTION WITH INSTITUTIONS OF HIGHER EDUCATION.

A person acting in conjunction with a private college, community college, or state board of regents' institution, to conduct research relating to waste management, on private property, or on property in which a city or county holds an interest, shall notify the department in writing. The person is not required to obtain authorization, including but not limited to a permit, by the department for one hundred twenty days after submitting the notice. After the end of the one hundred-twenty-day period the department shall conduct an evaluation of the permit status of the research and may determine whether a permit ought to be issued or modified before the research continues.

Sec. 27. Section 455E.11, subsection 2, paragraph a, subparagraph (8), Code Supplement 1989, is amended by striking the subparagraph and inserting in lieu thereof the following:

(8) The first fifty cents per ton of funds received from the tonnage fee imposed for the fiscal year beginning July 1, 1990, and thereafter shall be used for the following:

*Item veto; see message at end of the Act

(a) Twenty cents per ton of the amount allocated under this subparagraph is appropriated to the university of northern Iowa to develop and maintain the Iowa waste reduction center for the safe and economic management of solid waste and hazardous substances established at the university of northern Iowa.

(b) Thirty cents per ton of the amount allocated under this subparagraph is appropriated to the department of natural resources for the following purposes:

(i) Eight thousand dollars of the amount allocated under this subparagraph shall be transferred to the Iowa department of public health for carrying out the departmental duties pursuant to section 135.11, subsections 20 and 21, and section 139.35.

(ii) The administration and enforcement of a groundwater monitoring program and other required programs which are related to solid waste management.

(iii) The development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 13.

(iv) The waste management authority of the department of natural resources.

Sec. 28. Section 455E.11, subsection 2, paragraph c, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

A household hazardous waste account. The moneys collected pursuant to section 455F.7 and moneys collected pursuant to section 29C.8A which are designated for deposit, shall be deposited in the household hazardous waste account. ~~Except for the first one hundred thousand dollars received annually for deposit in the 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.

Sec. 29. Section 467A.48, subsection 1, Code Supplement 1989, is 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~~ fifty percent of the estimated cost as established by the commissioners of a permanent soil and water conservation practice, or ~~seventy-five~~ fifty percent of the actual cost, whichever is less, or an amount set by the 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.

Sec. 30.

Notwithstanding section 8.33, the moneys appropriated in 1989 Iowa Acts, chapter 311, section 5 that remain unencumbered and unobligated on June 30, 1990, shall not revert to the general fund but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1990 and ending June 30, 1991.

Sec. 31.

Sections 21, 23, 24, 26, and 28 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 5, 1990, except those items which I hereby disapprove and which are designated as section 1, subsection 5, paragraphs e and f in their entirety; section 3, numbered paragraph 1 in its entirety; section 4 in its entirety; section 5 in its entirety; section 8, subsection 8, paragraph b in its entirety; section 9, subsection 8 in its entirety; section 12 in its entirety; section 17 in its entirety; section 18 in its entirety; and section 22 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 2364, an Act relating to and making appropriations to the department of agriculture and land stewardship, the Iowa state fair authority, and the department of natural resources, changing the distribution of certain fees, and providing an effective date.

Senate File 2364 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 1, subsection 5, paragraphs e and f, in their entirety. Paragraph e calls for a $37,577 appropriation for the support of an assistant attorney general. This position should be funded from pesticide receipts, not general fund dollars. Paragraph f earmarks funding for a planner to review pesticide cases and this should also be funded by pesticide receipts.

I am unable to approve the item designated as Section 3, numbered paragraph 1, in its entirety. This item calls for a $250,000 appropriation to be used to develop public/private partnerships to assist in the promotion, marketing, and selling of agricultural products. The Department of Economic Development is charged with this very same duty and the Department of Agriculture and Land Stewardship should work with the Department of Economic Development to prevent duplication.

I am unable to approve the item designated as Section 4, in its entirety. This section would require the Department of Agriculture and Land Stewardship to notify the chairpersons and ranking members of the Agriculture and Natural Resources Appropriations Subcommittee regarding fund transfers from dairy trade practices, the commercial feed fund, the fertilizer fund and the pesticide fund. This language is unnecessary, for Section 8.39 of the Code specifies the use of these funds.

I am unable to approve the item designated as Section 5, in its entirety. This section sould allow the Department to spend increased revenues from potential fee increases in the fertilizer and pesticide funds for the administration and implementation of Chapters 200 and 206. These funds should be authorized through the appropriation process.

I am unable to approve the item designated as Section 8, subsection 8, paragraph b, in its entirety, which calls for a $30,000 appropriation to be used to support the position of Environmental Specialist II for the development of preserves management plans. This task can be handled by the Department of Natural Resources within their existing budget.

I am unable to approve the item designated as Section 9, subsection 8, in its entirety. This item would require the Department to take all actions necessary to avoid using license receipts or other income for capitals and acquisitions unless the Code specifically designates the use. The Department would not be able to reduce personnel until all other actions necessitated by the expenditure reduction are exhausted. This could require the Department to turn back federal dollars for lack of a state match.

I am unable to approve the item designated as Section 12, in its entirety. This section appropriates $50,000 to restore and repair a lowhead dam in Jones County. Several counties in the state have requested appropriations to pay for repairs of lowhead dams and the Resource Enhancement and Protection Act funds may be used for this purpose. Given the state's reduced revenues, I cannot approve this general fund expenditure.

I am unable to approve the item designated as Section 17, in its entirety. This section is ambiguous and is unnecessary, for the Department of Management currently notifies the chairpersons and ranking members of proposed transfer of funds.

I am unable to approve the item designated as Section 18, in its entirety. In lieu of divisional appropriations, this language was added to fiscal year 1990's appropriation bill. Senate File 2364 now includes divisional appropriations and this additional report is no longer necessary.

I am unable to approve the item designated as Section 22, in its entirety. This section eliminates Jones County from the list of four counties who were allowed to borrow ahead on their REAP allocations. Since I have vetoed Section 12 of this bill, there is no need for this section.

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 2364 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1261

APPROPRIATIONS AND OTHER PROVISIONS RELATING TO STATE REGULATORY AGENCIES AND THE PUBLIC DEFENDER

S.F. 2328

AN ACT relating to and making appropriations 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 and gaming commission, allocating certain standing appropriations subject to certain procedures and conditions, and affecting certain regulated entities, 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 auditor of state for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

.....	$	2,036,602
.....	FTEs	154.50

Of the amount appropriated in this section, $276,952, or so much thereof as is necessary, is to be expended for 19 FTEs, which are new positions, to conduct audits required to prepare financial statements related to full implementation of generally accepted accounting principles (GAAP). The authorization for 19 additional FTEs in this paragraph is intended to be a one-time appropriation, and those positions are not intended to be funded in subsequent fiscal years.

The auditor of state may expend additional moneys and retain additional full-time equivalent positions as is reasonable and necessary to perform audits, such as audits for local governments, if all of the following conditions are satisfied:

1. The amount expended is proportional to the costs that are reimbursable from the entity being audited, including but not limited to expenses reimbursable pursuant to section 11.5A, 11.20, or 11.21.

2. The auditor of state submits a request to the department of management to expend a specific additional amount in connection with specified reimbursable audits.

3. The department of management approves the additional spending from any unappropriated funds in the state treasury upon a finding that all or substantially all of the amount requested and approved will be reimbursable from the entity being audited.

4. The department of management notifies the legislative fiscal bureau of any additional moneys approved.

5. The department of management notifies the legislative fiscal committee of any additional moneys approved prior to the expenditure.

6. Upon payment or reimbursement by the entity, the auditor of state shall credit the payments to the state treasury for deposit in the general fund.

The auditor of state shall discontinue the use of the revolving fund currently used to fund reimbursable audits, and shall instead use moneys from the general fund as provided in this section to perform reimbursable audits.

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, 1990, and ending June 30, 1991, 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:

.....	$	263,118
.....	FTEs	6.75

Of the amount appropriated, $24,000, or so much thereof as is necessary shall be expended for 1 clerk typist FTE, and necessary expenses, in connection with the performance of administrative duties for the director of the commission.

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, 1990, and ending June 30, 1991, 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:

.....	$	2,727,562
.....	FTEs	104.80

From the contractor registration fees, the division of labor services shall reimburse the department of inspections and appeals for all costs associated with hearings under chapter 91C, relating to contractor registration.

Of the amount appropriated under this subsection, the following amounts, or so much thereof as is necessary, shall be expended for the designated purposes: $344,258, for 10 FTEs to enforce the Iowa minimum wage law; $98,974, for 3.0 FTEs in connection with asbestos removal; $14,108,

for 1 FTE to implement a recordkeeping system to meet federal occupational and health administration requirements; and $70,244, for 2 FTEs for administration and enforcement of the contractor registration program.

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	1,989,820
..... FTEs	45.76

As a condition, qualification, and limitation of the funds appropriated by this subsection, $403,208, or so much thereof as is necessary, shall be expended for 9 FTEs, and necessary expenses, including 4 deputy industrial commissioners, 2 word processors, 2 data entry operators, and 1 insurance program specialist to expedite the administrative hearing process for workers' compensation cases, and to assist in reducing the contested case backlog.

As a condition, qualification, and limitation of the funds appropriated by this section, the department of employment services shall direct the division of industrial services to implement, by rule, procedures for an informal mediation process to avoid filing contested cases and for an expedited workers' compensation contested case proceeding.

Of the amount appropriated under this subsection, $116,000, or so much thereof as is necessary, is to reimburse the department of employment services, for data processing costs.

The division shall continue charging a $65 filing fee for workers' compensation cases. The filing fee shall be paid by the petitioner of a claim; however, the fee can be taxed as a cost, and therefore, paid by the losing party, except in cases where it would impose an undue hardship or be unjust in the circumstances.

The 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, 1990, and ending June 30, 1991, and future fiscal years, to ensure that the backlog of cases in that department will be reduced as rapidly as possible.

**Sec. 4. DEPARTMENT OF EMPLOYMENT SERVICES, DIVISION OF INDUSTRIAL SERVICES PILOT SERVICES DELIVERY PROGRAM.*

1. The division of industrial services of the department of employment services shall establish a pilot program to deliver precontested case proceeding services to employees and employers from the local job service office in each of the following service areas: Dubuque and Sioux City. Each of the job service offices in the industrial services pilot program shall be assigned one additional professional staff person and one additional support staff person, for a total of 2 additional FTEs in each office.

2. The industrial services pilot program employees in each of the participating job service offices shall provide the following precontested case proceeding services:

a. Independent informational services for both employees and employers by providing informal assistance in determining rights and obligations of employees and employers under state and federal law, especially as such rights pertain to workers' compensation rights and obligations. Advice or information provided shall not be binding upon the division.

b. Workers' compensation compliance investigations, based upon complaints received, or upon a random selection mechanism from a list of employers within the service area.

c. Informal mediation of disputes between employers and employees to avoid, if possible, filing of a contested case by resolving disputes through mediation.

d. Assistance in preparation of an adequate record or an initial complaint to facilitate the contested case proceedings. Evidence of the initial fact gathering conducted under the pilot program, or of information or advice provided through the pilot program, may be introduced in a contested case proceeding to the extent such information is relevant.

e. Other duties assigned to the pilot program employees by the industrial commissioner in connection with workers' compensation compliance enforcement; avoidance of contested cases through improved communications among the department, employees, and employers; and decentralized administrative duties.

*Item veto; see message at end of the Act

3. The department of employment services and the division of industrial services shall employ reasonable efforts to advertise and make known the availability of industrial services pilot program services in the communities served. Such efforts shall include notices in any departmental mass mailings to employers or employees in the service areas, public service announcements and advertisements, and leaflets to be made available in each job service office served and to be made otherwise available.

4. The professional staff person assigned to each participating job service office of the industrial services pilot program may order an employee or employer to participate in an informal mediation meeting. A person who fails to comply with an order to participate in mediation shall pay all costs incurred by the division and other parties in connection with the order and the attempted mediation, and is admissible in evidence in any subsequent contested case proceeding.

5. There is appropriated from the general fund of the state, to the division of industrial services of the department of employment services, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for the purpose designated:

For industrial services pilot program salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... *$ 180,000*

..... *FTEs 4.00*

*6. The industrial commissioner shall submit a report to the general assembly on or before January 15, 1991, summarizing the impact to date of the pilot program on contested case proceedings filed by employees and upon division compliance efforts. The commissioner shall make specific recommendations on whether to continue the pilot program, and whether the scope of the program should be expanded to include other job service offices. It is the intention of the general assembly to reduce the number of contested case filings by employees through early voluntary resolution of disputes between informed employees and employers. Provision of accurate information by the division, and mediation if necessary, early in the process is intended to substantially reduce the legal and litigation expenses typically incurred by employers and employees in workers' compensation contested cases. Further, accurate information should help employers avoid incurring unintended liability and thus avoid disputes. It is also the intention of the general assembly to assure that employees receive the full benefit of the protections of the workers' compensation law through improved compliance enforcement. The commissioner's report shall analyze the pilot program in light of these goals.**

Sec. 5.

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, 1990, 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, 1990, and ending June 30, 1991, 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, 1990, and ending June 30, 1991, 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 repairs to the exterior of the office building located at 150 Des Moines Street, Des Moines, Iowa.

b. The division may expend up to $559,300 from the fund for the support of the county, labor survey, economic development teams to assist in conducting "labor availability surveys" on a county basis.

c. The division may expend moneys in the fund in accordance with section 96.13, subsection 3, paragraph "a", for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds, received for or in the employment security administration fund.

*Item veto; see message at end of the Act

d. The 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 2-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. 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, 1990, and ending June 30, 1991, 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:

..... $ 4,895,084

..... FTEs 171.80

As a condition, qualification, and limitation of this appropriation, the department of employment services shall provide services throughout the fiscal year beginning July 1, 1990, and ending June 30, 1991, in all communities in which job service offices are operating on July 1, 1990. 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.

Sec. 7.

There is appropriated from the administrative contribution surcharge fund of the state to the department of employment services, the lesser of $200,000 or the remaining balance in the fund at the end of the fiscal year beginning July 1, 1989, and ending June 30, 1990, to provide services in communities where job service offices were located as of July 1, 1989.

Sec. 8.

There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. FINANCE AND SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 582,796

..... FTEs 26.00

Of the amount appropriated, $13,210, or so much thereof as is necessary, shall be expended for 1 FTE and necessary expenses in connection with the administration of payment claims to court-appointed counsel for adult and juvenile indigent defense costs.

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 559,809

..... FTEs 18.00

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 366,991
..... FTEs 15.50

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 467,632
..... FTEs 39.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,627,109
..... FTEs 104.00

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 929,177
..... FTEs 26.50

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 42,804
..... FTEs 16.80

The employment appeal board shall be reimbursed by the labor services division of the department of employment services for all costs associated with hearings conducted under chapter 91C, related to contractor registration. The board is authorized to expend, in addition to the amount appropriated under this subsection, such amounts as are directly billable to the labor services division under this subsection and to retain such additional FTEs as needed to conduct hearings required pursuant to chapter 91C.

8. FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 467,946
..... FTEs 12.85

Of the amount appropriated in this subsection, the following amounts, or so much thereof as is necessary, shall be expended for the purpose designated: for the purchase of 2 laptop computers, associated printers, and other hardware and software, $6,200; to expand the foster care registry statewide, $25,828 for 1.00 FTE; for the Polk county foster care coordinator, $34,342 and 1 FTE; and for expansion of the foster care review system into the eighth judicial district, $74,433 and 2.50 FTEs.

9. 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.

10. BINGO AUDITORS

For salaries, support, maintenance, and miscellaneous purposes in connection with conducting 100 percent of the required bingo audits every 2 years, and for not more than the following full-time equivalent positions:

..... $ 87,430
..... FTEs 2.00

Sec. 9.

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, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,915,141
..... FTEs 93.80

a. Of the amount appropriated in this subsection, $91,652, or so much thereof as is necessary, shall be expended for 3 FTEs, and necessary expenses, to operate the Polk county deposition unit.

b. Of the amount appropriated in this subsection, $76,863, or so much thereof as is necessary, shall be expended for 2 FTEs and necessary expenses for the Pottawattamie county office of the public defender in connection with juvenile defense expenses of that office in Pottawattamie county.

2. For indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

..... $ 9,700,000

Of the amount appropriated in this subsection, $75,000, or so much thereof as is necessary, shall be transferred to the legal services corporation of Iowa for the general obligations of the legal services corporation of Iowa.

3. The office of the public defender shall be permitted to transfer so much as is necessary for salaries, support, maintenance, and miscellaneous purposes, for 2 FTEs from the $9,700,000 appropriated for indigent defense, if the following conditions are satisfied:

a. The office of the public defender proposes the transfer in the course of an expansion of services to provide public defender services to persons who would otherwise be served by court-appointed council funded from the indigent defense appropriation.

b. The department of management approves the transfer upon a finding that the delivery of services through the public defender's office would be more cost effective.

c. The department of management reports the transfer of moneys to the legislative fiscal bureau and to the regulation appropriations subcommittee of the general assembly.

Sec. 10.

There is appropriated from the road use tax fund to the department of inspections and appeals for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 483,356
..... FTEs 11.50

It is the intent of the general assembly that the department of inspections and appeals cross-train its employees to perform more than one form of inspection or work whenever possible.

Sec. 11.

There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 685,409
..... FTEs 14.00

Of the amount appropriated in this section, $18,954, or so much thereof as is necessary, may be expended for .5 FTE by converting a part-time administrative law judge to a full-time position.

*Item veto; see message at end of the Act

Sec. 12.

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, 1990, and ending June 30, 1991, 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:

.....	$	856,600
.....	FTEs	11.00

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, shall be expended for the designated purposes: $29,045 for the real estate appraisers board per diem, charges, and expenses; $6,700 to reimburse the auditor of state; $450 to reimburse the department of personnel; and $24,768 to reimburse the office of the attorney general for services provided by those agencies to the division.

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, shall be expended for the designated purposes: $29,000 for 1 administrative assistant FTE, $20,000 to contract for insurance consulting services, and $17,280 for support and capital expenses, all in connection with the first year of implementing House File 730,* regarding errors and omission insurance for real estate appraisers, if enacted by the 1990 Session of the General Assembly.

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. 13.

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, 1990, and ending June 30, 1991, 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:

.....	$	1,528,295
.....	FTEs	43.50

Sec. 14.

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, 1990, and ending June 30, 1991, 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:

.....	$	4,690,167
.....	FTEs	85.86

*Chapter 1126 herein

Sec. 15.

There is appropriated from the banking revolving fund to the banking division of the department of commerce for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

.....	$	5,650,448
.....	FTEs	118.50

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, are to be expended for the designated purpose: $8,500, to reimburse the auditor of state; $6,040 to reimburse the department of personnel; and $10,000 to reimburse the attorney general for services performed by those agencies for the 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. 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, 1990, and ending June 30, 1991, 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:

.....	$	1,067,070
.....	FTEs	20.00

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, shall be expended for the purposes designated: for the purchase of personal computers, $25,000; and to remodel administrative office space for new staff added in fiscal year 1990, $10,000.

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, shall be expended for the purposes designated: $6,150, to reimburse the auditor of state; $1,440, to reimburse the department of personnel; and $18,000, to reimburse the attorney general for services performed by those agencies for the 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, 1990, and ending June 30, 1991, 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:

..... $	162,818
..... FTEs	3.00

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, shall be expended for the designated purposes: $5,500, to reimburse the auditor of state; and $280, to reimburse the department of personnel for services performed by those agencies for the 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, 1990, and ending June 30, 1991, 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:

..... $	4,282,403
..... FTEs	92.33

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, shall be expended for the designated purposes: $91,619, for travel expenses of examination teams; and $7,315, to reimburse the department of personnel for services performed for the division.

It is the intent of the general assembly that the department of commerce shall transfer 60 percent of insurance nonexamination revenues received for the fiscal year beginning July 1, 1990, and ending June 30, 1991, to the general fund of the state. If the remaining 40 percent of nonexamination revenues is insufficient, or is estimated to be insufficient, to fully fund the division's appropriation pursuant to this section, the division shall retain such amount from the 60 percent of nonexamination revenues as is necessary to fully fund the division's appropriation.

Sec. 19.

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, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

*"Years" probably intended

For a contract for the mass-loading and processing of insurance agent licensing and continuing education data:

..... $ 60,000

As a condition, qualification, and limitation of this appropriation, the division shall report on or before January 1, 1991, on the reduction in delays in agent continuing education, licensing, and company appointments data processing occurring, or to occur, as a result of this contract. The report shall be delivered to the legislative fiscal bureau.

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.

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 administrative law duties and directly result from the administration of duties assigned the commissioner of insurance pursuant to Senate File 2249, if enacted by the 1990 Session of the General Assembly, and the expenditure is reasonably necessary to eliminate or prevent the creation of a backlog of workers' compensation contested-case-related determinations. Before the division expends or encumbers an amount in excess of the funds budgeted for administrative law duties, 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 the need for the additional expenditures by the division and that the division does not have other funds from which the administrative law expenses can be paid. Upon approval of the director of the department of management, the division may expend and encumber funds for excess administrative law expenses. The amounts necessary to fund the excess administrative law expenses shall be expended from the insurance revolving fund subject to such terms and conditions imposed by the director of the department of management when the expenditure is approved.

Sec. 20.

There is appropriated from the utilities trust fund to the utilities division of the department of commerce for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 4,650,920

..... FTEs 87.50

Of the amount appropriated in this section, the following amounts, or so much thereof as is necessary, shall be expended for the designated purposes: $33,000, to reimburse the department of general services for increased rent expenses; and $3,000, to reimburse the department of personnel for services performed for the division.

Sec. 21.

There is appropriated from the racing commission fund to the racing and gaming commission for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, **conditioned upon the creation of the state racing and gaming*

*Item veto; see message at end of the Act

*commission as a separate and distinct state department not under the authority of the department of inspections and appeals,** to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,793,953
.....	FTEs	35.49

The racing and gaming commission shall provide, in the budget forms for the fiscal year beginning July 1, 1991, and ending June 30, 1992, 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. 22.

There is appropriated from the excursion boat gambling revolving fund to the racing and gaming commission, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, **conditioned upon the creation of the state racing and gaming commission as a separate and distinct state department not under the authority of the department of inspections and appeals,** 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:

.....	$	448,213
.....	FTEs	17.00

Sec. 23.

1. There is appropriated from the general fund of the state to the racing and gaming commission, for the fiscal period beginning July 1, 1990, and ending June 30, 1992, for deposit in the excursion boat gambling revolving fund, **conditioned upon the creation of the state racing and gaming commission as a separate and distinct state department not under the authority of the department of inspections and appeals,** $106,154.

Notwithstanding section 99D.13 to the contrary, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, of the moneys escheated to the state pursuant to section 99D.13, subsection 2, which are directed to the racing and gaming commission, the first $129,000 received shall be deposited into the excursion boat gambling revolving fund for expenditure as provided for under subsection 3 of this section. Moneys received by the commission in excess of $129,000 shall be subject to the standing appropriation formula contained in section 99D.13, subsection 2.

There is appropriated from the funds available under section 99D.13 to the racing and gaming commission for the fiscal year beginning July 1, 1990, and ending June 30, 1991, for deposit in the excursion boat gambling revolving fund, $129,000.

Notwithstanding section 8.33, unencumbered and unobligated moneys of the moneys appropriated in this subsection on June 30, 1991, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes specified.

2. The amount appropriated from the general fund of the state in subsection 1 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, 1992.

3. There is appropriated from the excursion boat gambling revolving fund to the racing and gaming commission, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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 in connection with the initial 3 excursion gambling boats to be licensed:

.....	$	235,154
.....	FTEs	5.25

*Item veto; see message at end of the Act

The appropriation in this section is in addition to the appropriation to the racing and gaming commission from the excursion boat gambling revolving fund in section 21.

The racing and gaming commission may expend additional moneys from the excursion boat gambling revolving fund as are reasonably necessary for the regulation and enforcement of additional licensed excursion gambling boats beyond the initial 3 boats for which an appropriation is provided, conditioned upon the following requirements:

a. The commission shall request approval from the department of management to expend additional moneys in connection with additional licensed boats.

b. The department of management's approval of the request, provided that the additional expenditure shall not exceed $114,417 and 5.0 FTEs for each additional licensed boat beyond the initial 3 excursion gambling boats.

c. The department of management shall notify the legislative fiscal bureau of the additional moneys to be expended.

Sec. 24. NEW SECTION. 11.21A REPAYMENT OF AUDIT EXPENSES BY STATE DEPARTMENTS AND AGENCIES.

The auditor of state shall be reimbursed by a department or agency for performing examinations of the following state departments or agencies, or funds received by a department or agency:

1. Department of commerce.
2. Department of human services.
3. State department of transportation.
4. Iowa department of public health.
5. State board of regents.
6. Department of agriculture and land stewardship.
7. Department of economic development.
8. Department of education.
9. Department of employment services.
10. Department of natural resources.
11. Offices of the clerks of the district court of the judicial department.
12. The Iowa public employees' retirement system.
13. Federal financial assistance, as defined in Pub. L. No. 98-502, received by all other departments.

Sec. 25. Section 84A.1, subsection 2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director shall direct the administrative and compliance functions and control the docket of the division of industrial services.

Sec. 26. Section 86.2, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner may appoint one or more chief deputy industrial commissioners and one or more assistant industrial commissioners. A chief deputy industrial commissioner or an assistant industrial commissioner shall perform such additional administrative responsibilities as are deemed reasonably necessary and assigned by the commissioner.

Sec. 27. Section 86.4, Code 1989, is amended to read as follows:

86.4 POLITICAL ACTIVITY AND CONTRIBUTIONS.

It shall be unlawful for the commissioner, or ~~any appointee of the~~ a chief deputy industrial commissioner while in office, to espouse the election or appointment of any candidate to any political office, and any person violating the provisions of this section shall be guilty of a simple misdemeanor.

Sec. 28. Section 96.5, subsection 10, Code 1989, is amended to read as follows:

10. ALIENS — DISQUALIFIED. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

Sec. 29. Section 96.7, subsection 12, paragraph d, Code Supplement 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

d. This subsection is repealed July 1, 1994, and the repeal is applicable to contribution rates for calendar year 1995 and subsequent calendar years.

STATE RACING AND GAMING COMMISSION

**Sec. 30. Section 99D.5, subsection 1, Code Supplement 1989, is amended to read as follows:*

1. A state racing and gaming commission is created ~~within the~~ as a separate *department* ~~of inspections and appeals consisting~~. The membership of the commission shall consist *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.11, subsection 5, Code Supplement 1989, is amended to read as follows:

5. As each race is run the licensee shall deduct sixteen percent from the total sum wagered on all horses or dogs as first winners. The balance, after deducting breakage, shall be paid to the holders of certificates on the winning horse or dog in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses or dogs in the race as first winners. The licensee may pay a larger amount if approved by the commission. The licensee shall likewise receive other wagers on horses or dogs ~~selected to run second, third, or both, or~~ in places or combinations the commission may authorize. The method, procedure, and the authority and right of the licensee, as well as the deduction allowed to the licensee, shall be as specified with respect to wagers upon horses or dogs selected to run first. However, the commission may authorize the licensee to deduct a higher percent of the total sum wagered not to exceed twenty percent on multiple or exotic wagering involving more than one horse or dog.

Sec. 32. Section 99D.13, subsection 2, Code Supplement 1989, is amended to read as follows:

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~~ section 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.

*Item veto; see message at end of the Act

Sec. 33. Section 99D.15, Code Supplement 1989, is amended to read as follows:

99D.15 PARI-MUTUEL WAGERING TAXES – RATE – CREDIT.

1. 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 subsection shall be paid by the licensee to the ~~treasurer of state~~ commission within ten days after the close of each horse race meeting and shall be distributed as follows:

a. If the racetrack is located in a city, five percent of the gross sum wagered shall be deposited ~~in the general fund of the state~~ with the commission. 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. The remaining one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

b. If the racetrack is located in an unincorporated part of a county, five and one-half percent of the gross sum wagered shall be deposited ~~in the general fund of the state~~ with the commission. The remaining one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

2. A tax credit of up to five percent of the gross sum wagered per year shall be granted to licensees licensed for horse races and paid into a special fund for the purpose of retiring the annual debt on the cost of construction of the licensed facility. 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~~ commission. 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.

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~~ commission 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~~ with the commission.

(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~~ with the commission.

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. 34. Section 99D.17, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

99D.17 USE OF FUNDS.

Funds received pursuant to sections 99D.14 and 99D.15 shall be deposited in the pari-mutuel regulation fund created in the racing and gaming commission. These funds shall first be used to the extent appropriated by the general assembly and as provided in section 99D.18. The remainder shall be transferred to the treasurer of state to be deposited in the general fund of the state. The commission is subject to the budget requirements of chapter 8 and the applicable auditing requirements and procedures of chapter 11.

Sec. 35. Section 99D.18, Code 1989, is amended to read as follows:

99D.18 SURPLUS FUNDS — HOW USED.

From the balance of the funds coming into the hands of the commission pursuant to ~~section~~ sections 99D.14 and 99D.15, fifty thousand dollars shall be used by the Iowa state university college of veterinary medicine to develop further research on the treatment of equine injuries and diseases and fifty thousand dollars shall be used by the Iowa state university college of veterinary medicine to develop further research on the treatment of dog injuries and diseases. ~~The remaining funds shall be retained by the commission and may be distributed to a research program or project which the commission determines to be worthy and would benefit the racing industry in the state.~~

Sec. 36. Section 114.12, Code 1989, is amended to read as follows:

114.12 DISPOSITION OF FEES.

The secretary shall collect and account for all fees provided for by this chapter and pay the same to the treasurer of state who shall deposit the fees in the ~~general fund of the state~~ professional licensing revolving fund.

Sec. 37. Section 116.3, subsection 3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

3. All fees and other moneys received by the board, pursuant to the provisions of this chapter, shall be paid monthly to the treasurer of state for deposit in the professional licensing revolving fund.

Sec. 38. Section 117.14, Code Supplement 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~~ professional licensing revolving fund, 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~~ professional licensing revolving fund, 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. 39. Section 117B.6, subsection 2, Code Supplement 1989, is amended to read as follows:

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~~ professional licensing revolving fund.

Sec. 40. Section 118.11, unnumbered paragraph 2, Code 1989, is amended to read as follows:

All fees shall be paid to the treasurer of state and deposited in the ~~general fund of the state~~ professional licensing revolving fund.

Sec. 41. Section 118A.14, unnumbered paragraph 2, Code 1989, is amended to read as follows:

All fees shall be collected by the secretary, paid to the treasurer of state and deposited in the ~~general fund of the state~~ professional licensing revolving fund.

Sec. 42. Section 546.10, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. There is created in the office of the treasurer of state a professional licensing revolving fund. Fees collected under chapters 114, 116, 117, 117B, 118, and 118A shall be paid to the treasurer of state and credited to the professional licensing revolving fund. All expenses required in the discharge of the duties and responsibilities imposed upon the professional licensing division of the department of commerce, the administrator, and the licensing boards by the laws of this state shall be paid from the revolving fund and appropriated by the general assembly from the fund. Transfers shall not be made from the general fund of the state or any other fund for the payment of expenses of the division. Fees collected by the division shall not be transferred to the general fund. The funds held by the treasurer of state for the professional licensing division of the department of commerce shall be invested by the treasurer of state and the income derived from the investments shall be credited to the general fund of the state.

Sec. 43. 1989 Iowa Acts, chapter 272, section 42, is amended, to read as follows:

SEC. 42. Sections 34, 35, and 36 of this Act are effective July 1, ~~1990~~ 1991.

Sec. 44. Section 43 of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 45. 1989 Iowa Acts, chapter 321, section 42, is repealed.

Sec. 46.

Section 45 of this Act, being deemed of immediate importance, takes effect April 30, 1990.

Sec. 47.

Section 7 of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 48. Section 29 of this Act, being deemed of immediate importance, takes effect June 30, 1990.

Sec. 49. The sections of this Act amending chapter 99D, being deemed of immediate importance, take effect upon enactment.

Approved April 5, 1990, except those items which I hereby disapprove and which are designated as section 4 in its entirety; section 9, subsection 2, unnumbered and unlettered paragraph 2 in its entirety; section 19, unnumbered and unlettered paragraphs in its entirety; those portions of sections 21, 22, and 23, which are 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 president of the senate this same date, a copy of which is attached hereto.

TERRY E. BRANDSTAD, *Governor*

Dear Madam President:

I hereby transmit Senate File 2328, an Act relating to and making appropriations 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 and gaming commission, allocating certain standing appropriations subject to certain procedures and conditions, and affecting certain regulated entities, and providing an effective date.

Senate File 2328 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 4, in its entirety. I have approved language in this bill to require the Department of Employment Services to establish and provide staff for an informal mediation process for workers' compensation cases. This provision, directing the establishment of pilot projects for the same purpose, does not authorize the department to do anything that cannot be accomplished under the approved language.

I am unable to approve the item designated as Section 9, subsection 2, unnumbered and unlettered paragraph 2, in its entirety. This provision would allow funds from the indigent defense appropriation to be transferred to the Legal Services Corporation of Iowa. The indigent defense appropriation in this bill falls short of my recommendation by over $500,000. Monies allocated to the Legal Services Corporation of Iowa would add to that shortfall, and increase the already certain need for supplemental funds in this area next year.

I am unable to approve the item designated as Section 19, unnumbered and unlettered paragraph 5, in its entirety. Because I have previously acted upon the corresponding legislation referred to in this section, the authorization provided in this provision is not necessary.

I am unable to approve the designated portions of Sections 21, 22 and 23, and the item designated as Section 30, in its entirety. These provisions would remove the state Racing and Gaming Commission from the Department of Inspections and Appeals, and establish the Commission as a separate state agency. The functions of the Racing and Gaming Commission have been satisfactorily performed as a part of the Department of Inspections and Appeals, and I see no need to establish the Racing and Gaming Commission as a new state department.

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 2328 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1262

ECONOMIC DEVELOPMENT APPROPRIATIONS AND OTHER PROVISIONS
S.F. 2327

AN ACT relating to and making appropriations to the department of economic development, INTERNET, Wallace technology transfer foundation, Iowa finance authority, and small business advocate, and establishing a small business advocate.

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

Section 1. DEPARTMENT OF ECONOMIC DEVELOPMENT.

There is appropriated from the general fund of the state to the department of economic development 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. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 815,706
..... FTEs 21.00

2. TOURISM OPERATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 728,835
..... FTEs 15.97

As a condition, limitation, and qualification of the appropriation made in this subsection, the appropriation shall not be used for advertising placements for in-state and out-of-state tourism marketing.

3. TOURISM ADVERTISING

For contracting exclusively for tourism advertising for in-state and out-of-state tourism marketing services, tourism promotion programs, electronic media, print media, and printed materials:

..... $ 3,450,000

As a condition, limitation, and qualification of the appropriation made in this subsection, 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, develop cooperative efforts for advertising with contributions from other sources.

The department shall cooperate with the state historical society and department of natural resources to study, examine, and make recommendations on how best to develop, promote, and advertise state historical sites and on how best to utilize state historical sites in the state's tourism advertising and promotion. The department of cultural affairs shall report to the general assembly the findings of the study by February 1, 1991.

Of the amount appropriated in this subsection, $100,000 shall go to the department of cultural affairs to be used for the promotion of state-owned and operated cultural and historical sites.

4. NATIONAL MARKETING OPERATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 822,535
..... FTEs 16.00

As a condition, limitation, and qualification of the appropriation made in this subsection, the appropriation shall not be used for advertising placement contracts for out-of-state national marketing programs.

5. NATIONAL MARKETING ADVERTISING

For contracting exclusively for marketing and promotion programs and services and advertising contracts for out-of-state national marketing programs, for electronic media, print media, and printed materials:

..... $ 3,000,000

As a condition, limitation, and qualification of the appropriation made by this subsection, 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, develop cooperative efforts for advertising with contributions from other sources.

6. FILM OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 200,000
..... FTEs 2.00

7. INTERNATIONAL TRADE OPERATIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 407,632
..... FTEs 6.00

8. INTERNATIONAL TRADE OFFICES

a. For the operation and maintenance of the European office, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 227,357
..... FTEs 1.50

b. For European community 1992 opportunities, including salary, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions:

..... $ 60,000
..... FTEs 1.00

The Iowa business council is requested to conduct a study to determine the best utilization of the funds appropriated by this paragraph. The council shall report its findings to the department of economic development in conjunction with this program.

c. To initiate trade activities with eastern Europe:

..... $ 50,000

d. For the operation and maintenance of the Asian trade office, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 204,187
..... FTEs 2.00

e. For targeted marketing in Pacific rim countries:

..... $ 51,000

f. For the operation and maintenance of the Japanese trade office, including salary, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 299,191
..... FTEs 2.00

9. AGRICULTURAL PRODUCT ADVISORY COUNCIL

For support, maintenance, and miscellaneous purposes:

..... $ 4,885

10. EXPORT TRADE ACTIVITIES PROGRAM

For export 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 or any executive council member 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.

11. PARTNER STATE PROGRAM:

..... $ 100,000

The department may contract with private groups or organizations which are the most appropriate to administer this program. The groups and organizations participating in the program shall, to the fullest extent possible, provide the funds to match the appropriation made in this subsection.

12. DOMESTIC MARKETING PROGRAMS

For purposes of programs listed in this subsection, including salaries, support, maintenance, and miscellaneous purposes for not more than the following full-time positions:

a. Small business program:

..... $ 151,314
..... FTEs 2.00

b. Small business advisory council:

..... $ 5,000

*Item veto; see message at end of the Act

c. Targeted small business program:

..... $ 47,692

..... FTEs 1.00

d. Existing industry program:

..... $ 125,594

..... FTEs 3.00

13. FEDERAL PROCUREMENT OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 140,000

..... FTEs 3.50

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated on June 30, 1991, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1991.

14. COMMUNITY PROGRESS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 642,838

..... FTEs 12.00

Of the amount appropriated in this subsection, up to $27,000, and 1 FTE shall be used to assist communities or groups of communities to develop and implement planning efforts for community, business, and economic development.

15. MISSISSIPPI RIVER PARKWAY COMMISSION

For support, maintenance, and miscellaneous purposes:

..... $ 19,535

16. COMMUNITY DEVELOPMENT BLOCK GRANT

For administration and related federal housing and urban development grant administration for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 296,194

..... FTEs 14.00

17. IOWA WORK FORCE INVESTMENT PROGRAM:

..... $ 1,000,000

..... FTEs 1.00

This program shall be administered through the department of economic development in consultation with the state job training coordinating council. The program shall be operated on a competitive grant basis and funds shall be available for projects that increase Iowa's pool of available labor via training and support services. $300,000 of the amount appropriated in this subsection shall be available specifically for displaced homemaker programs.

18. COMMUNITY ECONOMIC BETTERMENT PROGRAM

For use of the fund established in this subsection:

..... $ 4,650,000

Notwithstanding section 8.33, moneys appropriated from the community economic betterment account for the fiscal years beginning July 1, 1985, under section 99E.31, subsection 2, and July 1, 1986, July 1, 1987, July 1, 1988, and July 1, 1989, under section 99E.32, subsection 2, that remain unencumbered or unobligated on June 30, 1990, all unexpended cash balances of obligated and encumbered funds remaining in the community economic betterment account on June 30, 1990, and loan repayments or other moneys received from awards made from the community economic betterment account shall not revert to any fund but shall be deposited in a special community economic betterment program fund to be used by the department of economic development for the community economic betterment program and to supplement

the funds appropriated in this subsection for that program. The conditions, criteria, and limitations referred to or specified in section 99E.32, subsection 2, paragraph "b", apply to the providing of moneys under the community economic betterment program from the fund established in this subsection.

Notwithstanding section 8.33, moneys in this special fund at the end of each fiscal year shall not revert to any other fund but shall remain in this community economic betterment program fund.

19. IOWA PRODUCT DEVELOPMENT CORPORATION

To the fund established under section 28.89:

..... $ 1,500,000

20. BUSINESS DEVELOPMENT FINANCE CORPORATION

For deposit in the business development finance corporation assistance fund created in section 28.148:

..... $ 641,000

Moneys appropriated in this subsection shall be used to establish a capital access program operated under the sponsorship of the business development finance corporation. The capital access program shared by banks and the business development finance corporation shall use a risk pooling concept to help banks create a portfolio of higher risk venture loans to businesses. The emphasis of this program should be, but is not limited to, revitalizing the livestock industry of Iowa.

21. MICROENTERPRISE DEVELOPMENT REVOLVING FUND

For deposit in the microenterprise development revolving fund established pursuant to section 15.248 for the programs and in the amounts listed in this subsection:

a. SELF-EMPLOYMENT LOAN PROGRAM:

..... $ 139,571

b. SELF-EMPLOYMENT LOAN CASE MANAGEMENT:

..... $ 83,486

c. TARGETED SMALL BUSINESS FINANCIAL ASSISTANCE PROGRAM:

..... $ 496,943

22. COUNCILS OF GOVERNMENTS

To provide to Iowa's councils of governments funds for planning and technical assistance funds to assist local governments to develop community development strategies for addressing long-term and short-term community needs:

..... $ 300,000

23. MAIN STREET/RURAL MAIN STREET PROGRAM:

..... $ 639,000

Moneys appropriated in this subsection may be used for salaries and support for not more than the following full-time equivalent positions:

..... FTEs 3.00

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

24. ECONOMIC DEVELOPMENT TRAINING PROGRAM

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 of economic development, the university, and the professional developers of Iowa:

..... $ 75,000

25. RURAL ENTERPRISE FUND:

..... $ 400,000

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

26. WELCOME CENTER PROGRAM:

..... $ 350,000

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

As a condition, limitation, and qualification of the appropriations made in this subsection, moneys appropriated shall be used for implementation of the recommendations of the statewide long-range plan for developing and operating welcome centers throughout the state. In addition, the department shall evaluate the operation of the pilot project welcome centers established pursuant to sections 15.271 and 15.272 and report to the general assembly by January 15, 1991, its recommendations for long-term operation of the pilot project welcome centers.

27. SATELLITE CENTER PROGRAM:

..... $ 1,495,000

Of the moneys appropriated in this subsection, $350,000 shall be for international trade and science and technology transfer outreach programs conducted by satellite centers. Each satellite center shall be allocated by the department not less than $20,000 nor more than $50,000 for these purposes. The amount allocated to a satellite center is in addition to other moneys allocated to the satellite center. **The department shall reallocate any unencumbered or unobligated funds appropriated from previous fiscal years to the satellite centers for the purposes of this paragraph.**

If the satellite centers are renamed or replaced by other regional-based centers as a result of legislation enacted by the Seventy-third General Assembly, 1990 Session, the appropriation and reference in this subsection and other provisions of this Act shall mean the renamed or replacement regional-based centers, as applicable.

28. PRIMARY RESEARCH AND COMPUTER CENTER OPERATIONS:

..... $ 360,000

29. JOB RETRAINING PROGRAM

To the Iowa employment retraining fund created in section 15.298:

..... $ 2,000,000

30. PRODUCTIVITY ENHANCEMENT:

..... $ 150,000

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

31. LABOR MANAGEMENT COUNCILS:

..... $ 250,000

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

As a condition, limitation, and qualification of the appropriations made in this subsection, the department shall not require that projects funded by this program employ additional staff people.

32. YOUTH WORK FORCE PROGRAMS

a. For purposes of the conservation corps, including salary, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions:

..... $ 1,242,789
..... FTEs 2.00

Not more than $95,000 of the moneys appropriated in this paragraph shall be used for administration of the program.

b. For purposes of the Iowa corps, including salary, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions:

..... $ 109,836
..... FTEs 1.00

*Item veto; see message at end of the Act

Not more than $35,000 of the moneys appropriated in this paragraph shall be used for administration of this program.

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of any fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

Notwithstanding section 8.33, moneys appropriated from the Iowa community development loan fund for the fiscal year beginning July 1, 1989, under 1989 Iowa Acts, chapter 308, section 2, subsection 1, that remain unencumbered or unobligated on June 30, 1990, or that are encumbered or obligated but remain unexpended on June 30, 1990, shall not revert to any fund but shall be available for expenditure for the purposes designated in this subsection during the fiscal year beginning July 1, 1990, and shall be in addition to any other moneys available under this subsection for those purposes.

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated on June 30, 1991, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1991.

33. SMALL BUSINESS NEW JOBS TRAINING PROGRAM

To the revolving loan account of the area school job training fund established under section 280C.6 for the Iowa small business new jobs training program:

..... $ 1,000,000

34. SMALL BUSINESS INNOVATION RESEARCH:

..... $ 100,000

35. TECHNOLOGY INNOVATION CENTERS:

..... $ 200,000

The amount appropriated in this subsection shall be allocated equally for support of the Iowa technology innovation centers at the state university of Iowa and the Iowa state university of science and technology.

36. The department of economic development may contract with the Wallace technology transfer foundation for administration of the programs under subsections 34 and 35 and section 6, subsections 4 and 5 of this Act.

Sec. 2. WALLACE TECHNOLOGY TRANSFER FOUNDATION.

There is appropriated from the general fund of the state to the Wallace technology transfer foundation for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the Wallace technology transfer foundation fund created by the foundation board:

..... $ 2,729,880

It is the intent of the general assembly that the Wallace technology transfer foundation will be utilized to coordinate a comprehensive approach to research and technology transfer programs in the state of Iowa. It is the intent of the general assembly to substantially enhance the funding and the programs administered by the Wallace technology transfer foundation for the fiscal year beginning July 1, 1991, and succeeding fiscal years.

Sec. 3. IOWA FINANCE AUTHORITY.

There is appropriated from the general fund of the state to the Iowa finance authority 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. HOUSING ASSISTANCE PROGRAM

a. To provide mortgage and finance assistance to individuals for the purchase or acquisition of homes:

..... $ 2,000,000

b. Of the amount appropriated in paragraph "a", $200,000 shall be used to finance the purchase or acquisition, in communities with a population of less than 10,000, of modular homes, as defined in section 135D.1, and manufactured homes as defined in 42 U.S.C. § 5403.

c. Funds provided under paragraph "a" 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 of assistance:

(1) Closing costs assistance.

(2) Down payment assistance.

(3) Home maintenance and repair assistance.

(4) 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.

(5) Mortgage insurance program.

Not more than 50 percent of the assistance provided by the authority shall be provided under subparagraphs (4) and (5). So long as at least one of the kinds of assistance described in subparagraphs (1) through (5) are provided, additional assistance not described in subparagraphs (1) through (5) may also be provided.

d. Assistance provided under paragraph "a" shall be limited to mortgages under $35,000, except in those areas of the state where the median price of homes exceeds the state average and except in the case of the $200,000 set aside for communities of less than 10,000 where the mortgage limit is $50,000. In providing the assistance, the authority shall require substantial seller participation of not less than 2 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.

2. FOR THE RURAL COMMUNITY 2000 PROGRAM:

..... $ 1,400,000

Notwithstanding section 15.283, subsection 4, for the fiscal year beginning July 1, 1990, all funds allocated under this subsection are for housing programs and shall be applied to programs authorized under section 15.286.

Sec. 4. INTERNET.

There is appropriated from the general fund of the state to INTERNET for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the international network on trade fund created by the INTERNET board:

..... $ 460,000

Sec. 5. DEPARTMENT OF ECONOMIC DEVELOPMENT.

There is appropriated from the insurance examination revolving fund in the department of commerce to the department of economic development, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For use in the national marketing operations for salaries and support of the insurance marketing program:

..... $ 50,000

Sec. 6. IOWA COMMUNITY DEVELOPMENT LOAN FUND.

Notwithstanding 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, 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 FINANCING RURAL ECONOMIC DEVELOPMENT:

..... $ 71,000

Notwithstanding section 8.39, funds appropriated by this subsection shall not be subject to transfer.

2. RURAL COMMUNITY 2000

For deposit in the revolving fund created under section 15.287:

..... $ 500,000

Notwithstanding section 15.283, subsection 4, for the fiscal year beginning July 1, 1990, all funds allocated under this program for traditional and new infrastructure shall be applied to programs under sections 15.284 and 15.285.

3. VALUE-ADDED AGRICULTURAL PRODUCTS FINANCING PROGRAM:

..... $ 209,000

A fund is created which shall be known as the value-added agricultural products financing program fund. The purpose of this fund is to provide financing, including grants, loans, or a combination of both, for small businesses that will add value to an Iowa agricultural product through new or innovative methods of processing, marketing, or packaging. **Final recommendations on individual applications are to be made by the agricultural products advisory council to the director of the department of economic development who shall make the final decision. Loans under the program shall not exceed $50,000 with interest charged at an annual rate of 0 to 10 percent. Financing under the program is restricted to businesses with fewer than 30 employees or less than $1,000,000 in annual sales. However, funding shall not be available for individual farming operations.*

*The agricultural products advisory council may expend funds appropriated in this subsection to employ or contract with a consultant or specialist as provided in section 15.203, subsection 5.**

Up to $50,000 in the fund may be used in cooperation with the Iowa state university of science and technology agricultural extension to provide technical assistance.

Notwithstanding section 8.33, moneys in the fund at the end of a fiscal year shall not revert but shall remain available for purposes of the program.

4. RESEARCH AND DEVELOPMENT CONSORTIUMS

For operation of the consortiums established under chapter 262B:

..... $ 300,000

5. RESEARCH PARKS

For the operation and maintenance of the university-related research parks at the state university of Iowa and the Iowa state university of science and technology:

..... $ 471,000

Sec. 7. SMALL BUSINESS ADVOCATE.

There is appropriated from the general fund of the state to the small business advocate for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 281,245
..... FTEs 6.00

Sec. 8.

There is appropriated from the general fund of the state to the treasurer of state for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the initial funding of Iowa's participation in the funding of the world food prize:

..... $ 250,000

It is the intent of the general assembly that this appropriation of public funds will result in a commitment for additional funding for the world food prize from private sources.

The treasurer of state shall only provide the funds appropriated in this section to the world food prize foundation if sufficient private funds are raised to locate the world food prize foundation in Iowa and the foundation is structured to include representation that reflects environmental concerns and sustainable agriculture.

Notwithstanding section 8.33, if the treasurer of state has not provided the total amount appropriated in this section to the world food prize foundation by June 30, 1991, the remaining amount shall not revert but shall be available for expenditure by the department of economic development for purposes of the technical assistance centers.

*Item veto; see message at end of the Act

Sec. 9.

There is appropriated from the general fund of the state to the treasurer of state for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To be used by the treasurer of state to provide state matching funds as provided in the rural county investment Act if enacted by the Seventy-third General Assembly, 1990 Session:

..... $ 100,000

Of the amount appropriated in this section, $25,000 shall be used for technical assistance as provided under the rural county investment Act if enacted by the Seventy-third General Assembly, 1990 Session.

Sec. 10.

Notwithstanding section 15.251, subsection 2, there is appropriated from the jobs now account within the Iowa plan fund for economic development to the department of economic development 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 administration of chapter 280B, including salaries, support, maintenance, and miscellaneous purposes for not more than the following full-time equivalent positions:

..... $ 125,000
..... FTEs 2.50

2. For a public/private partnership to provide information to employers, employees, and educators about the changing nature of the workplace and the workforce:

..... $ 30,000

3. To fund a multistate trade office in Canada:

..... $ 50,000

4. In addition to moneys provided for in section 1, subsection 14 of this Act, to assist communities or groups of communities to develop and implement planning efforts for community, business, and economic development:

..... $ 7,650

5. For a riverfront development and restoration grant program to be used for construction, renovation, or restoration of existing or new structures that enhance the historic, educational, or recreational value of the riverfront area:

..... $ 150,000

As a condition, limitation, and qualification of the appropriation, the department shall give priority to projects that provide at least a 2-to-1 dollar match from private or other sources.

6. For the center for community leadership to assist leaders from multicommunity clusters or individual communities to develop their personal and team skills in order to create and implement plans for the development of their communities:

..... $ 50,000

Sec. 11.

There is appropriated from the general fund of the state to the following named institutions 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. To the university of northern Iowa for the decision-making science institute:

..... $ 750,000

2. To the Iowa state university of science and technology for funding the small business development centers:

..... $ 1,350,000

3. To the Iowa state university of science and technology for the institute for physical research and technology:

..... $ 300,000

4. To the state university of Iowa for the center for biocatalysis:

..... $ 300,000

5. To the Iowa state university of science and technology for an intensive effort of technology transfer for the livestock industry as provided in section 99E.32, subsection 4, paragraph "g":
..... $ 300,000

6. To the university of northern Iowa for the applied technology program:
..... $ 300,000

Sec. 12.

If moneys appropriated in this Act are awarded to a business, institution, or local unit of government and a ceremony is to be held in recognition of such award, the department shall notify the governor and the state senator and representative in whose district the award ceremony is taking place. The notice shall be given early enough to allow the governor, state senator, and state representative to attend.

Sec. 13.* *There is appropriated from the general fund for the fiscal year beginning July 1, 1990 to a special events fund in the department of economic development, the sum of fifty 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 fifteen thousand dollars shall be awarded for any event. Special events are those of a nature that occur not more than twice a year and include, but are not limited to, hot air balloon races, fishing tournaments, and car racing meets. Preference shall be given to national events. In awarding grants priority shall be given to those events where state funds shall be matched on at least a one-to-one basis with electronic or other media advertising being provided to the event.

Sec. 14.

There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the acquisition of emergency medical services equipment:
..... $ 750,000

1. The funds appropriated under this section shall be allocated to each county based upon the apportionment of funds as follows:

a. 50 percent of the funds is apportioned based upon the area of a county to the total area of all counties.

b. 25 percent of the funds is apportioned based upon the population of the county to the total population of all counties.

c. 25 percent of the funds is apportioned based upon the rural population of the county to the total rural population of all counties.

2. 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 the plan. If a request is denied, the county EMS association may submit a new proposal. Upon approval by the regional EMS council, the Iowa department of public health shall remit the amount approved to the award recipients. Each award of $1 to a county shall require a $1 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.

3. For the purposes of this section, 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 I.A.C., 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.

It is the intent of the general assembly to fund an additional $750,000 in fiscal year 1992 for this purpose.

*Item veto; see message at end of the Act

Sec. 15.

There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the rural community 2000 program:

..... $ 1,600,000

Notwithstanding section 15.283, subsection 4, the amount appropriated in this section shall be allocated for traditional infrastructure under section 15.284 and for new infrastructure under section 15.285.

Sec. 16.

There is appropriated from the general fund of the state to the Iowa finance authority 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. To the housing trust fund, for the operation, construction, and rehabilitation of homeless shelters under section 220.100, subsection 2, paragraph "a":

..... $ 1,000,000

a. Of the amount appropriated in this subsection, as nearly as practicable, $650,000 shall be used for operating costs, including utilities, maintenance, food, clothing, and other supplies, or staff support services for homeless shelters; $200,000 shall be used for construction and rehabilitation of homeless shelters; and $150,000 shall be used for assistance to homeless shelters that are facing closure. If the moneys allocated for any of the purposes in this paragraph are not used or dedicated by February 1 of the fiscal year, the moneys may be reallocated for the other purposes in this paragraph that have the most need as determined by the Iowa finance authority.

b. As a condition, limitation, and qualification of the $1,000,000 appropriation to the housing trust fund in this subsection and notwithstanding section 220.100, subsection 6, from the moneys available for operating costs of and staff support services for homeless shelters in paragraph "a", the Iowa finance authority shall contract with a nongovernmental entity to administer the funds available for operating costs of and staff support services for homeless shelters.

2. To the housing trust fund, to be used for the programs provided in section 220.100, subsection 2, paragraphs "b" and "c":

..... $ 500,000

The Iowa finance authority may award reimbursement for the costs incurred in submitting grant applications.

Sec. 17.

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For emergency assistance to families with dependent children under Title IV-A of the federal Social Security Act to match federal dollars for homeless prevention programs:

..... $ 500,000

The emergency assistance provided for in this section shall be available only if all other publicly funded resources have been exhausted. This emergency assistance includes, but is not limited to, assisting people who face eviction, potential eviction, or foreclosure, utility shut-off or fuel shortage, loss of heating energy supply or equipment, homelessness, utility or rental deposits, or other unspecified crisis which threatens family or living arrangements. This assistance shall be available to migrant families who would otherwise meet eligibility criteria.

Sec. 18. Section 15.108, subsection 7, paragraphs a and b, Code Supplement 1989, are amended by striking the paragraphs.

Sec. 19. Section 15.108, subsection 7, paragraph c, subparagraphs (1), (2), and (4), Code Supplement 1989, are amended to read as follows:

(1) The director, in conjunction with the director of the department of management and small business advocate, shall publicize the procurement set-aside program to targeted small businesses and to agencies of state government, attempt to locate targeted small businesses able to perform set-aside awards, and encourage program participation. The director may request the cooperation of the department of general services, the department of transportation, the state board of regents, or any other agency of state government in publicizing this program.

(2) The director, in conjunction with the director of the department of management and small business advocate, shall publicize the financial assistance program established in section 15.247 to targeted small businesses.

(4) The director, in conjunction with the director of the department of management, small business advocate, and jointly with the universities under the jurisdiction of the state board of regents, the area community colleges, and the area vocational schools, shall develop and make available in all areas of the state, programs to offer and deliver concentrated, in-depth advice and services to assist targeted small businesses. The advice and services shall extend to all areas of business management in its practical application, including but not limited to accounting, engineering, drafting, grant writing, obtaining financing, locating bond markets, market analysis, and projections of profit and loss.

Sec. 20. Section 15.108, subsection 7, paragraph d, Code Supplement 1989, is amended by striking the paragraph.

Sec. 21. Section 15.108, subsection 7, paragraph e, Code Supplement 1989, is amended to read as follows:

e. To the extent feasible, cooperate with the department of employment services and small business advocate to establish a program to educate existing employers and new or potential employers on the rates and workings of the state unemployment compensation program and the state workers' compensation program.

Sec. 22. Section 15.108, subsection 7, paragraph f, Code Supplement 1989, is amended by striking the paragraph.

Sec. 23. NEW SECTION. 15.112 RESTRICTIONS RELATING TO COUNCILS OF GOVERNMENTS.

The department shall not require a city or county to be a dues paying member of a council of governments.

Sec. 24. NEW SECTION. 15.248 MICROENTERPRISE DEVELOPMENT PROGRAM — MICROENTERPRISE DEVELOPMENT REVOLVING FUND.

The department shall establish, contingent on the availability of funds authorized for the program, a microenterprise development program and a microenterprise development revolving fund to provide grants, loans, loan guarantees, financial or technical assistance, or any other necessary support and assistance to a person beginning or expanding a small business, as defined in section 220.1, subsection 28. For the fiscal year beginning July 1, 1990, the program shall include the following programs:

1. The self-employment loan program under section 15.241.
2. The case management program under section 15.246.
3. The targeted small business financial assistance program under section 15.247.
4. The department shall review the microenterprise development program and may include different programs than those designated in subsections 1, 2, and 3 for fiscal years beginning on or after July 1, 1991.
5. Repayments of loans under the programs listed in subsections 1, 2, and 3 received through June 30, 1991, shall be repaid to the Iowa community development loan fund created pursuant to section 28.120. Repayments of loans under the programs listed in subsections 1, 2, and 3 on or after July 1, 1991, shall be deposited in the revolving loan fund created in this section.

Sec. 25. Section 15.284, Code Supplement 1989, is amended to read as follows:

15.284 TRADITIONAL INFRASTRUCTURE.

1. The traditional infrastructure category contains projects that include, but are not limited to, sewer, water, roads, bridges, airports, and other projects described in section 384.24, subsection 3.

2. Any Iowa city, ~~or~~ county, rural water district created under chapter 357A, or nonprofit corporation created for the purpose of operating a rural water system is eligible to apply for loans or grants from this category. Along with the application, the ~~city or county~~ applicant shall submit the following:

a. A needs assessment study.

b. A capital improvement program.

c. Evidence of matching contribution of at least twenty-five percent of the total project cost.

3. Applications must be seeking funds to improve the physical assets of the traditional infrastructure of the ~~political subdivision~~ applicant in aid of development.

4. The finance division of the department shall rank the applicants according to financial need, cost-benefit of the project, percent of match, impact, and ability to administer project.

5. The interest rate 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.

6. The department may coordinate with the department of natural resources to assist ~~political subdivisions~~ applicants receiving federal or other state aid for waste water treatment facilities. However, the department shall not allocate more than fifty percent of the moneys available to this category for this purpose.

Sec. 26. Section 15.288, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section as it relates to the traditional infrastructure category under section 15.284, "political subdivision" includes a rural water district created under chapter 357A or a nonprofit corporation created for the purpose of operating a rural water system.

*Sec. 27. NEW SECTION. *17A.34 NOTICE OF LICENSE OR PERMIT APPLICATION.*

*An agency which issues licenses or permits shall adopt rules providing notice of issuance procedures to a person applying for a license or permit in the event the application cannot be processed within two weeks of receipt of the license or permit application by the agency. The notice shall be sent two weeks after receipt of the license or permit application, and shall explain the approximate amount of time necessary to process the application.**

Sec. 28. Section 28.120, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding subsections 5 and 6, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, five hundred thousand dollars is appropriated from the Iowa community development loan fund to the Iowa finance authority for an E911 financing program. **For the fiscal year beginning July 1, 1991, and for each subsequent fiscal year, all moneys in the Iowa community development loan fund are appropriated to the Iowa finance authority for the E911 financing program.**

Sec. 29. Section 28.154, subsection 1, paragraph a, subparagraphs (5) and (6), Code Supplement 1989, are amended to read as follows:

(5) The chairperson of the Iowa product development corporation or the chairperson's designee.

(6) A shareholder member of the business development finance corporation elected by the business development finance corporation board or the shareholder's designee.

Sec. 30. NEW SECTION. 28.162 SMALL BUSINESS ADVOCATE ESTABLISHED.

The office of the small business advocate is established.

Sec. 31. NEW SECTION. 28.163 DEFINITIONS.

*Item veto; see message at end of the Act

1. "Advocate" means the small business advocate.

2. "Agency" means any state agency, commission, or board.

3. "Small business" means a small business or targeted small business as defined in section 15.102.

Sec. 32. NEW SECTION. 28.164 SMALL BUSINESS ADVOCATE — APPOINTMENT.

A small business advocate shall be appointed to a four-year term 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 small business advocate 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 small business advocate shall be fixed by the governor within a salary range established by the general assembly.

Sec. 33. NEW SECTION. 28.165 SMALL BUSINESS ADVOCATE — DUTIES.

The small business advocate shall do all of the following:

1. Study the feasibility of reducing the total number of state licenses, permits, and certificates required to conduct small business.

2. Receive and review complaints from individual small businesses that relate to rules or decisions of state agencies, and refer questions and complaints to a governmental agency where appropriate.

3. Operate and administer the regulatory information service provided for in section 28.17.

4. Operate and administer the small business information center established under section 99E.32, subsection 3, paragraph "d", subparagraph (4).

5. If determined necessary by the small business advocate, provide training for bank loan officers to increase their level of expertise in regard to business loans.

6. Facilitate resolution of complaints from small businesses under section 15.108, subsection 7, paragraph "a" through the agency's business assistance officer. However, the advocate may refer complaints to the citizens' aide or the attorney general for further investigation or action if necessary.

7. Serve as ombudsman for small businesses in their relations with state agencies and with regard to economic development assistance programs, including but not limited to the following programs:

a. The targeted small business linked investments programs created under section 12.43.

b. The targeted small business procurement program created under sections 73.15 through 73.21.

c. The Iowa product development corporation.

d. The business development finance corporation.

e. Other programs and development activities authorized under chapter 28.

f. The federal procurement office.

g. The community economic betterment program.

h. The small business new jobs training program under chapter 280C.

i. Business incubators established under section 99E.32, subsection 3, paragraph "d", subparagraph (5).

8. Consult and advise the three branches of government on issues that directly or indirectly affect small businesses in the state.

9. Make recommendations to reduce or prevent duplication of services to small businesses by an agency, local government, or nonprofit or other private organization.

10. Assist the primary research and marketing center for business and international trade established under section 28.101.

11. Work with associations or citizen groups and local, state, or federal agencies that affect small business in improving the small business climate in the state and in encouraging federal and local governmental agencies to simplify and coordinate permit and application forms for projects in the state.

12. Provide mediation services to a small business.

13. Request a small business regulatory flexibility analysis under section 17A.31.

14. Provide information to the public on business activity in the state and the small business advocate's office and services.

15. Serve as chairperson of the interagency committee of business assistance officers that coordinates interagency activities affecting small business.

16. Employ personnel as necessary to carry out the duties and responsibilities of the small business advocate consistent with the provisions of chapter 19A. Professional employees are exempt from the merit system provisions of chapter 19A.

17. Manage the internal operations of the office of the small business advocate, including the purchasing or leasing of equipment or office space, and establish guidelines and procedures to promote the orderly and efficient administration of the office.

18. Prepare a budget for the small business advocate and prepare reports as required by law.

19. Apply for, administer, and use federal or other funds available for carrying out the purposes of this chapter.

Sec. 34. NEW SECTION. 28.166 ANNUAL REPORT.

1. The small business advocate shall annually, no later than November 1, submit to the governor and the general assembly, a report summarizing the state of small business in Iowa.

2. The report shall include but is not limited to the following:

a. A summary of the work of the small business advocate in administering the advocate's duties and responsibilities.

b. Recommendations regarding agency permit programs and recommendations to simplify or consolidate state regulatory activities, permits, inspection, certification, or licensing relating to small business.

Sec. 35. NEW SECTION. 28.167 ADDITIONAL DUTIES.

1. The small business advocate shall provide assistance to a small business which raises a complaint regarding an agency or experiences a delay in receiving a permit or license, or other services from an agency.

2. A small business may contact the advocate to review or assist in resolving a complaint or delay in service under subsection 1.

3. The advocate shall adopt rules pursuant to chapter 17A to administer this chapter.

4. An agency shall cooperate in providing information and assistance to the advocate in resolving a complaint or delay in service.

*Sec. 36. NEW SECTION. *28.168 BUSINESS ASSISTANCE OFFICER.*

1. Each agency which provides information, economic or technical assistance, licenses or permits, or other services to small businesses shall designate a business assistance officer.

2. A business assistance officer shall do all of the following:

a. Consult with the advocate with regard to regulation and forms management.

b. Provide regulatory assistance to small business.

c. Resolve small business complaints within the business assistance officer's agency.

d. Maintain, at a central location, a current catalog of all types of license, permit, and other regulatory requirements of the agency affecting small business.

e. Review agency rules to reduce any adverse economic effect on small business.

f. Promptly notify the advocate of any rule change.

g. Train agency personnel on how to reduce unnecessary regulatory burdens and solve business complaints.

h. Cooperate with the advocate in the exercise of the advocate's duties under this chapter and take administrative action necessary to implement programs developed by the advocate pursuant to this chapter.

i. Serve on the interagency committee of business assistance officers that coordinates interagency activities affecting small businesses.

*j. Submit an annual report by July 1 to the advocate on the regulatory practices of the officer's agency and of the services provided to small businesses by the agency.**

*Item veto; see message at end of the Act

*Sec. 37. NEW SECTION. *28.169 AGENCY INFORMATION — AVAILABILITY.*

Except as otherwise provided, each agency shall do all of the following:

1. Maintain, at a central location, a current catalog of all types of projects, license, permits, and other regulatory requirements administered by the agency. Specific application forms, applicable agency rules, and the time period necessary for license and permit application consideration, based upon experience and statutory requirement, shall be included in the catalog.

2. Provide to a person, upon request, information from the catalog or any application forms used by the agency.

3. Provide to the advocate, upon request, information from the catalog, including as many copies of the catalog as the advocate determines is necessary.

*4. Promptly notify the advocate of any changes in information in the catalog if the advocate has previously requested information concerning the catalog.**

Sec. 38. Section 220.100, subsection 2, paragraph a, Code 1989, is amended to read as follows:

a. A grant program for the homeless for the construction, rehabilitation, ~~or~~ expansion, or costs of operating of group home shelter for the homeless.

Sec. 39. Section 220.100, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A homelessness advisory committee is created consisting of the executive director or the executive director's designee, the directors or their designees from the departments of economic development, elder affairs, human services, and human rights, and at least three individuals from the private sector to be selected by the executive director. The advisory committee shall advise the authority in coordinating programs that provide for the homeless.

Sec. 40. Section 473B.1, subsection 2, as enacted by 1990 Iowa Acts, Senate File 2366,** section 1, is amended by striking the subsection.

Sec. 41. 1990 Iowa Acts, Senate File 2366,** section 7,*** is amended by striking the section and inserting in lieu thereof the following:

SEC. 7.***

Any of the following counties of Boone, Dallas, Jasper, Marion, Polk, Story, and Warren, or combinations of these counties may form councils of governments or associate with any existing councils of governments.

Approved April 6, 1990, except those items which I hereby disapprove and which are designated as section 1, subsection 10, unnumbered and unlettered paragraph 2 in its entirety; that portion of section 1, subsection 27, unnumbered and unlettered paragraph 1 which is herein bracketed in ink and initialed by me; that portion of section 6, subsection 3, unnumbered and unlettered paragraph 1 which is herein bracketed in ink and initialed by me; section 6, subsection 3, unnumbered and unlettered paragraph 2 in its entirety; section 8, unnumbered and unlettered paragraph 5 in its entirety; section 13 in its entirety; section 27 in its entirety; that portion of section 28 which is herein bracketed in ink and initialed by me; and sections 36 and 37 in their 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*

*Item veto; see message at end of the Act

**Chapter 1157 herein

***Section 6 probably intended

Dear Madam President:

I hereby transmit Senate File 2327, an Act relating to and making appropriations to the Department of Economic Development, INTERNET, Wallace Technology Transfer Foundation, Iowa Finance Authority, and Small Business Advocate, and establishing a Small Business Advocate.

Senate File 2327 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 10, unnumbered and unlettered paragraph 2 in its entirety. This provision stipulates that any official Iowa trade mission led by a member of the executive council shall be represented by a bipartisan delegation of the executive council. This is nearly identical to language that was item vetoed last year and is currently the subject of litigation. An appeal of the recent district court's decision on the case is pending, so no final determination has been made. The rationale for last year's veto is still valid. Should a trade mission require the participation of a member of the executive council because of their particular expertise, the invitation is certain to be extended.

I am unable to approve the designated portion of Section 1, subsection 27, unnumbered and unlettered paragraph 1. This provision provides that unencumbered or unobligated funds appropriated from previous fiscal years be reallocated to satellite centers. The Department of Economic Development currently has the flexibility to allocate funds to the satellite centers should this be determined to be the most pressing need. However, there are many other responsibilities associated with the satellite center network appropriation, some of which have been expanded in other legislation this session. It is important for the department to maintain the flexibility to allocate the funds as necessary to carry out the mission of the network as a whole.

I am unable to approve the designated portion of Section 6, subsection 3, unnumbered and unlettered paragraph 1. This language would provide programmatic detail concerning the new value-added agricultural financing program. I am pleased the General Assembly has accepted my recommendation to establish this new program, which will assist in building upon our agricultural strengths. However, the specific provisions in Senate File 2327 are inconsistent with Senate File 2385, a separate bill creating the program which I have approved. The result of this veto will be to allow the provisions of Senate File 2385 to remain in effect.

I am unable to approve the item designated as Section 6, subsection 3, unnumbered and unlettered paragraph 2 in its entirety. This provision allows the agricultural products advisory council to expend funds to employ a consultant to assist in the development and implementation of a program and plan for the promotion of agricultural products. However, the plan has now been completed, adopted by the council and submitted to me and to the General Assembly. Because the Code requirements have been satisfied, the provision in Senate File 2327 is unnecessary.

I am unable to approve the item designated as Section 8, unnumbered and unlettered paragraph 5 in its entirety. This provision stipulates that if the Treasurer of State has not provided the total amount appropriated for fiscal year 1991 to the World Food Prize Foundation by June 30 of 1991, the remaining amount shall not revert but shall be available for expenditure by the Department of Economic Development for technical assistance centers. It would be fiscally irresponsible to commit in advance potential unspent balances for expenditure in the subsequent fiscal year.

I am unable to approve the item designated as Section 13 in its entirety. This provision provides a $50,000 appropriation for a special events fund in the Department of Economic Development. This is similar language I vetoed last year, for reasons which are still valid. Currently, the community cultural grants program is dedicated to providing assistance for similar purposes.

I am unable to approve the items designated as Sections 27, 36 and 37 in their entirety. These provisions relate to the responsibilities given to all agencies in state government for implementing the small business advocate program created and funded elsewhere in the bill.

Section 27 requires that in the event that processing takes more than two weeks, agencies which issue licenses and permits send a notice of issuance procedures to applicants two weeks after receipt of the application. Section 36 requires each agency to designate a small business assistance officer and specifies the responsibilities of the officer. Section 37 relates to requirements for maintaining and disseminating a current catalogue of all types of projects, licenses, permits and other regulatory requirements administered by the agency.

I support the concept of providing relief to small businesses, and as such I am leaving intact the provisions which create, fund and specify the responsibilities of the office of small business advocate. However, Sections 27, 36 and 37 may actually work to the detriment of small business through the imposition of requirements that may further delay the process of issuing licenses and permits, and the resolution of complaints. It should be the small business advocate's responsibility to work with state government to design more reasonable and workable procedures.

I am unable to approve the designated portion of Section 28. This provision commits future year receipts from the Iowa Community Development Loan Fund to the Iowa Finance Authority for the E911 financing program. I am leaving intact the $500,000 appropriation in this bill for fiscal year 1991. However, from the standpoint of fiscal responsibility and accountability, I cannot support making future year funding commitments for the E911 program. There is no compelling reason why this program should not be reviewed on a regular basis in the same manner as are other programs that compete for state resources.

Overall, the action taken by the General Assembly in Senate File 2327 will enable the state to move ahead in several key areas: international trade, work force development, community betterment, housing and business financing.

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 2327 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1263

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 2428

AN ACT relating to and making appropriations of federal and other nonstate funds including 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. 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, 1990, the following amount:

..... $ 6,107,706

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 subsection 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 $58,586 shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

Funds appropriated in this subsection shall not be used by the university of Iowa hospitals and clinics for indirect costs.

2. 63 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.

37 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 child health specialty services shall require prior approval by the Iowa department of public health. 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, 1990, 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.

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. 2. 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, 1990, the following amount:

..... $ 971,477

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 subsection 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 $6,195 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, 7 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, and an amount which is at a minimum $50,000 shall be used to provide chlamydia testing.

Sec. 3. 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, 1990, the following amount:

..... $ 3,622,304

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 96 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 4 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. 4. 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, 1990, the following amount:

..... $ 24,687,783

The funds appropriated by this subsection shall not be granted after July 1, 1990, 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 4 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, 1991, 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, 1990, 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, 1990, 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. 5. 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, 1990, and ending June 30, 1991, the following amount:

..... $ 5,196,285

Funds appropriated in this subsection are the funds anticipated to be received from the federal government under Pub. L. No. 100-297, Hawkins-Stafford Act, chapter 2. The department 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. 20 percent of the funds appropriated in subsection 1, not to exceed $1,039,257 shall be used by the department for targeted assistance to meet the educational needs of students at risk, programs for the acquisition of instructional and educational materials, for innovative programs to carry out schoolwide improvements, for programs of training and professional development, for programs to enhance personal excellence of students, and for other innovative projects. However, not more than 25 percent of the amount available for state programs shall be used by the department for state administrative expenses.

3. 80 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. 100-297. The amount allocated under this subsection shall be allocated to local educational agencies according to the following percentages and enrollments:

a. 80 percent shall be allocated on the basis of enrollments in public and approved nonpublic schools.

b. 20 percent shall be allocated to those local educational agencies enrolling the greatest percent of disadvantaged children.

4. Funds appropriated in this section 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. 6. 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, 1990, the following amount:

..... $ 25,922,337

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.

1A. If 1990 Iowa Acts, House File 2294,* is enacted, of the funds appropriated under subsection 1, $3,500,000 shall be used to fund the affordable heating program.

1B. Not more than $1,000,000 of the funds appropriated under subsection 1 shall be used for assessment and resolution of energy problems.

2. An amount not exceeding $2,892,000 or 10 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 subsection 1 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 10 percent of the funds appropriated in subsection 1, to carry forward into the federal fiscal year beginning October 1, 1990, 15 percent of the funds appropriated by subsection 1 shall be used for low-income residential weatherization or other related home repairs for low-income households. Of this amount, an amount not exceeding 10 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. 7. 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, 1990, the following amount:

..... $ 32,101,333

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 $1,852,247 of the funds appropriated in subsection 1 shall be used by the department of human services for general administration. 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 in the following amounts to supplement appropriations for the federal fiscal year beginning October 1, 1990, for the following programs within the department of human services:

a. Field operations:

..... $ 12,680,027

*Chapter 1246 herein

b. Home-based services:
..... $ 147,666
c. Foster care:
..... $ 4,702,845
d. Child care assistance:
..... $ 1,370,727
e. Local administrative costs and other local services:
..... $ 11,219,416
f. Volunteers:
..... $ 128,405

Sec. 8. 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. 9. 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 25 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. 10. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 5 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 2, 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 senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, and the director of the legislative fiscal bureau shall be notified of the proposed action.

b. The notice shall include the proposed allocations, 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. 11. 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 1, 2, and 5 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 6 of this Act, at least 10 percent and not more than 15 percent of the excess shall be allocated to the low-income weatherization program.

3. If funds received from the federal government from community services block grants exceed the amounts appropriated in section 3 of this Act, 100 percent of the excess is allocated to the community services block grant program.

4. If funds received from the federal government from the social services block grant exceed the amounts appropriated in section 7 of this Act, 100 percent of the excess shall be allocated to local administrative costs and other local services.

Sec. 12. 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, 1990, 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 1990 federal fiscal year as modified by the 1990 Session of the Seventy-third Iowa General Assembly for the state fiscal year beginning July 1, 1990, 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 beginning October 1, 1989, but had anticipated applying for funds during the federal fiscal year beginning October 1, 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 1990 federal fiscal year, state funds appropriated to the program by the general assembly to match the federal funds shall be reduced by the same proportion of the reduction in federal funds for the program. State funds released by the reduction shall be deposited in a special fund in the state treasury and are available for appropriation by the general assembly. The governor shall notify the chairpersons and ranking members of the senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of the subcommittees of those committees, and the legislative fiscal director 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 1990 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 1990 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 1990 federal fiscal year, the excess funds shall be deposited in the special fund created in section 8.41 and are subject to the provisions of that section.

Sec. 13. APPLICATIONS FOR FEDERAL AND NONSTATE FUNDS.

It is the intent of the general assembly that all agencies of the state shall be encouraged to apply for available federal and other nonstate funds if those federal or nonstate funds will assist the agencies in fulfilling their constitutional or statutory duties and responsibilities.

Sec. 14. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of agriculture and land stewardship for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 15. DEPARTMENT OF JUSTICE.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of justice for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 16. OFFICE OF AUDITOR OF STATE.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the office of auditor of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 17. DEPARTMENT FOR THE BLIND.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department for the blind for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 18. CAMPAIGN FINANCE DISCLOSURE COMMISSION.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the campaign finance disclosure commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 19. IOWA STATE CIVIL RIGHTS COMMISSION.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the Iowa state civil rights commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 20. COLLEGE AID COMMISSION.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the college aid commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 21. DEPARTMENT OF COMMERCE.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of commerce for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 22. DEPARTMENT OF CORRECTIONS.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of corrections for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 23. DEPARTMENT OF CULTURAL AFFAIRS.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of cultural affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 24. DEPARTMENT OF ECONOMIC DEVELOPMENT.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of economic development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 25. DEPARTMENT OF EDUCATION.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of education for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 26. DEPARTMENT OF ELDER AFFAIRS.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of elder affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 27. DEPARTMENT OF EMPLOYMENT SERVICES.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of employment services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 28. EXECUTIVE COUNCIL.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the executive council for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 29. DEPARTMENT OF GENERAL SERVICES.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of general services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 30. OFFICE OF THE GOVERNOR.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the office of the governor for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 31. OFFICE OF THE LIEUTENANT GOVERNOR.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the office of the lieutenant governor for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 32. IOWA DEPARTMENT OF PUBLIC HEALTH.

There is appropriated from federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, to the Iowa department of public health, the following amounts, to be used as set forth in the grants, receipts, or conditions accompanying the receipt of the funds for the purposes designated:

1. For the supplemental food program for women, infants, and children, grant number F06002:
..... $ 18,607,118

2. For AIDS prevention and surveillance projects, grant number U62/CCU 702001-05:
..... $ 1,086,498

3. For family planning services, grant number 07H00000821:
..... $ 478,000

4. For services to reduce the incidence of sexually transmitted diseases, grant number H25/CCH704350-01:
..... $ 325,600

5. For communicable disease control and immunization, grant number H23/CCH704424-01:
..... $ 183,699

6. For health assessments relating to hazardous substances in the environment, grant number ATU70000403:
..... $ 270,863

7. For the state and community-based injury control surveillance program, grant number H34/CCH70160101:
..... $ 107,103

8. For polychlorinated biphenyls (PCB) compliance monitoring, grant number X007285-03:
..... $ 175,000

9. For the disability prevention state-based project, grant number U59/CCU703369-02:
..... $ 165,000

10. For asbestos regulation enforcement, grant number J007255-03:
..... $ 155,344

11. For the vital statistics cooperative, grant number 200897215:
..... $ 297,294

12. For the Iowa cancer and surveillance control project, from the national institutes of health:
..... $ 117,376

13. For large volume and ambulatory infusion pump investigations regarding the transmission of the human immunodeficiency virus, grant number 223894292:
..... $ 112,473

14. For implementation of the uniform alcohol and drug abuse data collection system, grant number DA06432-01:
..... $ 84,008

15. For the health assessment program for refugees, from the United States department of health and human services:
..... $ 96,495

16. For the community youth activity program to mobilize community efforts against substance abuse, grant number 89BI1ACYAP:
..... $ 68,509
17. For coordination of primary care services, grant number CSU1900001-01-0:
..... $ 59,000
18. For AIDS drug costs reimbursement, grant number BRX190010-90:
..... $ 43,837
19. For state legalization impact assistance grants for provision of public health services to eligible illegal aliens through the 28E agreement with the department of human services:
..... $ 15,348
20. For the provision of birth record information regarding newborns, grant number 600-90-0085:
..... $ 33,327
21. For the pregnancy nutrition surveillance system, grant number U50/CCU703470:
..... $ 34,720
22. For environmental health education for physicians and health professionals, grant number U61/ATU790074:
..... $ 32,000
23. For special education under the infant and toddlers program, provided through the department of education contract, grant number 90324:
..... $ 27,826
24. For the chronic disease prevention and control risk factor survey, grant number U58/CCU701989-01:
..... $ 26,126
25. For needs assessments in minority populations to identify treatment barriers through the states helping states grants, grant number 283890034:
..... $ 25,000
26. For product recall effectiveness checks, grant number S01474452:
..... $ 3,750
27. For the provision of vital statistics death records, grant number 600-90-0015:
..... $ 5,560
28. For tuberculosis medications for refugees through the department of human services contract:
..... $ 5,000
29. For 1990's nutrition conferences through the peoples community health clinic:
..... $ 3,000
30. For the provision of death certificates for victims injured by consumer products, grant number CPSC-Q90-1102:
..... $ 1,356
31. For X-ray machine inspections through the department of inspections and appeals contract:
..... $ 2,046
32. For a follow-up study to the 1988 national maternal and infant health survey, from the United States department of health and human services:
..... $ 920
33. For social security administration field assessment, grant number SSA-90-2002:
..... $ 1,000
34. For the provision of death certificates for injury at work, grant number 9036187:
..... $ 200
35. For social security administration/family support, grant number FSA-90-0004:
..... $ 120
36. For the drug assistance program, from the United States department of health and human services:
..... $ 35,000

If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the Iowa department of public health prior to March 15 of the fiscal year beginning July 1, 1990, and ending June 30, 1991, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 33. DEPARTMENT OF HUMAN RIGHTS.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of human rights for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 34. DEPARTMENT OF HUMAN SERVICES.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of human services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 35. DEPARTMENT OF INSPECTIONS AND APPEALS.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of inspections and appeals for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 36. JUDICIAL DEPARTMENT.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the judicial department for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 37. IOWA LAW ENFORCEMENT ACADEMY.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the Iowa law enforcement academy for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 38. DEPARTMENT OF MANAGEMENT.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of management for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 39. DEPARTMENT OF NATURAL RESOURCES.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of natural resources for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 40. BOARD OF PAROLE.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the board of parole for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 41. DEPARTMENT OF PERSONNEL.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of personnel for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 42. DEPARTMENT OF PUBLIC DEFENSE.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of public defense for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 43. PUBLIC EMPLOYMENT RELATIONS BOARD.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the public employment relations board for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 44. DEPARTMENT OF PUBLIC SAFETY.

There is appropriated from federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, to the department of public safety, the following amounts, to be used as set forth in the grants, receipts, or conditions accompanying the receipt of the funds for the purposes designated:

1. For the highway safety, from the 402 program:
..... $ 1,568,793

2. For police traffic services, grant number 90/90-04 Task IJ:
..... $ 344,000

3. For narcotic grants and for general operation purposes of the division of narcotics enforcement, grant number 8022-53:
..... $ 115,000

4. For the criminal prosecutor program, grant number 8022-52:
..... $ 67,794

5. For funding of undercover drug purchases, grant number 8022:
..... $ 50,000

6. For national background checks relating to commercial drivers licenses, grant number 9L88MCSA005:
..... $ 38,164

7. For laboratory equipment to test blood-alcohol levels, grant number 90/90-02, Task IV-A:
..... $ 15,000

8. For the Iowa missing persons information clearinghouse, grant number 86-MC-CX-K004:
..... $ 9,378

9. For the weather radio contract, grant number 52WCNW806026:
..... $ 8,136

10. For computer hardware for profiling of sex offenders:
..... $ 25,667

If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the department of public safety prior to March 15 of the fiscal year beginning July 1, 1990, and ending June 30, 1991, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 45. STATE BOARD OF REGENTS.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the state board of regents for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 46. DEPARTMENT OF REVENUE AND FINANCE.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the department of revenue and finance for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 47. OFFICE OF SECRETARY OF STATE.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the office of secretary of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 48. IOWA STATE FAIR AUTHORITY.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the Iowa state fair authority for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 49. OFFICE OF FEDERAL-STATE RELATIONS.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the office of federal-state relations for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 50. STATE DEPARTMENT OF TRANSPORTATION.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the state department of transportation for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 51. OFFICE OF TREASURER OF STATE.

Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, are appropriated to the office of treasurer of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 52. NOTIFICATION OF RECEIPT OF FEDERAL AND OTHER NONSTATE FUNDS.

All agencies of this state enumerated in this Act shall report to the department of management and the legislative fiscal bureau the receipt of federal and other nonstate grants, receipts, and funds for the fiscal year beginning July 1, 1989, and ending June 30, 1990, and the anticipated receipt of federal and other nonstate grants, receipts, and funds for the fiscal year beginning July 1, 1990, and ending June 30, 1991. The notification shall be made no later than November 15, 1990, and shall include the names of the grantor and the grant or the source of the funds, the estimated amount of the funds, and the planned expenditures and use of the funds. The format of the notification shall be specified by the legislative fiscal bureau.

Sec. 53. Section 8.23, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. On or before November 15 all departments and establishments of government and the judicial department shall transmit to the department of

management and the legislative fiscal bureau estimates of their receipts and expenditure requirements from federal or other nonstate grants, receipts, and funds for the ensuing fiscal year. The transmittal shall include the names of the grantor and the grant or the source of the funds, the estimated amount of the funds, and the planned expenditures and use of the funds. The format of the transmittal shall be specified by the legislative fiscal bureau.

Sec. 54. Section 8.44, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All departments and establishments of government and the judicial department shall notify the department of management and the legislative fiscal bureau of any change in the receipt of federal or other nonstate grants, receipts, and funds from the funding levels on which appropriations for the current or ensuing fiscal year were or are based. Changes which must be reported include, but are not limited to, any request, approval, award, or loss changes affecting federal or other nonstate grants, receipts, or funds. The notifications shall be made on a quarterly basis. The format of the notifications shall be specified by the legislative fiscal bureau.

Approved May 6, 1990

CHAPTER 1264

APPROPRIATIONS AND PROVISIONS RELATING TO SUBSTANCE ABUSE TREATMENT, PREVENTION, AND ENFORCEMENT

H.F. 2564

AN ACT relating to making appropriations for substance abuse treatment, prevention, education, and enforcement programs, establishing an evaluation mechanism for substance abuse treatment programs, and providing civil 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 department of education for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the youth 2000 coordinating council for awarding community planning grants for collaborative efforts to establish local drug prevention and youth development programs as provided in section 256.42, subsection 5:

..... $ 80,000

As a condition, limitation, and qualification of this appropriation, grants shall be awarded for collaborative efforts within the community receiving the grant, and such grants shall not exceed $2,500. As a further condition, limitation, and qualification of this appropriation, funding shall be provided for contracting on a competitive basis with a nonprofit organization to provide technical assistance to communities pursuant to section 256.43.

Applicants for grants to be made pursuant to this program shall include with the application a letter of support from a comprehensive prevention program funded through the division serving the district within which one community is situated.

**Sec. 2.*

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 amount, or so much thereof as is necessary, to be used for the purpose designated:

*Item veto; see message at end of the Act

For providing grants to community colleges for training staff to provide courses designed for first time domestic abuse offenders:

..... *$ 22,000*

*As a condition, limitation, and qualification of this appropriation, grants shall not exceed $2,000 and shall be awarded on a competitive basis pursuant to criteria established by the department. Awards need not be made to all community colleges. The department shall submit a report to the justice system appropriations subcommittee and the legislative fiscal bureau by December 1, 1990, which shall identify each community college receiving a grant, the amount of each grant, and a program description of each proposal for which a grant is awarded.**

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For continuation of the study at the university of Iowa approved by the legislative council on October 18, 1989, relating to the possible expanded use of Ritalin, a legal drug, in Iowa to high activity level (attention-deficit hyperactivity disorder) classroom children:

..... $ 5,000

Sec. 4.

There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For the division of substance abuse for program grants:

..... $ 1,162,208

As a condition, limitation, and qualification of this appropriation, the division shall allocate this amount in a manner which will effectively reduce, if not eliminate, the waiting period which now exists at publicly funded substance abuse treatment centers for individuals, including adults and juveniles, awaiting assessment, outpatient treatment, entry into a halfway house, and residential treatment, and which will provide for increases in provider salaries.

As a further condition, limitation, and qualification of this appropriation, the division, when allocating this amount in a manner which will effectively reduce the waiting period, shall give priority to persons released or discharged from a facility under the direction of the department of corrections who were in treatment programs and who are identified by the parole board to be in need of further treatment, women of childbearing age, and juveniles.

As a further condition, limitation, and qualification of this appropriation, the division of substance abuse and the department of corrections shall cooperate in developing a continuum of care related to substance abuse treatment of inmates and persons released or discharged from a facility.

2. For the division of substance abuse for providing aftercare services for persons completing substance abuse treatment:

..... $ 250,000

3. For the division of substance abuse for providing substance abuse prevention programs:

..... $ 200,000

**4. For the division of substance abuse to initiate demonstration projects in the urban area currently experiencing the highest incidence of infants born with addiction problems, as determined by the division, to provide outreach services, and prenatal and postnatal services and treatment for these infants, mothers with substance abuse problems, and women of childbearing age:*

..... *$ 125,000*

*The drug enforcement and abuse prevention coordinator shall monitor the program and receive reports required to be made concerning the program. Persons responsible for the program shall report to the drug enforcement and abuse prevention coordinator concerning progress in establishing the program and the expenditures made.**

*Item veto; see message at end of the Act

5. For the council on chemically exposed infants established pursuant to section 235C.1:
..... $ 50,000

**6. For the division of substance abuse for the addiction treatment effectiveness advisory council established pursuant to section 125.15A, and for not more than the following full-time equivalent positions:*

..... *$ 250,000*
..... *FTEs 2.50*

As a condition, limitation, and qualification of this appropriation, the department shall implement sections 125.15A through 125.15M. The department shall employ one additional program investigator to be used for substance abuse program review. As a further condition, limitation, and qualification of this appropriation, the division shall provide staff support to the advisory council as necessary.

*Notwithstanding section 8.33, funds appropriated by this subsection shall not revert.**

7. For the state board of pharmacy examiners for establishing a drug abuse warning network and an Iowa drug abuse monitoring system:
..... $ 12,500

As a condition, limitation, and qualification of this appropriation, the board of pharmacy examiners, in cooperation with the drug enforcement and abuse prevention coordinator, shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used for establishing a drug abuse warning network and an Iowa drug abuse monitoring system.

Sec. 5.

There is appropriated from the general fund of the state to the department of public safety 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 the division of criminal investigation and bureau of identification for equipment and salaries and support for the following additional full-time equivalent positions:
..... $ 56,292
..... FTEs 4.00

As a condition, limitation, and qualification of this appropriation, the division shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used to employ an additional 4 full-time lab technicians for the criminalistic laboratory.

2. For use by the department to provide additional law enforcement officials to initiate project D.A.R.E. (drug abuse resistance education) within local communities:
..... $ 28,000
..... FTEs 4.00

As a condition, limitation, and qualification of this appropriation, the department shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used to employ 4 additional members of the highway safety patrol to assist with the initiation of project D.A.R.E. within local communities.

3. For the division of narcotics for the salaries and support of up to the following additional full-time equivalent positions:
..... $ 150,000
..... FTEs 10.00

As a condition, limitation, and qualification of this appropriation, the department shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used to employ up to an additional 10 full-time special agents and additional support personnel.

4. For the division of narcotics for funding drug enforcement operations to be used for the purchase of illegal substances in furtherance of these enforcement operations:
..... $ 125,000

*Item veto; see message at end of the Act

As a condition, limitation, and qualification of this appropriation, the department shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used for the purchase of illegal substances in furtherance of these enforcement operations.

Sec. 6.

There is appropriated from the general fund of the state to the office of the governor for the drug enforcement and abuse prevention coordinator 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 the Iowa substance abuse information center located in Cedar Rapids:

..... $ 59,000

As a condition, limitation, and qualification of this appropriation, the drug enforcement and abuse prevention coordinator shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used for the costs of the information center.

*2. *For planning and establishing a program of identification, treatment, and education of students in grades kindergarten through 3 in the Waterloo community school district whose mothers were addicted to or using controlled substances while pregnant:*

..... *$ 125,000*

As a condition, limitation, and qualification of this appropriation, a pilot project shall be established for the identification and education of elementary students whose mothers were using controlled substances during pregnancy resulting in the children experiencing special learning and behavioral problems. The drug enforcement and abuse prevention coordinator shall monitor the program and receive reports required to be made concerning the program. Persons responsible for the program shall report to the drug enforcement and abuse prevention coordinator concerning progress in establishing the program and the expenditures made. The coordinator shall provide such reports to the general assembly. The program shall include medical and psychiatric research with the university of Iowa, educational research with the university of northern Iowa, an educational program for parents of the children including programs for parents confined in a county jail or committed to the custody of the director of the department of corrections, a child care educational program to address the problems of parenting such children, a program for the care and education of such children before and after school, creation of a mentor program with jobs and local businesses, a treatment program for parents, and team teacher training.

*Persons responsible for the program shall coordinate and encourage the involvement of other programs and service providers within the community in developing this program.**

Sec. 7. 1989 Iowa Acts, chapter 225, section 6, is amended to read as follows:

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~~ drug enforcement and abuse prevention coordinator, the following amount, to be used for the purposes designated:

1. For the Iowa narcotics enforcement advisory council for the administration of a drug enforcement training program for local 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~~ relating to all aspects of drug control:

..... $ ~~300,000~~ 73,500

*Item veto; see message at end of the Act

~~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.~~

2. For administration of the governor's alliance on substance abuse:

..... $ 81,000

As a condition, limitation, and qualification of this appropriation, the drug enforcement and abuse prevention coordinator shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used for the costs of administration.

3. For the Iowa substance abuse information center located in Cedar Rapids:

..... $ 22,000

As a condition, limitation, and qualification of this appropriation, the drug enforcement and abuse prevention coordinator shall use the amount appropriated in this subsection to match and obtain available federal funds, the total amount of these funds to be used for the costs of the information center.

4. For the prosecuting attorney training program:

..... $ 73,500

5. For reimbursement payments to law enforcement officers under the guaranteed loan payment program pursuant to section 261.51,* if enacted by the Seventy-third General Assembly, 1990 Session:

..... $ 25,000

6. For salaries, support, maintenance, and technical assistance for the purpose of reducing court delays and for the training of judges:

..... $ 25,000

As a condition, limitation, and qualification of this appropriation, the drug enforcement and abuse prevention coordinator, in cooperation with the judicial department, shall use this amount to match and obtain available federal funds, the total amount of these funds to be used for the purpose of reducing court delays.

7. Notwithstanding section 8.33, funds appropriated by this section shall not revert.

Sec. 8.

There is appropriated from the general fund of the state to the judicial department 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:

Notwithstanding section 602.6201, for an additional judgeship to be established in judicial election district 8B pursuant to House File 2045,** as enacted by the Seventy-third General Assembly, 1990 Session:

..... $ 135,000

Sec. 9.

It is the intent of the general assembly that of the funds anticipated to be received from the federal government by the drug enforcement and abuse prevention coordinator for the governor's alliance on substance abuse, the coordinator shall give the highest priority for distribution of such funds to applications made by public agencies which have contracted with other public agencies pursuant to chapter 28E, and public agencies which have created multijurisdictional task forces, for the purpose of cooperating jointly in enforcement efforts related primarily to controlled substances, counterfeit substances, or simulated controlled substances.

*Not enacted

**Chapter 1055 herein

The coordinator shall also give priority to providing funding to the office of the attorney general for providing grants for additional local prosecutors, funding for state and local drug enforcement operations to be used for the purchase of illegal substances in furtherance of these enforcement operations, funding to initiate or continue project D.A.R.E. (drug abuse resistance education) within local communities, including training for local law enforcement officials, and funding for the clearinghouse in Cedar Rapids.

Sec. 10.

It is the intent of the general assembly that of funds made available through the alcohol and drug abuse and mental health services block grant for the federal fiscal year beginning October 1, 1990, and ending September 30, 1991, priority shall be given to the extent possible, to reducing substance abuse waiting lists, providing aftercare for persons completing substance abuse treatment, providing additional substance abuse prevention specialists, dual diagnosis, for early identification and intervention of children born afflicted with a substance addiction, and for increasing provider salaries. Of the funds used for reducing substance abuse waiting lists, priority shall be given to persons released or discharged from an institution under the direction of the department of corrections who were in treatment programs and who are identified by the board of parole to be in need of further treatment, women of childbearing age, and juveniles.

Sec. 11. DEPARTMENT OF EDUCATION — SURVEY.

The department of education shall survey all school districts in the state for the purpose of evaluating and assessing the extent to which substance abuse education is being provided to students in grades kindergarten through 12. The department shall recognize successful programs and provide information concerning such programs to other districts. The department shall report the findings of its survey to the general assembly no later than January 15, 1991.

Sec. 12.

The department shall also encourage the use of phase III moneys for teachers who have completed drug awareness training. Information shall be provided to school districts regarding available training courses and the importance of this training.

The department shall encourage schools to establish student assistance teams and other drug abuse prevention groups to provide support and help to students with substance abuse problems and to provide support to other students who are not yet substance abusers. Positive role models should be established in an effort to deter increased substance abuse by younger students and other students within the role models' peer groups.

Sec. 13. RESEARCH DEVELOPMENT.

The general assembly encourages the development and maintenance of research and information by the federal government, research centers, and universities concerning substance abuse and treatment of substance abusers in an effort to determine the most effective method of treatment.

**Sec. 14.* NEW SECTION. *125.15A ADDICTION TREATMENT EFFECTIVENESS ADVISORY COUNCIL — MEMBERS.*

1. An addiction treatment effectiveness advisory council is established within the department, which consists of fifteen members appointed by the governor to staggered terms of six years beginning and ending as provided in section 69.19. The appointments are subject to senate confirmation. The members of the council shall include the following:

a. Two physicians licensed in this state who have substantial experience in substance abuse treatment and who is certified by the association of specialists in addiction medicine.

b. One registered nurse who has substantial experience in substance abuse treatment.

c. Two persons, one who is a certified substance abuse counselor and one who is a director of a substance abuse treatment provider. One shall be appointed to represent such private persons and entities and one shall be appointed to represent such public persons and entities.

d. One person representing a master's degree program in substance abuse counseling, with research expertise in the field of substance abuse treatment.

*Item veto; see message at end of the Act

e. Two representatives of the business community who shall represent the business consumers of health insurance.

f. Two representatives of providers of health insurance. At least one representative shall represent health maintenance organizations or preferred provider organizations.

g. Three citizens of the state who do not provide health services or health insurance or other fiscal intermediary services.

Members appointed to the advisory council pursuant to paragraphs "a" through "d" shall be appointed so that an equal number shall be appointed to represent public substance abuse treatment providers as are appointed to represent private substance abuse treatment providers.

The appointments shall be based upon the training, experience, and capacity of the appointees, and not based upon political considerations, other than as provided in section 69.16. A member of the council shall not hold any other state or federal office.

2. The director of public health or the director's designee and the director of human services or the director's designee shall be ex officio, nonvoting members of the council.

3. The majority leader of the senate shall appoint two members, one member from each political party, from the membership of the senate and the speaker of the house of representatives shall appoint two members, one member from each political party, from the membership of the house who shall be ex officio, nonvoting members of the council.

4. A vacancy on the council shall be filled for the unexpired term in the same manner as the original appointment.

5. The voting members of the council shall be reimbursed for actual and necessary travel and related expenses incurred in the discharge of official duties. Each voting member of the council may also be eligible to receive compensation as provided in section 7E.6.

6. The council shall hold an organizational meeting within thirty days of the beginning of a new regular term for one or more of its members. The council shall organize by electing a chairperson, vice chairperson, secretary, and any other officers deemed necessary or desirable. The council shall meet at least quarterly throughout the year.

*7. A majority of the voting members of the council constitutes a quorum, and a majority of the voting members of the council is necessary to act in any matter within the jurisdiction of the council, unless a more restrictive rule is adopted by the council.**

Sec. 15. NEW SECTION. 125.15B DUTIES OF COUNCIL.

1. Except as otherwise provided by law, the council shall:

a. Recommend policy and rule changes to the director necessary to provide for the effective regulation and assessment of treatment providers in this state and the effective administration of this chapter.

b. Receive, review, and make recommendations to the department based upon the information contained in the provider reports received by the department.

c. Shall study whether or not a problem currently exists with inappropriate transfers of patients by either providers or third-party payors, and, if so, make appropriate recommendations to the department.

*2. The council may recommend to the director a contractor for the purpose of data collection related to the evaluation of providers subject to the provisions of this chapter and for the collection of patient data.**

Sec. 16. NEW SECTION. 125.15C REQUIRED REPORTING.

Unless otherwise provided, a substance abuse treatment provider, regardless of whether the provider is licensed by the commission on substance abuse, shall report to the department on forms provided by the department, information relating to all patients admitted to treatment, receiving treatment, or discharged from treatment, and again at a specified time after completing or ending such treatment as required by departmental rule. The provider shall provide all information requested which is available to the provider. The department, after consultation with the advisory council, shall adopt rules providing for the information to be reported to the department and the advisory council.

*Item veto; see message at end of the Act

In addition to receiving the reports required under this section, the division of substance abuse, for good cause, shall have access to the records of a substance abuse treatment provider for the purpose of auditing and inspecting the programs to assure compliance with the requirements of sections 125.15B through 125.15M.

For the period beginning July 1, 1990, and ending June 30, 1991, the form to be used for the reporting required under section 125.15C for all providers shall be the substance abuse management information system form used by the division of substance abuse. No later than July 1, 1991, the department, in consultation with the advisory council, shall require the reporting of additional information relating to the following addiction related symptoms of a patient:

1. Physical diseases associated with the use of substances.

2. Organic brain dysfunction.

3. Symptomatic major psychosis.

4. Suicide attempts.

*5. Other symptoms as deemed appropriate by the advisory council and adopted by the department for the purpose of determining patient severity at the time of admission to treatment.**

**Sec. 17.* NEW SECTION. *125.15D DATA CONTRACTOR.*

*The department, after consultation with and upon recommendation of the advisory council, may contract with an independent data collector to survey substance abuse treatment providers required to report information under section 125.15C, and shall provide such information required to be reported pursuant to section 125.15C, and any other information collected as determined by the department, to the council.**

**Sec. 18.* NEW SECTION. *125.15E DATA PROVIDED TO HEALTH DATA COMMISSION.*

*The department shall also forward all data reported pursuant to section 125.15C and any other information collected as determined by the department to the state health data commission.**

**Sec. 19.* NEW SECTION. *125.15F MEASUREMENT STANDARDS.*

The department, after consultation with the advisory council, shall adopt rules establishing minimum standards of outcome measurement of patients ending or completing treatment relating to the effectiveness of substance abuse treatment programs, which shall primarily include, but not be limited to, the following:

1. Abstinence.

2. Arrest rate.

*3. Improved socioeconomic status.**

**Sec. 20.* NEW SECTION. *125.15G TYPES OF PROGRAMS.*

*For purposes of review of substance abuse treatment programs, all programs providing substance abuse treatment and subject to the requirements of section 125.15A through 125.15M, shall be divided into class 1 and class 2 programs based upon a patient severity index as determined by the advisory council. The patient severity index must include factors relating to medical severity, psychological dysfunction, age, recidivism, arrest rate, and other pertinent factors. The department, after consultation with the advisory council, shall adopt rules relating to the definition of class 1 and class 2 programs.**

**Sec. 21.* NEW SECTION. *125.15H PROVIDER REVIEW — MINIMUM STANDARDS.*

*No later than July 1, 1992, the department, after consultation with the advisory council, shall adopt rules providing for the minimum standards to be met by all providers.**

**Sec. 22.* *INTERIM RULES.*

For the period beginning July 1, 1990, and ending June 30, 1992, all treatment providers shall meet the following minimum standards:

A success rate equal to seventy-five percent of the average success rate of the top fifty percent of treatment providers within the same class in each of the following categories:

*Item veto; see message at end of the Act

1. Abstinence.

2. Arrest rate.

3. Improved socioeconomic status.

*A treatment provider who fails to attain the required minimum success rate in any of the three categories shall be subject to intensified review by the department.**

**Sec. 23.* NEW SECTION. *125.15I PROVIDER SANCTIONS.*

1. A treatment provider which fails to meet the minimum standards established pursuant to section 125.15F shall be reviewed by the advisory council. Within thirty days after the advisory council has concluded its review, the advisory council shall provide recommendations for program changes, or may recommend other appropriate action to be taken pursuant to this section, if any, to the Iowa department of public health. The department, upon affirming the recommendations of the advisory council, shall forward to the provider program recommendations as recommended by the advisory council, or other recommendations deemed appropriate by the department, and may stay further action against the provider, for a period of up to one year during which time, the advisory council shall continue to review the provider and new patient data shall be collected for review.

2. The advisory council may appoint one or more quality improvement task forces for the purpose of providing expert review and advice for improving the success rate of providers failing to meet the minimum standards required pursuant to section 125.15H. A task force shall consist of three substance abuse professionals from programs in the top fifty percent of all providers in the same class as the provider that fails to meet the standards. A task force shall review a provider that fails to meet the minimum standards and make recommendations for change to the provider being reviewed and notify the advisory council as to those recommendations. Both public and private providers shall be represented on a quality improvement task force. Persons serving on a quality improvement task force may be reimbursed for expenses incurred in performance of the duties of the task force. A task force shall cooperate with the division of substance abuse and the technical assistance program.

3. If the advisory council finds that a substance abuse treatment provider has failed to meet the minimum standards established pursuant to section 125.15F and action by the advisory council is not recommended pursuant to subsection 1, the advisory council may do any of the following:

a. Recommend to the director of public health that funding for the substance abuse treatment provider relating to the substance abuse treatment programs of the provider be withheld.

b. Recommend to the director of human services that medical assistance funding relating to the substance abuse treatment programs of the provider be withheld.

c. Recommend to the appropriate licensing authority that the license of the substance abuse treatment provider be suspended or revoked relating to the substance abuse treatment programs of the provider.

4. Notwithstanding subsections 1 through 3, the advisory council may find that the program serves a particularly difficult patient population and that the public health and welfare would be furthered by continuing to fund the program. In such a case, the advisory council, upon an affirmative vote of two-thirds of the members of the council shall recommend that a new measurement standard be established by the department, by rule, for the program.

5. If the advisory council has acted pursuant to subsection 1 and the director accepts such recommendation and stays action against the provider, at the end of that year the advisory council may recommend to the department an additional extension of the period of intensified review for up to one additional year.

*6. If the advisory council has acted pursuant to subsection 1, 2, or 3 and no action has been taken pursuant to subsection 4 or 5, the department shall include the substance abuse treatment provider on a list of providers failing to meet the minimum standards which shall be provided to the public, third-party payors for health services, local government bodies, and substance abuse treatment provider accreditation entities.**

*Item veto; see message at end of the Act

*Sec. 24. NEW SECTION. *125.15J CONFIDENTIALITY OF INFORMATION.*

1. Information received by the department contained in the reports required pursuant to section 125.15I is subject to the confidentiality provisions of sections 125.37 and 125.93.

However, a summary of data concerning a program which has been sanctioned pursuant to section 125.15I, subsection 2 or 3, shall be made available, as appropriate, by the department.

*2. Beginning July 1, 1993, to the extent permitted by state and federal law, a summary of data concerning the success of all substance abuse treatment programs shall be made available by the department upon the request of any interested person.**

*Sec. 25. NEW SECTION. *125.15K EXEMPLARY PROVIDERS — PREFERENTIAL TREATMENT.*

The department, in consultation with the advisory council, shall adopt rules defining exemplary substance abuse treatment programs and providing for the recognition of exemplary substance abuse treatment programs. In adopting such rules the department shall consider patient populations and other appropriate factors.

*Additionally, to the extent permitted by applicable state and federal requirements relating to substance abuse treatment funding, the department shall preferentially consider such exemplary substance abuse treatment providers in subsequent funding grant applications.**

*Sec. 26. NEW SECTION. *125.15L FALSIFICATION OF REPORT DATA.*

A substance abuse treatment provider required to provide information to the department pursuant to section 125.15C, who intentionally falsifies any diagnosis of a patient admitted to treatment to avoid review pursuant to section 125.15H, who intentionally fails to report information to the department, or who falsifies such report, is subject to a civil penalty of five thousand dollars per false diagnosis, per failure to make such report, or per falsification of such report, in addition to any other appropriate action which may be taken by the department or the council. Such penalties shall be collected by the department and deposited in the general fund of the state.

*In addition to the civil penalty provided in this section, the department shall also make a list of providers committing violations of this section available to the public, third-party payors for health services, local government bodies, and substance abuse treatment provider accreditation entities.**

*Sec. 27. NEW SECTION. *125.15M PROGRAMS EXCLUDED — PENALTY.*

In addition to any other provider excluded by law, any provider or facility which provides only detoxification, screening, or assessment of persons is excluded from the review and reporting requirements of sections 125.15A through 125.15L with respect to that patient as long as the patient is subsequently referred to counseling or other substance abuse treatment providers following detoxification.

*Unless otherwise excluded, any person providing substance abuse treatment is subject to the requirements of sections 125.15A through 125.15L. A provider who fails to comply with these sections shall cease providing such services. Such provider who continues to provide such services in violation of this section is subject to a civil penalty of one thousand dollars for each day the provider continues to provide such services after notification by the department to cease such treatment.**

Sec. 28. Section 232.73, Code 1989, is amended to read as follows:

232.73 IMMUNITY FROM LIABILITY.

A person participating in good faith in the making of a report, ~~or~~ photographs, or X rays, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an investigation of a child abuse report pursuant to section 232.71, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

*Item veto; see message at end of the Act

As used in this section and section 232.77, "medically relevant test" means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, including a drug urine screen test.

Sec. 29. Section 232.77, Code 1989, is amended to read as follows:

232.77 PHOTOGRAPHS ~~AND~~, X RAYS, AND MEDICALLY RELEVANT TESTS.

1. Any person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs or X rays of the areas of trauma visible on a child. Any health practitioner may, if medically indicated, cause to be performed radiological examination of the child. Any person who takes any photographs or X rays pursuant to this section shall notify the department of human services that such photographs or X rays have been taken, and shall retain such photographs or X rays for a reasonable time thereafter. Whenever such person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of such institution, agency, or facility or that person's designated delegate of the need for photographs or X rays.

2. If a health practitioner discovers in a child under one year of age physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department, unless the natural mother has shown good faith in seeking appropriate care and treatment. The department shall begin an investigation pursuant to section 232.71 upon receipt of such a report. The positive result shall constitute a showing of probable cause under section 232.71, subsection 3, but shall not be used in any criminal prosecution of the natural mother of the child, and shall not represent grounds for a determination of child abuse.

Sec. 30. NEW SECTION. 235C.1 COUNCIL CREATED — PURPOSE.

A council on chemically exposed infants is established as a subcommittee of the committee on maternal and child health of the community health division of the Iowa department of public health. The purpose of the council is to help the state develop and implement policies to reduce the likelihood that infants will be born chemically exposed, and to assist those who are born chemically exposed to grow and develop in a safe environment.

As used in this chapter, a "chemically exposed infant" is an infant who shows evidence of exposure to or the presence of alcohol, cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs or combinations or derivatives thereof which were not prescribed by a health practitioner.

Sec. 31. NEW SECTION. 235C.2 MEMBERSHIP.

The council on chemically exposed infants shall be composed of the following members:

1. Two members of the Iowa department of public health selected by the director of the Iowa department of public health, one from the division of substance abuse, and one from the division of family and community health.

2. The director of the department of human services or the director's designee as a nonvoting ex officio member.

3. The department coordinator of the department of human rights or the coordinator's designee as a nonvoting ex officio member.

4. The director of the department of education or the director's designee as a nonvoting ex officio member.

5. The chairperson of the state maternal and child health advisory council or the chairperson's designee.

6. A physician selected by the board of the Iowa medical society with expertise in the care of the mother and a physician selected by the board of the Iowa medical society with expertise in the care of the infant.

7. A hospital administrator selected by the board of the Iowa hospital association.

8. A representative from a community health center located in Iowa selected by the Iowa/Nebraska primary care association.

9. A representative from a maternal and child health center selected by the governor.

10. A representative from a substance abuse treatment program, selected by the governor.

11. Two citizen members, selected by the governor.

12. A representative from the governor's alliance on substance abuse selected by the alliance.

13. A representative from the university of Iowa medical school selected by the director of the medical school.

14. A representative from a community-based substance abuse prevention program, selected by the governor.

15. A representative from the juvenile court, selected by the chief justice of the Iowa supreme court.

16. An attorney who practices in the area of juvenile law, selected by the Iowa state bar association.

The council shall be staffed by the Iowa department of public health. The council shall elect its own chairperson.

Sec. 32. NEW SECTION. 235C.3 COUNCIL DUTIES.

The council shall be responsible for the following activities:

1. DATA COLLECTION. The council shall assemble relevant materials regarding the extent to which infants born in Iowa are chemically exposed, the services currently available to meet the needs of infants born who are chemically exposed, and the costs incurred in caring for infants born who are chemically exposed, including both costs borne directly by the state and costs borne by society.

2. PREVENTION AND EDUCATION. The council, after reviewing the data collected pursuant to subsection 1, and after reviewing education and prevention programs employed in Iowa and in other states, shall make recommendations to the appropriate division to develop a state prevention and education campaign, including the following components:

a. A broad-based public education campaign outlining the dangers inherent in substance use during pregnancy.

b. A health professional training campaign, including recommendations concerning the curriculum offered at the college of medicine at the state university of Iowa, providing assistance in the identification of women at risk of substance abuse during pregnancy and strategies to be employed in assisting those women to maintain healthy lifestyles during pregnancy. Included in this education campaign shall be guidelines to health professionals offering information on assessment, laboratory testing, medication use, and referrals.

c. A targeted public education campaign directed toward high-risk populations.

d. A technical assistance program for developing support programs to identified high-risk populations, including pregnant women who previously have given birth to chemically exposed infants or currently are using substances dangerous to the health of the fetus.

e. An education program for use within the school system, including training materials for school personnel to assist those personnel in identification, care, and referral.

3. IDENTIFICATION. The council shall develop recommendations regarding state programs or policies to increase the identification of chemically exposed infants.

4. TREATMENT SERVICES. The council shall seek to improve effective treatment services within the state for chemically exposed infants. As part of this responsibility, the council shall make recommendations to the addiction treatment effectiveness advisory council established in section 125.15A.* Such recommendations shall include, but are not limited to, the following:

a. Identification of programs available within the state for serving chemically exposed infants and their families.

b. Recommended ways to enhance funding for effective treatment programs, including the use of state health care programs and services under the medical assistance program and the maternal and child health programs.

*Item vetoed

c. Identification of means to serve children who were chemically exposed infants when the children enter the school system.

As an additional part of this responsibility, the council shall determine whether a problem exists with respect to substance abuse treatment providers and physicians discriminating against pregnant women in providing treatment or prenatal care.

5. CARE AND PLACEMENT. The council shall work with the department of human services to expand appropriate placement options for chemically exposed infants who have been abandoned by their parents or cannot safely be returned home. As part of this responsibility, the council shall do all of the following:

a. Assist the department of human services in developing rules to establish specialized foster care services that can attract foster parents to care for chemically exposed infants.

b. Identify additional services, such as therapeutic day care services, that may be needed to effectively care for chemically exposed infants.

c. Review the need for residential programs designed to meet the needs of chemically exposed infants.

As an additional part of the responsibility, the council shall determine whether a problem exists with respect to substance abuse treatment providers and physicians discriminating against pregnant women in providing treatment or prenatal care.

6. AWARDS OF GRANTS AND DEVELOPMENT OF PILOT PROGRAMS. From funds appropriated for this purpose, the council shall award grants or develop pilot programs to achieve the purposes of the council.

7. ANNUAL REPORT. The council shall annually report to the governor and members of the general assembly on the progress it has made toward meeting its responsibilities.

The council shall meet at least twice annually, and may establish such subcommittees and task forces as are necessary to achieve its purpose.

8. CONFIDENTIALITY OF INFORMATION. Data collected pursuant to this chapter shall be confidential to the extent necessary to protect the identity of persons who are the subjects of the data collection.

Sec. 33. NEW SECTION. 125.32A DISCRIMINATION PROHIBITED.

Any substance abuse treatment program receiving state funding under this chapter or any other chapter of the Code shall not discriminate against a person seeking treatment solely because the person is pregnant, unless the program in each instance identifies and refers the person to an alternative and acceptable treatment program for the person.

Sec. 34. Section 249A.4, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. May stop payments and withhold further medical assistance payments for substance abuse treatment as recommended by the addiction treatment effectiveness advisory council pursuant to section 125.15G.*

Sec. 35. NEW SECTION. 256.43 STAFFING AND TECHNICAL ASSISTANCE TO COUNCIL.

1. Staff support for the youth 2000 coordinating council shall be provided by the department of education. Staff duties shall include, but are not limited to, collecting, collating, analyzing, and presenting necessary information, data, and materials to the council; advising and assisting the council in policy analysis and the development of council recommendations; preparation of reports and other materials necessary to accomplish the goals of the council; preparation and dissemination of interagency, intergovernmental, and public communications associated with the work of the council; coordination of council activities with other policy analysis and development activities carried on within the state; and coordination in delivery of state-level council services with department of education staff providing technical assistance to the council under subsection 2.

2. The department of education shall contract with a nonprofit organization to provide technical assistance to communities. Technical assistance shall be structured to provide direct

*Item vetoed

services to Iowa communities which are establishing community planning teams and to assist in the development of collaborative drug use prevention, dropout prevention, and youth development efforts.

Technical assistance to community planning teams shall include, but is not limited to, providing professional advice on youth development, drug use prevention, and other issues; providing access to current research and information; assisting community planning teams in identifying appropriate team members; facilitating team building; assisting in the development of strategic plans relating to community youth issues; providing community development activities; providing conflict resolution; and developing educational and technical materials. Technical assistance shall also include, but is not limited to, the identification of funding and other resources to aid in the implementation of drug use prevention, dropout prevention, and youth development programs; the identification of appropriate drug use prevention, dropout prevention, and youth development program models; and coordination in the delivery of state-level council services with department of education staff providing staff support for the council.

Sec. 36. Section 911.2, Code 1989, is amended to read as follows:

911.2 SURCHARGE.

When a court imposes a fine or forfeiture for a violation of a state law, or of a city or county ordinance except an ordinance regulating the parking of motor vehicles, the court shall assess an additional penalty in the form of a surcharge equal to ~~fifteen~~ twenty percent of the fine or forfeiture imposed. In the event of multiple offenses, the surcharge shall be based upon the total amount of fines or forfeitures imposed for all offenses. When a fine or forfeiture is suspended in whole or in part, the surcharge shall be reduced in proportion to the amount suspended.

The surcharge is subject to the provisions of chapter 909 governing the payment and collection of fines, as provided in section 909.8.

Sec. 37. Section 911.3, Code 1989, is amended to read as follows:

911.3 DISPOSITION OF SURCHARGE.

When a court assesses a surcharge under section 911.2, the clerk of the district court shall transmit ~~ninety~~ twenty-five percent of the surcharge collected to the treasurer of state to be deposited pursuant to section 321J.17. Ninety percent of the remainder of the surcharge collected shall be transmitted to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit one third of ~~the~~ that money in the law enforcement training reimbursement fund established under section 384.15 and the remaining two thirds of ~~the~~ that money in the general fund of the state. The clerk of the district court shall transmit ten percent of the remainder of the surcharge to the county treasurer or shall remit ten percent of the remainder of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Sec. 38. Section 912.2A, subsection 1, Code Supplement 1989, is amended to read as follows:

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~~ Two persons 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.

h. A person representing the elderly.

Board members shall be reimbursed for expenses actually and necessarily incurred in the discharge of their duties.

Sec. 39. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 1990, the following amount:

..... $ 7,804,000

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 section, an amount not exceeding $33,133 shall be used for audits. The auditor of state shall bill the Iowa department of public health for the cost of the audits.

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 this subsection from funds appropriated to the department from the general fund of the state, in addition to the amount to be used for audits as provided in this subsection. The auditor of state shall bill the Iowa department of public health for the costs of the audit.

2. 10 percent of the remaining funds, as allowed pursuant to Pub. L. No. 97-35, Title IX, Subtitle A, and which are 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 with priority being given to dual diagnosis. Of this amount, 10 percent shall be used to provide services and programs for severely emotionally disturbed children and adolescents, and 55 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. An amount not exceeding 5 percent of the funds in excess of $2,839,000 appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses.

4. 10 percent of the funds appropriated in subsection 1 shall be used to provide alcohol and drug abuse services to women.

5. After deducting the funds allocated in subsections 1, 2, 3, and 4, the remaining funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the Iowa department of public health:

a. Drug abuse treatment programs ..... 38.89 percent

Of the amount appropriated under this paragraph, at least $1,358,000 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

As a condition, limitation, and qualification of the appropriation in this section, and the allocations in subsection 5, paragraphs "a" and "b", priority shall be given to maintaining existing services, reducing the treatment waiting lists, including increasing provider salaries, providing aftercare services, and providing early intervention in the treatment of infants affected by cocaine.

As a condition, limitation, and qualification of the appropriation in this section, and the allocations in subsection 5, paragraph "c", priority shall be given to maintaining existing services, funding additional prevention specialists, and increasing provider salaries.

Sec. 40. DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the governor's substance abuse coordinator for the federal fiscal year beginning October 1, 1990, the following amount:

..... $ 4,860,000

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 coordinator 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 5 percent of the funds appropriated in subsection 1 shall be used by the governor's substance abuse coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the coordinator 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 governor's substance abuse coordinator for the cost of the audit.

3. Priority for the funding of programs with funds appropriated in subsection 1 shall be given, to the extent possible, to programs which accomplish any of the following:

a. Expand analysis capabilities at the state criminalistics laboratory.

b. The formation of multijurisdictional task forces, created for the purpose of cooperating jointly in enforcement efforts related primarily to controlled substances, counterfeit substances, or simulated controlled substances.

c. Expand prosecutorial capabilities at the county and state level for drug-related offenses.

d. Establish or continue training programs for law enforcement officers, prosecutors, judges, probation officers, correctional officers, staff working with juvenile offenders, substance abuse prevention and treatment providers, and members of the community, which emphasize multidisciplinary understanding of drug abuse, including prevention and intervention policies.

e. Establish or continue treatment programs for prison-based populations and juvenile rehabilitation programs.

f. Establish or continue project D.A.R.E. (drug abuse resistance education).

g. Other programs authorized under the drug control and system improvement grant program.

Sec. 41. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. If the funds received from the federal government for the block grants specified in sections 39 and 40 of this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, 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 senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, and the director of the legislative fiscal bureau shall be notified of the proposed action.

b. The notice shall include the proposed allocations, 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 2 weeks to review and comment on the proposed action before the action is taken.

Sec. 42. PROCEDURE FOR INCREASED FEDERAL FUNDS.

If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 39 and 40 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.

Sec. 43. 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, 1990, 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 1990 federal fiscal year as modified by the 1990 Session of the Seventy-third Iowa General Assembly for the state fiscal year beginning July 1, 1990, 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 beginning October 1, 1989, but had anticipated applying for funds during the federal fiscal year beginning October 1, 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 1990 federal fiscal year, state funds appropriated to the program by the general assembly to match the federal funds shall be reduced by the same proportion of the reduction in federal funds for the program. State funds released by the reduction shall be deposited in a special fund in the state treasury and are available for appropriation by the general assembly. The governor shall notify the chairpersons and ranking members of the senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of the subcommittees of those committees, and the director of the legislative fiscal bureau 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 1990 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 1990 fiscal year. Chairpersons notified shall be allowed at least 2 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 1990 federal fiscal year, the excess funds shall be deposited in the special fund created in section 8.41 and are subject to the provisions of that section.

Sec. 44. IOWA DEPARTMENT OF PUBLIC HEALTH.

There is appropriated from the federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, to the Iowa department of public health, the following amounts, to be used as set forth in the grants, receipts, or conditions accompanying the receipt of the funds for the purposes designated:

1. For drug free schools and comprehensive prevention services, to high-risk youth, grant number S186A90067:

..... $ 1,346,000

2. For the drug abuse treatment waiting list reduction grant program, grant number ADH000020-01:

..... $ 279,647

Sec. 45. DEPARTMENT OF EDUCATION.

There is appropriated from federal grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1990, and ending June 30, 1991, to the department of education, the following amount, to be used for the purposes designated:

..... $ 3,500,000

It is the intent of the general assembly that of the funds appropriated in this section and provided to school districts, the highest priority shall be given to the extent possible, to providing funding for implementation of human growth and development curriculum related to substance abuse.

It is also the intent of the general assembly that of the funds appropriated in this section and provided to school districts, priority shall be given to the extent possible, to provide funding for substance abuse curriculum development and training, development of student assistance teams, and other related programs. It is also the intent of the general assembly that to the extent possible, funds provided to the school districts by this section be used for projects with demonstrated success.

The department of education, in consultation with the division of substance abuse of the Iowa department of public health, shall survey all school districts in the state for the purpose of evaluating and assessing the extent to which substance abuse education is being provided to students in grades kindergarten through 12. The department, in consultation with the division, shall issue a request for proposals for the purpose of contracting with an entity to conduct a longitudinal study for a minimum of twenty-five years to study, evaluate, and assess the effectiveness of the substance abuse education programs provided, to the extent possible, and to determine if peer groups exposed to certain types of prevention programs, when normed for socioeconomic and other pertinent factors, exhibit different incidences of substance abuse and use than the general population. The study shall also include follow-up information concerning students participating in such programs, including students who subsequently drop out of school. The department shall recognize successful programs and provide information concerning such programs to other districts making application for these funds. The department shall report the findings of the joint survey and study to the general assembly no later than January 15, 1991.

Sec. 46. 1989 Iowa Acts, chapter 310, section 1, subsections 4, 5, 6, and 7, are amended to read as follows:

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~~
4,965,000

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~~ four 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 and priority shall be given to pregnant women with substance abuse problems.

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 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~~ $1,358,000 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

As a condition, limitation, and qualification of the funds appropriated in paragraphs "a" and "b", $490,000 shall be made available May 1, 1990, to reduce substance abuse treatment waiting lists with priority to be given to persons released or discharged from an institution under

the direction of the department of corrections who were in treatment programs and who are identified by the board of parole to be in need of further treatment, women of childbearing age, and juveniles. Effective July 1, 1990, existing services shall be maintained, $1,528,702 shall be used to reduce substance abuse treatment waiting lists with priority to be given to persons released or discharged from an institution under the direction of the department of corrections who were in treatment programs and who are identified by the board of parole to be in need of further treatment, women of childbearing age, and juveniles.

As a condition, limitation, and qualification of the funds appropriated in paragraph "c", $126,000 shall be made available May 1, 1990, to fund no more than six additional prevention specialists. Effective July 1, 1990, existing services shall be maintained, $200,000 shall be used to fund no more than ten additional prevention specialists, and $250,698 shall be used to fund increases in provider salaries and add additional prevention specialists.

Sec. 47. 1989 Iowa Acts, chapter 310, section 4, subsections 1 and 2, are amended to read as follows:

1. There is appropriated from the fund created in section 8.41 to the ~~Iowa department of public health~~ office of the governor for the drug enforcement and abuse prevention coordinator for the federal fiscal year beginning October 1, 1989, the following amount:

..... $ ~~1,553,000~~
4,860,000

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~~ drug enforcement and abuse prevention coordinator 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~~ five percent of the funds appropriated in subsection 1 shall be used by the ~~Iowa department of public health~~ drug enforcement and abuse prevention coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the ~~Iowa department of public health~~ drug enforcement and abuse prevention coordinator 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~~ drug enforcement and abuse prevention coordinator for the cost of the audit.

Sec. 48. 1989 Iowa Acts, chapter 310, section 4, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Priority for the funding of programs with funds appropriated in subsection 1 shall be given, to the extent possible, to programs which accomplish any of the following:

a. Expand analysis capabilities at the state criminalistics laboratory.

b. The formation of multijurisdictional task forces, created for the purpose of cooperating jointly in enforcement efforts related primarily to controlled substances, counterfeit substances, or simulated controlled substances.

c. Expand prosecutorial capabilities at the county and state level for drug-related offenses.

d. Establish or continue training programs for law enforcement officers, prosecutors, judges, probation officers, correctional officers, staff working with juvenile offenders, substance abuse prevention and treatment providers, and members of the community, which emphasize multidisciplinary understanding of drug abuse, including prevention and intervention policies.

e. Establish or continue treatment programs for prison-based populations and juvenile rehabilitation programs.

f. Establish or continue project D.A.R.E. (drug abuse resistance education).

g. Other programs authorized under the drug control and system improvement grant program.

NEW SUBSECTION. 5. The governor's alliance on substance abuse shall design a study to evaluate longterm outcomes of projects funded by this grant program and shall use this study as a factor when awarding federal funds. The alliance shall collect program evaluations and document the effectiveness of the various programs funded under this grant program. The alliance shall make this information available to applicants and grantees and report to the general assembly, no later than December 15, 1990, concerning the effectiveness of programs funded.

Sec. 49. 1989 Iowa Acts, chapter 310, section 14, subsection 1, is amended to read as follows:

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 3, 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.

Approved May 7, 1990, except the items which I hereby disapprove and which are designated as section 2 in its entirety; section 4, subsections 4 and 6 in their entirety; section 6, subsection 2 in its entirety; sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 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 House File 2564, an Act relating to making appropriations for substance abuse treatment, prevention, education, and enforcement programs, establishing an evaluation mechanism for substance abuse treatment programs, and providing civil penalties.

House File 2564 provides the funding for the state's substance abuse program in the areas of prevention and education, treatment and rehabilitation, and law enforcement and prosecution. I have approved in this bill nearly $2.313 million of new state funding for these initiatives. Much of this funding can be used to draw down federal funding thereby multiplying the total amount available to fight drugs in Iowa.

I have approved in the Department of Public Health $1.2 million for treatment programs, $200,000 for prevention programs, and $250,000 for the aftercare services. Eighty thousand dollars is provided to the Department of Education for Youth 2000 drug prevention grants. Funding is made available for eight additional narcotic agents, four lab technicians, and more drug-buy money. I have also approved appropriations to establish a Council on Chemically Exposed Infants, to extend the D.A.R.E. program into additional areas of the state, to support a statewide drug information clearing house and to implement a drug abuse data collection system. Many of these initiatives I proposed and fully support and I am pleased to sign them into law.

House File 2564 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 2, in its entirety. This provision would make an appropriation for grants to community colleges to provide staff training on domestic abuse. I have already approved in House File 2371 funding to provide training through the Department of Human Rights to deal with domestic abuse. This additional spending would be duplicative.

I am unable to approve the item designated as Section 4, subsection 4, in its entirety. Over $1 million is provided elsewhere in this bill for substance abuse treatment programs. That

funding is made available in the form of grants which are conditioned on priority treatment being provided to certain persons, including pregnant women and drug-affected babies. This provision would make an additional $125,000 appropriation to establish a pilot project to provide treatment services to pregnant women and infants. This project can be financed with the funding I have approved, therefore, this additional spending is unnecessary.

I am unable to approve the items designated as Section 4, subsection 6, and Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27, in their entirety. These provisions would establish a fifteen member advisory council which would be charged with assessing and making recommendations relating to the effectiveness of substance abuse treatment programs and appropriate $250,000 to this council. These provisions also establish an unrealistically high minimum success rate that treatment providers would be required to meet and provides sanctions for those who fail to do so. Much concern has been expressed about the method of evaluating substance abuse treatment programs established in this bill. Further discussion and study of this matter is needed.

I am unable to approve the item designated as Section 6, subsection 2, in its entirety. This provision appropriates $125,000 to the Drug Abuse and Prevention Coordinator to establish a pilot educational and treatment program for children whose mothers used drugs during their pregnancy. The program is required to include a wide variety of services including an education program for incarcerated parents, training on parenting skills, mentoring within our welfare reform program and treatment for substance abuse. These services are currently available through programs provided by a number of state agencies. Coordination of these services should and does occur at the local level.

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 2564 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1265

APPROPRIATIONS FOR ENERGY CONSERVATION AND ENVIRONMENTAL PROTECTION

H.F. 2567

AN ACT relating to and making appropriations from the energy conservation trust.

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 year beginning July 1, 1990, 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 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:

..... $ 2,700,000

b. For the state energy conservation program and for the energy extension service program, from the Exxon fund:

..... $ 238,200

2. To the department of agriculture and land stewardship 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 soil conservation division of the department of agriculture and land stewardship in the project design and implementation, with representation consisting of the energy and geological resources division of the department of natural resources and the cooperative extension service. From the Stripper well fund:

..... $ 600,000

3. 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

4. To the department of economic development for the energy-related activities of the amorphous semiconductor project at Iowa state university of science and technology, from the Stripper well fund:

..... $ 300,000

As a condition, limitation, and qualification of the appropriation made in this subsection, the department of economic development shall provide a complete report of the current status of the project which shall include the degree of financial or other participation by Iowa state university of science and technology and the other participants in the project. The report shall be submitted to the fiscal committee of the legislative council no later than October 1, 1990.

5. To the state department of transportation to conduct, through a contract with a regional planning agency, a demonstration study to assess the economic and technical feasibility of establishing an intermodal transportation facility at or near a location on the Mississippi river that has access to year-round navigation, from the Exxon fund:

..... $ 25,000

Moneys appropriated under this subsection shall only be appropriated in an amount which does not exceed the balance of moneys returned from payments on the revolving loan used to fund the Quad Cities intermodal project, at the time of execution of the contract with the regional planning agency. The department shall coordinate the demonstration study with the department of economic development and shall report to the general assembly, not later than March 31, 1991, on the outcome of the study, on the applicability of integrating intermodal transportation analysis into regional economic development studies, and on the contribution that regional planning can make to statewide planning.

Sec. 2.

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, 1990, and ending June 30, 1991, to be used for administration of the petroleum overcharge programs.

Sec. 3. 1986 Iowa Acts, chapter 1249, section 4, unnumbered paragraph 1, as amended by 1987 Iowa Acts, chapter 230, section 8; 1988 Iowa Acts, chapter 1281, section 6; and 1989 Iowa Acts, chapter 312, 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, ~~1990~~ 1991, 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 7, 1990

CHAPTER 1266

APPROPRIATIONS AND PROVISIONS RELATING TO STATE EXECUTIVE AGENCIES AND NATIONAL ORGANIZATIONS

S.F. 2280

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, and to the state communications network fund, specifying the duties of the administrative rules coordinator, providing for the appropriation of wrestling and boxing taxes, providing for interstate banking, providing legal counsel to certain state agencies, providing for other related matters, providing penalties for violations, increasing certain fees, changing the procurement program, and providing for repeals of certain provisions.

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, 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,677,000
.....	FTEs	50.00

The funds for the salaries, support, maintenance, and miscellaneous purposes for 3 of the 50 FTEs authorized in this section shall be paid from the fund created in section 48 of this Act.

2. For the costs incurred in the printing of the official register:

.....	$	74,000

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, 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 salaries, support, maintenance, and miscellaneous purposes for the general office of the governor, and for not more than the following full-time equivalent positions:

.....	$	889,000
.....	FTEs	17.00

2. For the governor's expenses connected with office:

.....	$	4,000

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:

.....	$	95,000
.....	FTEs	3.00

*Item veto; see message at end of the Act

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 $40, 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:
..... $ 7,000

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:
..... $ 103,000
..... FTEs 2.00

6. For payment of Iowa's membership in the national governors' conference:
..... $ 75,000

Sec. 3.

There is appropriated from the general fund of the state to the office of the governor's substance abuse prevention coordinator 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:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 105,000
..... FTEs 8.00

Sec. 4.

There is appropriated from the general fund of the state to the office of the lieutenant governor for the portion of the fiscal year beginning July 1, 1990, and ending on the date of the next inauguration of the lieutenant governor, 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 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:
..... $ 85,000

Sec. 5.

There is appropriated from the general fund of the state to the office of the lieutenant governor for the portion of the fiscal year beginning with the next inauguration of the lieutenant governor and ending June 30, 1991, 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 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:
..... $ 34,000

Sec. 6.

The amounts appropriated under sections 4 and 5 for the fiscal period beginning July 1, 1990, and ending June 30, 1991, shall be used for not more than the following full-time equivalent positions in addition to the purposes designated under sections 4 and 5:
..... FTEs 3.00

Sec. 7.

There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 762,000
..... FTEs 28.00

Of the amount appropriated by this section, $29,839 shall be used for salary and support for one full-time equivalent position designated as a computer programmer.

Sec. 8.

There is appropriated from the general fund of the state to the executive council for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 40,000
..... FTEs 1.12

Sec. 9.

There is appropriated from the general fund of the state to the following named agencies 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. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

..... $ 69,000

2. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of the members:

..... $ 14,000

Sec. 10.

There is appropriated from the general fund of the state to the department of general services 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. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 492,000
..... FTEs 16.00

2. COMMUNICATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 413,000
..... FTEs 19.00

3. DIRECTOR'S OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 102,000
..... FTEs 2.00

4. MATERIALS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 92,000
..... FTEs 3.30

5. PROPERTY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,744,000
..... FTEs 156.00

6. PRINTING AND MAIL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 492,000
..... FTEs 22.00

7. RECORDS MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 422,000
..... FTEs 14.50

8. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,175,000
..... FTEs 158.00

*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.**

10. Savings achieved in providing telecommunications services shall be used by the department of general services to increase efficiencies in the provision of those services.

11. In carrying out the requirements of 1990 Iowa Acts, Senate File 2212,** section 24, relating to the acquisition or construction of expanded prison facilities, the department of general services may include the architectural and engineering costs of the project as a part of the total costs of the project to be financed by lease-purchase arrangements.

12. *If personnel reductions are required in the department of general services resulting from budget reductions, the layoffs shall be made only after service contracts with private parties have been reviewed and reduced or canceled where possible. Personnel reductions shall be distributed among management employees, nonmanagement employees who are not members of a bargaining unit, and nonmanagement employees who are members of a bargaining unit in the same proportion as the proportion to total employees represented by each group. The department shall retain those employees most essential to the department's mission. The department shall report to the co-chairpersons and ranking members of the joint administration appropriations subcommittee concerning any personnel reductions to demonstrate how the department has complied with the requirements of this subsection.

Sec. 11.

There is appropriated from the general fund of the state to the department of general services 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. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

..... $ 2,000

2. UTILITY COSTS

For payment of utility costs:

..... $ 2,002,000

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 100 percent payback within a 24 month period. The department of general services shall report quarterly to the chairpersons and ranking members of the administration appropriations subcommittee concerning the savings generated as a result of implementation of these projects.

*Item veto; see message at end of the Act
**Chapter 1257 herein

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:

..... $ 608,000

4. FIRE SAFETY

For payment of costs incurred in providing for additional fire safety measures:

..... $ 67,000

The moneys appropriated by this subsection may be used for, but are not limited to, the provision of alarm warning systems and additional means of egress. Moneys provided under this subsection shall not be used to defray the costs of deferred maintenance.

Sec. 12.

Notwithstanding section 18.12, subsection 11, any excess funds appropriated for utility costs in section 11, subsection 2, shall not be deposited in the general fund of the state on June 30, 1991, and these funds are to be used for implementation of energy conservation projects having a payback of 100 percent within a 2-year to 6-year period. The department of general services shall report semiannually to the chairpersons and ranking members of the administration appropriations subcommittee and to the legislative fiscal bureau. The reports shall include a listing of the projects undertaken, the cost of each project, and the projected savings on an annual basis and for the life of the project.

The department of general services shall also pursue utility rate reductions for the capitol complex and report the results of these efforts to the chairpersons and ranking members of the administration appropriations subcommittee and to the legislative fiscal bureau. The report shall include, but is not limited to, the options examined, the proposals of the department of general services, and the responses of the utilities. Supporting documentation, including correspondence between the department of general services and the utilities, shall accompany the report.

Sec. 13.

There is appropriated from the revolving funds designated to the department of general services 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. 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:

..... $ 886,644
..... FTEs 30.00

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, 1990, and ending June 30, 1991, 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:

..... $ 543,147
..... FTEs 15.00

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, 1990, and ending June 30, 1991, 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:

..... $ 568,764
..... FTEs 17.00

*Item veto; see message at end of the Act

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, 1990, and ending June 30, 1991, which are legally payable from this fund.

7. The division of insurance of the department of commerce shall, on or before July 1, 1990, transfer remaining funds from its revolving account, in excess of those funds necessary to provide initial start-up for the division's fiscal year 1991 revolving fund, to the department of general services.

**As a condition of the appropriation, it is the intent of the general assembly that these transferred funds be used for the following purposes:*

a. The department of general services shall provide from the funds the rental, preparation of space, and physical move of the division of insurance of the department of commerce to new quarters off of the state capitol complex for the fiscal year beginning July 1, 1990.

*b. After the rental, preparation, and move of the division of insurance of the department of commerce, the funds remaining shall be applied to the renovation of the Lucas state office building.**

It is the intent of the general assembly that the requirements of this subsection shall be accomplished as soon after the effective date of this Act as practically feasible.

Additionally, the division of insurance of the department of commerce shall provide, on or before January 1, 1991, a report and projection regarding the revenue of the division and the sufficiency of that revenue to cover future rental costs for the division. The report shall be delivered to the chairpersons, vice chairpersons, and ranking members of the appropriations committees, and to the legislative fiscal bureau.

Sec. 14.

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. 15.

There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, office services, data/word processing, and insurance cost management, and for not more than the following full-time equivalent positions:

.....	$	1,331,000
.....	FTEs	29.65

2. FIELD OPERATIONS

For salaries for the personnel services, employment law/labor relations, and development, and for not more than the following full-time equivalent positions:

.....	$	1,454,000
.....	FTEs	36.60

3. PROGRAM MANAGEMENT

a. For salaries for employment and compensation and benefits, and for not more than the following full-time equivalent positions:

.....	$	1,118,000
.....	FTEs	34.00

b. WORKERS' COMPENSATION ADMINISTRATION

For salaries for the administration of the workers' compensation fund and not more than the following full-time equivalent positions:

.....	$	140,000
.....	FTEs	4.00

*Item veto; see message at end of the Act

Any funds received by the department for workers' compensation purposes other than the funds appropriated in paragraph "b" shall be used only for the payment of workers' compensation claims.

The funds for support, maintenance, and miscellaneous purposes for personnel assigned to field operations under subsection 2 and program management under subsection 3 are payable from the appropriation made in subsection 1.

As a condition, limitation, and qualification of this appropriation, the department of personnel shall report quarterly to the chairpersons and ranking 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. 16.

There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

..... $ 2,616,118

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.

2. For design, development, and implementation of a data information system:

..... $ 783,000

Notwithstanding section 8.33, funds appropriated under this subsection that remain unencumbered or unobligated on June 30, 1991, shall not revert to the general fund of the state but shall be available for expenditure in subsequent years to complete the data information systems.

The department of personnel shall report on or before January 1, 1991, and each 6 months thereafter until the data information system is fully implemented to the chairpersons and ranking members of the administration appropriations subcommittee and to the legislative fiscal bureau, on the progress made in implementing the data information system. The report shall include, but is not limited to, moneys spent and encumbered, progress made relative to the scheduled implementation, and benefits or anticipated benefits of the system.

The department of personnel shall report to the chairpersons and ranking members of the administration appropriations subcommittee and to the legislative fiscal bureau the results and effectiveness of the wellness program pilot project developed and tested by the department of personnel in conjunction with the state department of transportation. The department of personnel shall submit the reports in June and December of each year of the project's existence and shall submit a final report upon completion of the project.

The department of personnel shall report to the chairpersons and ranking members of the administration appropriations subcommittee and to the legislative fiscal bureau the results and effectiveness of the pilot project regarding the automation of hiring procedures. The department of personnel shall submit progress reports in June and December during the period of existence of the project, and shall submit a final report upon completion of the project.

The department of personnel shall submit, annually, a report to the chairpersons and ranking members of the administration appropriations subcommittee and to the legislative fiscal bureau regarding the results of the state's top achievement recognition program. The reports submitted shall include, but are not limited to, identification of the recipients, a description of the meritorious achievements, and the awards conferred.

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, 1990, and ending June 30, 1991, 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 6:

..... FTEs 651.65

1. AUDIT AND COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 9,350,844

2. FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 6,047,156

3. INFORMATION AND MANAGEMENT SYSTEMS

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,654,000

4. LOCAL GOVERNMENT SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,260,000

5. TECHNICAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,814,000

6. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 715,000

7. The department of revenue and finance shall not change the appropriations for the purposes designated in subsections 1 through 6 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 section 8.33, the excess funds appropriated to the department of revenue and finance shall not be deposited in the general fund of the state on June 30, 1991. The funds shall be expended by the audit and compliance division for personnel salaries and support to increase tax receipts.

The director shall report annually to the fiscal committee of the legislative council, the legislative fiscal bureau, and the chairpersons and ranking members of the administration appropriations subcommittee concerning the effectiveness of the tax audits and investigations conducted, the moneys expended, the tax obligations established, and taxes collected as a result of the tax collection and enforcement efforts of the department.

The department of revenue and finance shall report quarterly to the chairpersons and ranking 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, 1990, and ending June 30, 1991, 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:

..... $ 1,105,804

Sec. 19.

There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 7,272,163
..... FTEs 138.55

Sec. 20.

There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 1,566,000
..... FTEs 33.00

As a condition, limitation, and qualification of this appropriation, not more than $1,410,270 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 $210,730 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. 21.

There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 55,000

Sec. 22.

There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

..... $ 61,000

2. LAW ENFORCEMENT TRAINING REIMBURSEMENTS

For reimbursements to local law enforcement agencies for the training of officers who resign pursuant to section 384.15, subsection 7:

..... $ 123,000

Sec. 23.

There is appropriated from the general fund of the state to the office of state-federal relations for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 221,000
..... FTEs 3.15

Sec. 24.

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, 1990, and ending June 30, 1991.

*Item veto; see message at end of the Act

Sec. 25.

For purposes of this Act and any other appropriations statute enacted by the Seventy-third General Assembly, 1990 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. 1 full-time equivalent position represents 2,080 working hours, which is the regular number of hours 1 full-time person works in 1 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 2,080 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. 26. *LAYOFF AND RECALL PROCEDURES.*

*The department of personnel in consultation with the department of management, the department of revenue and finance, and the department of general services, shall establish a program for employees of those departments whose positions are terminated as a result of this Act. The departments shall give a preference to qualified persons previously employed whose jobs were terminated as a result of this Act when hiring to fill vacant positions according to existing outplacement procedures established by the department of personnel and recall procedures established by public employee collective bargaining agreements.**

Sec. 27.

There is appropriated from the general fund of the state to the department of general services and the department of revenue and finance 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 purpose designated:

For allocation, upon approval of the department of management, to avoid layoffs, if, after implementing efficiencies and other methods to achieve savings as directed by the department of management, the governor, and the department directors, funds appropriated by this Act are insufficient to otherwise avoid layoffs:

1. Department of general services:

..... $ 250,000

2. Department of revenue and finance:

..... $ 250,000

Sec. 28. Section 7.17, Code 1989, is amended to read as follows:

7.17 OFFICE OF ADMINISTRATIVE RULES CO-ORDINATOR.

The governor shall establish the office of the administrative rules co-ordinator, and appoint its staff, which shall be a part of the governor's office. The administrative rules co-ordinator shall receive all notices and rules promulgated pursuant to chapter 17A and provide the governor with an opportunity to review and object to any rule as provided in chapter 17A. The administrative rules co-ordinator in consultation with the Code editor shall prescribe a uniform style and form by which an agency shall prepare and file a rule pursuant to chapter 17A which shall correlate each rule to a uniform numbering system devised by the administrative rules co-ordinator. The administrative rules co-ordinator shall review all submitted rules for style and form and may return or revise a rule which is not in proper style and form. In prescribing the style and form, the administrative rules co-ordinator shall require that the agency include a reference to the statute which the rules are intended to implement.

Sec. 29. Section 8.6, subsection 5, Code Supplement 1989, is amended by striking the subsection.

*Sec. 30. *Section 13.7, Code 1989, is amended to read as follows:*

13.7 SPECIAL COUNSEL.

*Item veto; see message at end of the Act

Compensation shall not be allowed to any person for services as an attorney or counselor to an executive department of the state government, or the head thereof, or to a state board or commission. However, the executive council may employ legal assistance, at a reasonable compensation, in a pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform the service, which reasons and action of the council shall be entered upon its records. When the attorney general determines that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the person recommended is qualified and suitable to represent the department, the person recommended shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This section does not affect the general counsel for the utilities board of the department of commerce, the legal counsel for the board of optometry examiners, *or the legal counsel of the division of job service of the department of employment services.**

Sec. 31. Section 17A.2, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 11. "ARC number" means the identification number assigned by the governor's administrative rules coordinator to each rulemaking document.

Sec. 32. Section 17A.4, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. Give notice of its intended action by submitting three copies of the notice to the administrative rules co-ordinator, who shall assign an ARC number to each rulemaking document and forward two copies to the Code editor for publication in the "Iowa Administrative Bulletin" created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views ~~thereon~~.

Sec. 33. Section 17A.5, subsection 1, Code Supplement 1989, is amended to read as follows:

1. Each agency shall file in the office of the administrative rules co-ordinator three certified copies of each rule adopted by it. ~~Two copies of each rule shall be forwarded to the Code editor by the administrative rules co-ordinator.~~ The administrative rules co-ordinator shall assign an ARC number to each rulemaking document and forward two copies to the Code editor. The administrative rules co-ordinator shall keep a permanent register of the rules open to public inspection.

Sec. 34. Section 17A.6, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The Iowa administrative code shall be cited as (agency identification number) IAC, (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

NEW SUBSECTION. 8. The Iowa administrative bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Sec. 35. Section 18.136, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. It is the intent of the general assembly that during the implementation of parts I and II of the system, the department of general services shall employ a consultant to report to it on the impact of changing technology on the potential cost and capabilities of the system. It is also the intent of the general assembly that the department of education shall study new techniques in distant teaching. These reports shall be made available to the general assembly.

Sec. 36. Section 18.137, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

*Item veto; see message at end of the Act

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~~ the fiscal year ~~of the fiscal period~~ beginning July 1, 1989, and ending June 30, ~~1994~~ 1990, the sum of ~~ten~~ five 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 is appropriated from the general fund of the state to the state communications network fund for each fiscal year of the fiscal period beginning July 1, 1991, and ending June 30, 1996, the sum of five million dollars. Notwithstanding section 8.33, unobligated and unencumbered moneys from the appropriation for a fiscal year remaining on June 30 of that fiscal year shall not revert to the general fund of the state but shall remain available for expenditure during the next following fiscal year. 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. Notwithstanding the requirements of section 18.136, subsection 1, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, thirty-one thousand dollars of moneys in the state communications network fund may be expended for the state's share of the cost for the design of a disaster recovery facility to be built in conjunction with the Iowa communications network facility and emergency operation center. The department of general services may increase its fees for data processing in order to collect an additional amount not exceeding two hundred thousand dollars during the fiscal year beginning July 1, 1991, to pay for the state's share of the cost of construction of the disaster recovery facility.

**Sec. 37.* *Section 48.3, Code 1989, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *The state shall pay the postage for all registration forms printed pursuant to this section. There is appropriated annually to the state commissioner of elections out of any funds in the general fund of the state which are not otherwise appropriated, a sum sufficient to pay the postage for all registration forms printed as provided in this section.**

Sec. 38. Section 90A.7, Code 1989, is amended to read as follows:

90A.7 WRITTEN REPORT FILED — TAX.

1. Every person conducting a boxing or wrestling match or charging an admission fee for viewing of a closed-circuit boxing or wrestling match in this state shall, within twenty-four hours after such match, furnish to the commissioner a written report, duly verified, showing the number of tickets sold for such boxing or wrestling match, and the amount of gross proceeds ~~thereof~~ of such boxing or wrestling match, and such other matters as the commissioner may prescribe; and shall also within the ~~said~~ same time period pay to the treasurer of state a tax of five percent of its total gross receipts, after deducting ~~any federal admission~~ state sales tax, from the sale of tickets of admission to such boxing or wrestling match.

2. Moneys collected pursuant to subsection 1 in excess of the amount of moneys needed to administer this chapter are appropriated and shall be used by the state commissioner of athletics to award grants to organizations which promote amateur boxing matches in this state.

3. The state commissioner of athletics shall adopt rules pursuant to chapter 17A to establish procedures for the submission of applications for grants to be awarded pursuant to subsection 2, and for the awarding of grants pursuant to subsection 2.

*Item veto; see message at end of the Act

4. An advisory board composed of three members of the golden gloves association of America, incorporated — Iowa branch, appointed by the association, and three members of the United States of America amateur boxing federation — Iowa branch, appointed by the federation, shall advise the state commissioner of athletics regarding the awarding of grants pursuant to subsection 2.

*Sec. 39. *Section 97B.49, subsection 16, paragraph d, Code 1989, is amended by adding the following new subparagraph:*

NEW SUBPARAGRAPH. *(3A) As used in subparagraph (3), "correctional officer" includes any employee of the Iowa department of corrections whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety, and security within a correctional facility and any employee of that department whose primary purpose is to provide security within a correctional facility.**

**Sec. 40. *Section 258A.3, Code 1989, is amended by adding the following new subsection:*

NEW SUBSECTION. *5. The board of optometry examiners may retain a competent attorney to serve as its legal counsel as it finds necessary for the full and efficient discharge of its duties. The legal counsel retained by the board of optometry examiners shall be the attorney for, and legal advisor of, the board of optometry examiners while retained. The legal counsel is exempt from the merit provisions of chapter 19A. The legal counsel retained by the board of optometry examiners shall provide necessary legal advice to the board and may represent the board in disciplinary hearings or in actions instituted in a state or federal court challenging the validity of a rule or order of the board.**

Sec. 41. Section 303.79, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If the narrowcast system advisory committee determines that an expansion of the number of sites utilizing distance learning would benefit the implementation of the state educational telecommunications system by demonstrating its capabilities to a greater number of individuals, the advisory committee may recommend that the board establish a demonstration program. Notwithstanding section 18.136, the board may allocate not more than one hundred thousand dollars from the state communications network fund for each of the fiscal years beginning July 1, 1990, and July 1, 1991, to be used to equip additional classrooms.

Sec. 42. Section 384.15, subsection 7, paragraph b, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

b. An appropriated law enforcement training reimbursement account is established in the department of management. The proceeds shall be used by the director of the department of management to reimburse cities or counties for eligible law enforcement training expenses incurred as provided in this section.

Sec. 43. Section 524.1213, subsection 9, Code Supplement 1989, is amended to read as follows:

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.

**Sec. 44. *Section 554.9403, subsection 5, Code 1989, is amended by adding the following new paragraph:*

NEW PARAGRAPH. *c. In addition to the fee imposed under this subsection for an original financing statement or a continuation statement on the standard form, the secretary of state shall collect an additional fee of three dollars. In addition to the fee imposed under this subsection for an original financing statement or a continuation statement on a nonstandard*

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*form, the secretary of state shall collect an additional fee of six dollars. A county filing officer shall collect the additional fee provided in this paragraph if the county officer elects to utilize the uniform commercial code information system maintained by the secretary of state.**

**Sec. 45. Section 554.9405, Code 1989, is amended by adding the following new subsection:*

NEW SUBSECTION. *4. In addition to the fees imposed by this section for an original financing statement indicating an assignment or a separate statement of assignment on the standard form, the secretary of state shall collect an additional fee of three dollars. In addition to the fee imposed in this paragraph for an original financing statement indicating an assignment or a separate statement of assignment on a nonstandard form, the secretary of state shall collect an additional fee of six dollars. A county filing officer shall collect the additional fee provided in this subsection if the county officer elects to utilize the uniform commercial code information system maintained by the secretary of state.**

**Sec. 46. Section 554.9406, Code 1989, is amended by adding the following new unnumbered paragraph:*

NEW UNNUMBERED PARAGRAPH. *In addition to the fee imposed in this section for a statement of release on the standard form, the secretary of state shall collect an additional fee of three dollars. In addition to the fee imposed in this paragraph for a statement of release on a nonstandard form, the secretary of state shall collect an additional fee of six dollars. A county filing officer shall collect the additional fee provided in this section if the county officer elects to utilize the uniform commercial code information system maintained by the secretary of state.**

**Sec. 47. Section 570A.4, subsection 4, Code 1989, is amended to read as follows:*

*4. The secretary of state shall note the filing of a lien statement under this section in the manner provided by chapter 554, the uniform commercial code, and shall charge a ~~five dollar filing fee if the statement is the standard form prescribed by the secretary of state, and otherwise a fee of six dollars~~ fee as provided under section 554.9403.**

**Sec. 48.*

A fund is created for the purpose of funding efforts to improve the technology used in making records maintained by the secretary of state available to the public. The fees collected by a filing officer under sections 44 through 47 of this Act shall be paid to the treasurer of state within the time required by section 12.10. The treasurer of state shall hold these funds in a revolving fund that shall be established in the name of the secretary of state for the payment of expenses incurred in improving the availability of public records. This fund is subject at all times to the warrant of the department of revenue and finance, drawn upon written requisition of the secretary of state or the secretary of state's designated representative, for the payment of salaries and other expenses necessary to carry out the purposes for which the fund is created. The money in the fund held by the treasurer of state shall be invested by the treasurer of state and the income derived from these investments shall be credited to the fund established in this section. Notwithstanding section 8.33, no part of the fund held by the treasurer of state shall be transferred to the general fund of the state or any other fund, except that the balance of the fund on June 30, 1996, shall be transferred to the general fund of the state.

*The secretary of state shall provide the legislative fiscal bureau with a monthly accounting of deposits in the fund and expenditures from the fund.**

Sec. 49. Section 911.3, Code 1989, is amended to read as follows:

911.3 DISPOSITION OF SURCHARGE.

When a court assesses a surcharge under section 911.2, the clerk of the district court shall transmit ninety percent of the surcharge collected to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit ~~one third of~~ the money in the

*Item veto; see message at end of the Act

~~law enforcement training reimbursement fund established under section 384.15 and the remaining two-thirds of the money in the~~ general fund of the state. The clerk of the district court shall transmit ten percent of the surcharge to the county treasurer or shall remit ten percent of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Sec. 50. 1990 Iowa Acts, House File 685,* section 3, subsection 1, is amended to read as follows:

1. "Acquire"~~, except in section 524.1802, subsection 1,~~ means to ~~directly or indirectly~~ acquire ~~twenty-five percent or more of the voting securities or other capital stock of, or power to~~ control ~~in any manner the election of a majority of the directors of,~~ over one or more banks conducting a banking business in this state or one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state.

Sec. 51. 1990 Iowa Acts, House File 685,* section 3, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Bank conducting a banking business in this state" means a state bank or national bank that has its principal place of business in this state and that is authorized to engage and actually is engaged in receiving money for demand deposit, receiving money for time deposit, paying checks, and making commercial loans.

NEW SUBSECTION. 4A. "Control" means control as defined and described in the federal Bank Holding Company Act of 1956, 12 U.S.C. § 1841(a)(2)(A) and (B), as amended to January 1, 1990.

Sec. 52. 1990 Iowa Acts, House File 685,* is amended by adding the following new section:

SEC._____. NEW SECTION. 524.1851A RIGHTS RESERVED.

Notwithstanding any other provision of this division, a bank holding company described in section 524.1805 may engage in any acquisition or transaction in which it could lawfully engage in the absence of this division.

Sec. 53. 1990 Iowa Acts, House File 685,* section 4, is amended to read as follows:

SEC. 4. NEW SECTION. 524.1852 ACQUISITIONS.

1. A regional bank holding company may directly or indirectly ~~acquire an interest in the voting securities or other capital stock of, or power to control in any manner the election of any of the directors of~~ obtain interests not constituting control in, one or more banks conducting a banking business in this state or in one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state.

2. ~~Notwithstanding subsection 1, a~~ A regional bank holding company shall not ~~directly or indirectly acquire twenty-five percent or more of the voting securities or other capital stock of, or power to control in any manner the election of a majority of the directors of,~~ acquire one or more banks conducting a banking business in this state or one or more bank holding companies located in this state or controlling one or more banks conducting a banking business in this state ~~without~~ except upon the prior approval of the superintendent and compliance with the application procedures and acquisition conditions, limitations, and requirements of this division.

Sec. 54. 1990 Iowa Acts, House File 685,* section 6, subsection 5, paragraph l, is amended to read as follows:

l. Will on balance have a positive effect upon the community interests of the communities served by the bank or banks to be acquired. In considering community interest factors, the superintendent may investigate in addition to the effects of the acquisition on shareholders or depositors, the effects of the acquisition on employees, suppliers, creditors, short-term and long-term impact upon community interests, and community development. ~~The superintendent shall consider the short-term and long-term impact upon community interests of the~~

*Chapter 1002 herein

~~proposed acquisition, including the possibility that community interests may be best served by the continued independence of the bank or bank holding company to be acquired.~~

Sec. 55. 1990 Iowa Acts, House File 685,* section 6, subsection 8, is amended by striking the subsection and inserting in lieu thereof the following:

8. Approval shall be conditioned upon the applicant entering into a contract with the superintendent providing that any bank located in this state and owned or controlled by the applicant will be operated in a manner that conforms to any actions, promised to be undertaken by the applicant in its application, to correct any deficiencies in the procedures or operations of the acquired bank, including requirements of subsection 5, which promises were necessary to allow the superintendent to approve the application. As part of such contract, the applicant shall agree that the applicant, as well as any Iowa bank or Iowa bank holding company acquired by the applicant, shall provide reports to and permit examinations of its records by the superintendent to the extent necessary to ensure compliance with the promises referred to in the application.

Sec. 56. 1990 Iowa Acts, House File 685,* section 8, subsection 3, is amended to read as follows:

3. The superintendent may assess a civil penalty to a bank holding company in violation of a condition up to five ~~thousand~~ hundred dollars per violation, but not to exceed a total of ~~two hundred fifty~~ ten thousand dollars per year.

Sec. 57. 1990 Iowa Acts, House File 685,* section 13, subsection 2, is amended to read as follows:

2. An authorization for a state bank ~~chartered in this state,~~ to engage in activities regulated under title 20, if any, does not grant ~~the bank~~ a regional bank holding company that acquires a state bank under section 524.1852 or any state bank owned or controlled by that bank holding company or any subsidiary or affiliate the ability or right to engage in such activities outside of this state.

Sec. 58. 1990 Iowa Acts, House File 685,* is amended by adding the following new section:

SEC._____. NEW SECTION. 524.1862 PROHIBITED ACQUISITIONS.

Unless expressly authorized by federal law in the absence of the enactment of this division, a foreign bank, as defined in 12 U.S.C. § 3101, or an out-of-state bank holding company that is directly or indirectly owned or controlled by a foreign bank shall not make any type of acquisition described or referred to in section 524.1852, and shall divest itself of any interest acquired in violation of this section. The superintendent may prosecute any action or proceeding necessary to compel compliance with this section.

Sec. 59.

There is appropriated from the banking revolving fund to the banking division of the department of commerce for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for the purpose designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions, in connection with the implementation, administration, and enforcement of interstate banking:

.....	$	50,000
.....	FTEs	2.00

Sec. 60. RESALE OF COMMUNICATION SERVICES.

It is the intent of the general assembly that the department of general services shall not provide or resell communication services to agencies other than accredited nonpublic schools, nonprofit institutions of higher education eligible for tuition grants, state agencies, school corporations, city libraries, regional libraries as provided in chapter 303B, and county libraries as provided in chapter 358B.

*Chapter 1002 herein

Sec. 61. EFFECTIVE DATES.

1. This section and sections 36 and 43 of this Act, being deemed of immediate importance, take effect upon enactment. All other sections of this Act take effect July 1, 1990.

2. Sections 50 through 58 of this Act shall have the same effect as if originally enacted in 1990 Iowa Acts, House File 685.*

3. Section 58 of this Act is repealed effective January 1, 1992.

4. *Sections 44, 45, 46, and 48 of this Act are repealed effective July 1, 1996.

Approved May 7, 1990, except the items which I hereby disapprove and which are designated as that portion of section 1, subsection 1, which is herein bracketed in ink and initialed by me; section 10, subsection 9 in its entirety; section 10, subsection 12 in its entirety; section 12, unnumbered and unlettered paragraph 2 in its entirety; those portions of section 13, subsection 7 which are herein bracketed in ink and initialed by me; that portion of section 20 which is herein bracketed in ink and initialed by me; section 26 in its entirety; section 30 in its entirety; section 37 in its entirety; sections 39 and 40 in their entirety; sections 44, 45, 46, 47, and 48 in their entirety; and section 61, subsection 4 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 2280, 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, and to the state communications network fund, specifying the duties of the administrative rules coordinator, providing for the appropriation of wrestling and boxing taxes, providing for interstate banking, providing legal counsel to certain state agencies, providing for other related matters, providing for violations, increasing certain fees, changing the procurement program, and providing for repeals of certain provisions.

Senate File 2280 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 1, and Sections 44, 45, 46, 47 and 48 in their entirety, and Section 61, subsection 4, in its entirety. These provisions would establish a new information and filing system within the Office of the Secretary of State. Funds for this new system would be provided by additional fees charged by the Secretary of State for the filing of certain documents. The fees collected under these provisions would have been imposed upon individuals or entities filing documents with the Secretary of State, and not upon those who would utilize the information system established by this section. It would be appropriate for users of the information to share in the cost of operating the system. Furthermore, the fees should be deposited in the state general fund, rather than a special revolving fund.

I am unable to approve the item designated as Section 10, subsection 9, in its entirety. Because procedures for notifying the Legislative Fiscal Bureau about any intradepartmental transfers are already in place, this requirement is unnecessary and duplicative.

*Chapter 1002 herein

**Item veto; see message at end of the Act

I am unable to approve the item designated as Section 10, subsection 12, in its entirety. This item specifies, in the event that layoffs in the Department of General Services are required due to budget constraints, service contracts with private parties must be reviewed and reduced or canceled where possible before personnel reductions are implemented. Furthermore, if layoffs do occur, they must be prorated between management employees, nonmanagement employees in a union, and nonmanagement employees not in a union. Decisions concerning the implementation of layoff procedures, if needed, are the responsibility of the executive branch and subject to the relevant provisions of contracts negotiated pursuant to Chapter 20.

I am unable to approve the item designated as Section 12, unnumbered paragraph 2, in its entirety. This item directs the Department of General Services to pursue utility rate reductions for the Capitol Complex. Iowa law does not allow utility companies to grant a special rate to the state and does not permit discriminatory rate setting practices.

I am unable to approve the designated portions of Section 13, subsection 7. This item would transfer funds from the Division of Insurance revolving account to the Department of General Services and require that those funds be utilized to renovate their space in the Lucas Building and to move the Insurance Division to another location off of the State Capitol Complex while renovation is being done. While I do not object to the transfer of funds, any arrangements for the renovation of the Lucas Building or other facilities should be made by the Department of General Services.

I am unable to approve the designated portion of Section 20. This provision limits the discretion of the Department of Management to allocate the funds appropriated among salaries, support and miscellaneous purposes. The need for this flexibility is important for an agency as small as the Department of Management, especially in view of current restrictions on hiring and expenditures for travel and equipment.

I am unable to approve the item designated as Section 26, in its entirety, which directs the Department of Personnel to work with the Department of Management, the Department of Revenue and Finance, and the Department of General Services to establish a program for employees of those departments whose positions are terminated as a result of this Act. Because a layoff of state employees is not being considered at this time, and because this provision differs from the layoff provisions contained in the AFSCME collective bargaining agreement and with the Department of Personnel's administrative rules, this section cannot be approved.

I am unable to approve the items designated as Sections 30 and 40, in their entirety. These provisions would allow the Board of Optometry Examiners to retain outside counsel without the prior approval required for other state agencies. The Attorney General's Office is responsible for providing legal counsel to state agencies and they should be able to rely on that office to represent them competently. Currently, all state agencies may request outside counsel if special expertise is needed or when the Attorney General's Office has a conflict of interest. These provisions would authorize the Optometry Board to hire outside counsel at will. Not only should this be unnecessary, but it would make future requests by other agencies to hire their own legal counsel difficult to resist. Adequate funding is provided to the Attorney General's Office to provide legal services to state agencies. These provisions would require additional expenditures for services which the Attorney General's Office currently has the responsibility to provide.

I am unable to approve the item designated as Section 37, in its entirety. This section would create a general fund standing unlimited appropriation to pay postage for voter registration forms returned by mail. Voter registration in Iowa has been made increasingly easier by past actions of the legislature and myself. Potential voters must accept some responsibilities and cost of postage for one postcard is not an excessive burden.

I am unable to approve the item designated as Section 39, in its entirety. This section would greatly expand the number of employees who would be brought under special IPERS retirement provisions. The 1988 legislature directed the Department of Personnel and the Department of Corrections to jointly determine specific job classes to be covered by the correctional officer special protective occupation retirement provisions.

This provision would supersede the actions taken in response to that legislation by changing the definition of a correctional officer for the purposes of chapter 97B to include any employee whose primary purpose is to provide security within a correctional facility. Under current law, the definition of correctional officer is limited to persons who have direct inmate contact and who enforce and maintain discipline, safety and security within a correctional facility. This expansion of special retirement provisions would include employees who do not have direct inmate contact, possibly including management positions, and could lead to inequitable and inconsistent determinations for special retirement coverage.

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 2280 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1267

APPROPRIATIONS AND PROVISIONS RELATING TO PUBLIC DEFENSE, PUBLIC SAFETY, TRANSPORTATION, AND ENFORCEMENT

S.F. 2402

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, primary road fund, and state aviation fund, mandating reports of certain agency purchases, providing expenses for certain members of the Iowa highway research board, providing for certain payments from the remedial account of the Iowa comprehensive petroleum underground storage tank fund, and providing an effective date.

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

.....	$	953,617
.....	FTEs	29.7

*2. *For replacement of inefficient and outdated sanitary and maintenance equipment:*
..... *$ 12,000**

DEPARTMENT OF PUBLIC DEFENSE

Sec. 2.

There is appropriated from the general fund of the state to the department of public defense 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. MILITARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,508,957
..... FTEs 151.59

As a condition, limitation, and qualification of this appropriation, $60,000 of this appropriation shall be used for establishment of a maintenance detachment in Clarke county.

2. DISASTER SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 307,271
..... FTEs 12

3. VETERANS AFFAIRS DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 143,934
..... FTEs 4.16

As a condition, limitation, and qualification of the appropriation in this paragraph, $10,000 shall be used for the purchase of POW/MIA flags.

4. WAR ORPHANS

For the war orphans educational aid fund:

..... $ 10,185

DEPARTMENT OF PUBLIC SAFETY

Sec. 3.

There is appropriated from the general fund of the state to the department of public safety 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 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:

..... $ 2,510,622
..... FTEs 51.50

2. a. For purposes relating to radio communications, and not more than the following full-time equivalent positions:

..... $ 3,227,667
..... FTEs 80

b. For purchase of service monitors and radio spare parts:

..... $ 25,000

3. a. For the division of criminal investigation and bureau of identification containing the bureaus of identification and liquor law enforcement, and for river boat gambling enforcement,

*Item veto; see message at end of the Act

including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 6,534,828
..... FTEs 136

*b. *For purchase of DNA laboratory equipment:*

..... *$ 75,000*

*The department of public safety shall prepare a status report for the legislative fiscal committee, the transportation and safety appropriations subcommittee, and the legislative fiscal bureau, on or before November 1, 1990, which details the actual and planned expenditures from the appropriation made in this paragraph.**

c. For the law enforcement intelligence network program, to be used in consultation with the law enforcement intelligence network advisory committee:

..... $ 10,000

As a condition, limitation, and qualification of this appropriation, the division of criminal investigation shall commit sufficient resources to conduct 4 undercover operations in cooperation with local law enforcement agencies to identify the extent of bootlegging or illegal liquor operations at state border counties and shall report on the undercover operations to the committee by January 1, 1991.

4. For the division of narcotics:

a. The state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 2,243,579
..... FTEs 38

b. Undercover purchases:

..... $ 200,000

5. a. 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 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 1,560,379
..... FTEs 33

b. For a regional firefighters' training center in Black Hawk county:

..... $ 25,000

6. For the capitol security division, and for not more than the following full-time equivalent positions:

..... $ 1,219,281
..... FTEs 36

**7. For funding the department's administrative functions to implement the accreditation for law enforcement agencies:*

..... *$ 25,000**

Sec. 4.

Notwithstanding sections 99D.17 and 99D.18, there is appropriated from funds paid to the state racing and gaming commission pursuant to section 99D.14, to the department of public safety for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 281,970
..... FTEs 5

*Item veto; see message at end of the Act

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 and gaming commission under section 99D.14.

Sec. 5.

There is appropriated from the general fund of the state to the department of public safety 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:

For the continued purchase of the automated fingerprint information system (AFIS):

..... $ 536,676

Sec. 6.

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, 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 salaries, support, maintenance, and miscellaneous purposes, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 16 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 23,568,231

..... FTEs 450.5

It is the intent of the general assembly, that so much as is necessary of the appropriation in this subsection, shall support federal Highway Safety Act programs.

As a condition, limitation, and qualification of the appropriation in this subsection, the Iowa law enforcement academy shall be allowed to annually select at least 5 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.

The unfunded liability of the peace officers' retirement, accident, and disability system, under chapter 97A is not a liability of the road use tax fund as of July 1, 1986.

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, 1991, 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 lease/purchase of a building and equipment related to vehicle theft operations but not to include normal highway patrol equipment:*

..... *$ 350,000*

*Notwithstanding section 8.39, funds from this appropriation shall not be transferred for any other purpose.**

3. For the capital purchase of mobile vehicle repeater radios and test equipment to be used by the Iowa highway safety patrol:

..... $ 150,000

4. For the purchase of radar units:

..... $ 133,334

*Item veto; see message at end of the Act

It is the intent of the general assembly that an additional $200,000 will be appropriated for the fiscal year beginning July 1, 1991, to complete the purchase of radar units.

5. For 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:

..... $ 180,000

6. For 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:

..... $ 95,274

**7. For planning and site selection of a new Fort Dogde highway patrol post:*

..... *$ 25,000**

8. For the purchase of scanners:

..... $ 30,000

9. For the purchase of a new office facility as a law enforcement headquarters for the department:

..... $ 220,000

Proceeds from the sale of any existing facility shall be deposited in the road use tax fund.

Sec. 7.

There is appropriated from use tax receipts collected under chapter 423 prior to deposit in the road use tax fund, to the department of public safety, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

For the purchase of automated fingerprint information system local remote terminals:

..... $ 279,800

It is the intent of the general assembly that moneys shall be appropriated from the general fund of the state for the fiscal year beginning July 1, 1991, and ending June 30, 1992, for costs associated with the automated fingerprint information system local remote terminals.

STATE DEPARTMENT OF TRANSPORTATION

Sec. 8.

There is appropriated from the road use tax fund to the department of transportation for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for the purpose designated:

For the payment of costs associated with the production of motor vehicle licenses, as defined in section 321.1, subsection 77:

..... $ 500,000

Notwithstanding section 8.39, funds from this appropriation shall not be transferred for any other purpose.

Sec. 9.

There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:

..... $ 3,353,787

..... FTEs 47.50

(1) To address environmental issues and to meet the international fuel tax:

..... $ 9,400

(2) For increased postage costs:

..... $ 14,000

*Item veto; see message at end of the Act

(3) For the purchase of computer hardware and software enhancements:
..... $ 55,000
(4) For the lease on the Park Fair mall facility:
..... $ 24,500
b. General counsel:
..... $ 167,860
..... FTEs 1.0
c. Planning and research:
..... $ 333,300
..... FTEs 9
(1) For the implementation of a traffic monitoring guide:
..... $ 4,805
(2) For assessment of hazardous materials at highway location sites:
..... $ 2,350
d. Aeronautics and public transit:
..... $ 222,300
..... FTEs 5
e. Motor vehicles:
..... $ 17,180,165
..... FTEs 541
(1) For additional motor carrier service operations due to an increase in services:
..... $ 139,800
(2) For implementation of the commercial driver license program:
..... $ 431,040
f. Rail and water:
..... $ 705,900
..... FTEs 15

As a condition, limitation, and qualification of the appropriation in this paragraph, $50,000, or so much thereof as is necessary, shall be used to conduct a demonstration study to assess the economic and technical feasibility of establishing an intermodal transportation facility at or near a location on the Mississippi river that has access to year-round navigation. The demonstration study shall be conducted by a regional planning agency. The department shall coordinate the demonstration study with the department of economic development and shall report to the general assembly, not later than March 31, 1991, on the outcome of the study, on the applicability of integrating intermodal transportation analysis into regional economic development studies, and on the contribution that regional planning can make to statewide planning.

2. To be used to implement section 306D.3:
..... $ 500,000

Notwithstanding section 8.33, the funds appropriated in this subsection shall remain available for obligation until June 30, 1992, and once obligated shall remain available until expended. Public or private entities willing to donate land for scenic highway projects shall be given preference in project selection if the land is accepted by the department.

3. For 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:
..... $ 39,000
4. Unemployment compensation:
..... $ 12,250

Sec. 10.

There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:
..... $ 75,000

Sec. 11.

There is appropriated from the primary road fund to the state department of transportation 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

a. Administrative services:

..... $ 20,597,213

..... FTEs 293

(1) To address environmental issues and to meet the international fuel tax:

..... $ 57,600

(2) For increased postage costs:

..... $ 86,000

(3) For the purchase of computer hardware and software enhancements:

..... $ 645,000

(4) For lease of the Park Fair mall facility:

..... $ 150,500

b. General counsel:

..... $ 1,031,140

..... FTEs 7

c. Planning and research:

..... $ 6,332,700

..... FTEs 165

(1) For the implementation of the traffic monitoring guide:

..... $ 91,295

(2) For assessment of hazardous materials at highway location sites:

..... $ 44,650

d. Aeronautics and public transit:

..... $ 222,300

..... FTEs 5

e. Highways:

..... $ 129,749,966

..... FTEs 2,889

(1) For the implementation of the roadside vegetation management program:

..... $ 215,000

(2) For increased design workload on commercial network improvements:

..... $ 202,000

(3) For parcel acquisition:

..... $ 306,000

f. Motor vehicles:

..... $ 693,835

..... FTEs 22

(1) For additional motor carrier service operations due to an increase in services:

..... $ 5,825

(2) For implementation of the commercial driver license program:

..... $ 17,960

g. Rail and water:

..... $ 281,100

..... FTEs 7

2. For deposit 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:

..... $ 1,750,000

As a condition, limitation, and qualification of this appropriation, no more than $2,603,034 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 92 full-time equivalent positions.

3. For 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:
..... $ 741,000

4. Unemployment compensation:
..... $ 232,750

Sec. 12.

There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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:
..... $ 1,425,000

Sec. 13.

There is appropriated from the primary road fund to the state department of transportation 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:

For replacement of obsolete field facilities in the cities of Ida Grove, Knoxville, Spencer, Grundy Center and Carroll:
..... $ 3,700,000

As a condition, limitation, and qualification of the appropriation in this section, the allocation for the Carroll facility is contingent upon the execution of an agreement by the department of transportation and the city of Carroll mutually agreeing to the conditions of disposition of the department of transportation's current facility site to the city of Carroll.

The provisions of section 8.33 do not apply to the funds appropriated by this section but remain available for expenditure for the purposes designated until June 30, 1994. Unencumbered or unobligated funds remaining on June 30, 1994, from funds appropriated for the fiscal year beginning July 1, 1990, shall revert to the fund from which appropriated on August 30, 1994.

Sec. 14.

There is appropriated from the road use tax fund to the department of transportation 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 the construction of scale facilities at Agency:
..... $ 50,000

2. For the paving of the scale lots at Agency, Charles City, Muscatine and Mechanicsville:
..... $ 250,000

The provisions of section 8.33 do not apply to the funds appropriated by this section but remain available for expenditure for the purposes designated until June 30, 1993. Unencumbered or unobligated funds remaining on June 30, 1993, from funds appropriated for the fiscal year beginning July 1, 1990, shall revert to the fund from which appropriated on August 30, 1993.

Sec. 15.

There is appropriated from the state aviation fund to the state department of transportation 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 410,400
..... FTEs 9

*2. *For terminal improvement or construction, to implement marketing, advertising, or public relations programs, and for nonprofit community, cultural programs to increase passenger traffic at the following essential air service airports:*

a. Burlington
..... $ *7,000*

b. Clinton
..... $ *38,000*

c. Fort Dodge
..... $ *35,000*

d. Ottumwa
..... $ *100,000*

e. Waterloo
..... $ *70,000**

**Sec. 16.*

There is appropriated from the moneys allocated under section 312.2, subsection 5, to the primary road fund for the fiscal year beginning July 1, 1990, and ending June 30, 1991, for the express purpose of carrying out section 307A.2, subsection 11, for completion of the North Shore Drive at Clear Lake:

..... $ *175,000**

**Sec. 17.*

*Moneys appropriated in this Act for any new program or function shall be used solely for that program or function and moneys shall not be transferred from that appropriation or used for any other purpose.**

Sec. 18.

The department of public safety shall notify the legislative fiscal bureau, department of management, the chairpersons, vice chairpersons, 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. 19.

The Iowa highway research board may conduct an experimental roadway paving project using recycled rubber in hot asphalt concrete. The materials shall be applied by a company with experience in the use of recycled tire rubber.

Sec. 20. RULES VALID.

The administrative rules adopted by the state fire marshal pursuant to 1986 Iowa Acts, chapter 1246, section 206, subsection 2, are valid.

**Sec. 21.*

*Notwithstanding the manual on uniform traffic control devices for streets and highways, the state department of transportation shall adopt rules regulating travel in the left-hand lane of uphill traffic lanes by posting signs which shall state "KEEP RIGHT EXCEPT TO PASS".**

**Sec. 22.*

The state department of transportation shall contact other states' transportation departments for the purpose of initiating a lawsuit in conjunction with the other states, to seek an

*Item veto; see message at end of the Act

*injunction to prevent the United States department of transportation from impounding the states' portions of the federal gas tax.**

Sec. 23.

Notwithstanding section 8.33, funds appropriated under 1989 Iowa Acts, chapter 317, section 19, subsection 2, shall not revert until after October 1, 1990, and shall remain available for expenditure until such date.

Sec. 24. Section 29A.33, Code 1989, is amended to read as follows:

29A.33 PER CAPITA ALLOWANCE TO UNIT.

Each unit of the national guard showing attendance and actual drill of those present for such drills as are prescribed in compliance with the National Defense Act or its amendments and such regulations as prescribed by the secretary of defense, shall receive an annual allowance for military purposes, in the sum of ~~ten~~ five dollars per capita, to be paid in semiannual installments on the basis of ~~five dollars~~ two dollars and fifty cents per capita. For the purpose of computing each semiannual installment the per capita strength shall be the average enlisted strength of the unit, for that semiannual period, however, if the average attendance of any unit during any semiannual period falls below fifty percent of the average enlisted strength of such unit in that period, the allowance shall not be paid for that period. The semiannual periods shall begin January 1 and July 1. The allowance shall be paid from the funds appropriated for the support and maintenance of the national guard, and the adjutant general shall prescribe regulations requiring an itemized statement of the allowance and governing its expenditure. The allowance shall be used for morale purposes and for the welfare of the troops. The allowance shall not be used to purchase an alcoholic beverage or beer.

Sec. 25. NEW SECTION. 80B.11B EXAMINATION FEES — TRAINING COST.

1. Notwithstanding section 80B.11, subsection 5, 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.

2. The Iowa law enforcement academy may also charge not more than one-half of the cost of providing the basic training course which is designed to meet the minimum basic training requirements for a law enforcement officer.

Sec. 26. Section 103A.8, subsection 1, Code 1989, is amended to read as follows:

1. Provide uniform standards and requirements for construction, construction materials, and equipment through the adoption by reference of applicable national codes where appropriate and providing exceptions when necessary. The rules adopted shall include provisions imposing requirements reasonably consistent with or identical to recognized and accepted standards contained in performance criteria ~~as developed by nationally recognized model codes such as the model codes prepared by the Building Officials Conference of America, the International Conference of Building Officials, the Southern Building Codes Congress, the National Fire Protection Association, the American National Standards Institute, the American Insurance Association, the United States Department of Housing and Urban Development, the American Standards Association, and the International Association of Plumbing and Mechanical Officials~~.

Sec. 27. Section 135C.2, subsection 5, paragraph b, Code Supplement 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

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. The rules adopted by the state fire marshal for the special classification shall be no more restrictive than the rules adopted by the state fire marshal for demonstration waiver project facilities pursuant to 1986 Iowa Acts, chapter 1246, section 206, subsection 2.

Sec. 28. Section 307D.6, Code Supplement 1989, is amended to read as follows:

*Item veto; see message at end of the Act

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 from the funds appropriated to the department from the primary road fund. 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. 29. Section 309.10, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A county shall not use farm-to-market road funds as described in this section unless the total funds that the county transferred or provided during the prior fiscal year pursuant to section 331.429, subsection 1, paragraphs "a", "b", "d", and "e", are at least seventy-five percent of the maximum funds the county could have transferred in the prior fiscal year ~~pursuant to section 331.429, subsection 1, paragraphs "a" and "b"~~ from the general fund of the county the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county and from the rural services fund of the county the dollar equivalent of a tax of three dollars and three-eighths cent per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

Sec. 30. Section 312.2, subsection 8, Code Supplement 1989, is amended to read as follows:

8. The treasurer of state, before making any allotments to counties under this section, shall reduce the allotment to a county for the secondary road fund by the amount by which the total funds that the county transferred or provided during the prior fiscal year under section 331.429, subsection 1, paragraphs "a", "b", "d", and "e", are less than seventy-five percent of the maximum funds that the county could have transferred in the prior fiscal year ~~under section 331.429, subsection 1, paragraphs "a" and "b"~~ from the general fund of the county the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county and from the rural services fund of the county the dollar equivalent of a tax of three dollars and three-eighths cent per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county. Funds remaining in the secondary road fund of the counties due to a reduction of allocations to counties for failure to maintain a minimum local tax effort shall be reallocated to counties that are not reduced under this subsection pursuant to the allocation provisions of section 312.3, subsection 1, based upon the needs and area of the county. Information necessary to make allocations under this subsection shall be provided by the state department of transportation or the director of the department of management upon request by the treasurer of state.

Sec. 31. Section 312.3, subsection 1, Code 1989, is amended to read as follows:

1. Apportion among the counties in the ratio that the needs of the secondary roads of each county bear to the total needs of the secondary roads of the state for each fiscal year based upon the total needs of secondary roads of the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department, ~~sixty~~ seventy percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties, and apportion among the counties in the ratio that the area of each county bears to the total area of the state, ~~forty~~ thirty percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties. However, ~~for a hold harmless period~~ in a fiscal year each county is guaranteed a hold harmless base year amount. The amount in the secondary road fund of the counties in each fiscal year ~~during the hold harmless period~~ in excess of the sum of the hold harmless base ~~period~~ year amounts allocated to all counties shall be distributed proportionally based on the relative needs and area factors to only those counties entitled to receive more than the hold harmless base year amount.

For the purposes of this subsection:

a. "~~Hold harmless~~ Base period" means the ~~fiscal years beginning July 1, 1979 and ending June 30, 1985~~ three-year period ending June 30, 1989.

b. ~~"Base year amount" means the amount of the secondary road fund of the counties received by a county for the fiscal year beginning July 1, 1977.~~ "Local effort" means the ratio expressed as a percent of the total funds that the county transferred or provided during the base period pursuant to section 331.429, subsection 1, paragraphs "a", "b", "d", and "e", to the maximum funds the county could have transferred during the base period from the general fund of the county the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county and from the rural services fund of the county the dollar equivalent of a tax of three dollars and three-eighths cent per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

c. "Old formula amount" means the amount of moneys the county would receive if the apportionment to the county under this section was apportioned among the counties in the ratio that the needs of the secondary roads of each county bear to the total needs of the secondary roads of the state as shown by the latest quadrennial need study by the state department of transportation, and which is on record at the department, sixty percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties, and apportioned among the counties in the ratio that the area of each county bears to the total area of the state, forty percent of the allocation from road use tax funds which is credited to the secondary road fund of the counties.

d. (1) The "hold harmless base year amount" for a county for the fiscal year commencing July 1, 1990, is determined by the county's local effort in accordance with the following table:

LOCAL EFFORT		COUNTY'S HOLD HARMLESS BASE YEAR AMOUNT
At least:	but less than:	
96%	unlimited	100% of old formula amount
92%	96%	96% of old formula amount
88%	92%	92% of old formula amount
84%	88%	88% of old formula amount
Less than 84%		$0

(2) The "hold harmless base year amount" for a county for the fiscal year commencing July 1, 1991, and for each succeeding fiscal year, is the product of the county's hold harmless base year amount in the immediately preceding fiscal year times the sum of one plus one-half of the estimated increase in secondary road fund moneys in the fiscal year expressed as a fraction. Prior to June 30 of each year, the department shall prepare and deliver to the treasurer of state an estimate of the increase of secondary road fund moneys for the next fiscal year to be used in determining the hold harmless base year amount under this subsection.

Sec. 32. Section 312.5, Code 1989, is amended to read as follows:

312.5 DIVISION OF FARM-TO-MARKET ROAD FUNDS.

1. The road use tax funds credited to the farm-to-market road fund and federal aid secondary road funds received by the state by the treasurer of state are hereby divided as follows, and are to be known respectively as:

~~1~~ a. Need allotment farm-to-market road funds, ~~sixty~~ seventy percent; and

~~2~~ b. Area allotment farm-to-market road funds, ~~forty~~ thirty percent.

2. All farm-to-market road funds, except funds which under section 310.20 come from any county's allotment of the road use tax funds, shall be allotted among the counties by the department.

3. Area allotment farm-to-market road funds ~~and federal aid secondary road funds received by the state,~~ shall be allotted among all the counties of the state in the ratio that the area of each county bears to the total area of the whole state.

4. Need allotment farm-to-market road funds shall be allotted among the counties in the ratio that the needs of the farm-to-market roads in each county bear to the total needs of the farm-to-market roads in the state for each fiscal year based upon the total needs of the farm-to-market roads in the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department.

5. Notwithstanding subsections 1 through 4, in a fiscal year each county is guaranteed a hold harmless base year amount. The amount of farm-to-market road funds in each fiscal year in excess of the sum of the hold harmless base year amounts allocated to all counties shall be distributed proportionally based on the relative needs and area factors to only those counties entitled to receive more than the hold harmless base year amount.

For the purposes of this subsection:

a. "Base period" means the three-year period ending June 30, 1989.

b. "Local effort" means the ratio expressed as a percent of the total funds that the county transferred or provided during the base period pursuant to section 331.429, subsection 1, paragraphs "a", "b", "d", and "e", to the maximum funds the county could have transferred during the base period from the general fund of the county the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county and from the rural services fund of the county the dollar equivalent of a tax of three dollars and three-eighths cent per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county.

c. "Old formula amount" means the amount of moneys the county would receive if the apportionment to the county under this section was apportioned among the counties with the federal aid secondary road funds being apportioned by one hundred percent area allotment and the road use tax funds credited to the farm-to-market road fund apportioned to the counties with a sixty percent need allotment and forty percent area allotment.

d. (1) The "hold harmless base year amount" for a county for the fiscal year commencing July 1, 1990, is determined by the county's local effort in accordance with the following table:

LOCAL EFFORT		COUNTY'S HOLD HARMLESS BASE YEAR AMOUNT
At least:	but less than:	
96%	unlimited	100% of old formula amount
92%	96%	96% of old formula amount
88%	92%	92% of old formula amount
84%	88%	88% of old formula amount
Less than 84%		$0

(2) The "hold harmless base year amount" for a county for the fiscal year commencing July 1, 1991, and for each succeeding fiscal year, is the product of the county's hold harmless base year amount in the immediately preceding fiscal year times the sum of one plus one-half of the estimated increase in the farm-to-market road fund moneys in the fiscal year expressed as a fraction. Prior to June 30 of each year the department shall prepare and deliver to the treasurer of state an estimate of the increase of the farm-to-market road fund moneys for the next fiscal year to be used in determining the hold harmless base year amount under this subsection.

Sec. 33. NEW SECTION. *312.13 SPECIAL LEGAL COUNSEL.*

*There is appropriated annually an amount sufficient to retain independent legal counsel to defend the state against suits arising out of appropriations made from the road use tax fund. The appropriation shall be funded from use tax receipts under chapter 423 prior to deposit in the road use tax fund. Legal counsel shall be selected by agreement between the governor and the legislative council, after consultation with the attorney general.**

*Item veto; see message at end of the Act

Sec. 34. Section 313.2A, subsection 1, Code Supplement 1989, is amended to read as follows:

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~~.

Sec. 35. Section 313.2A, subsection 4, Code Supplement 1989, is amended by striking the subsection.

Sec. 36. Section 317.13, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The program of weed control shall include a program of permits for the burning, mowing, or spraying of roadsides by private individuals. The county board of supervisors shall allow only that burning, mowing, or spraying of roadsides by private individuals that is consistent with the adopted integrated roadside vegetation management plan. This paragraph applies only to those roadside areas of a county which are included in an integrated roadside vegetation management plan.

Sec. 37. Section 321.211, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

There is appropriated each year from the road use tax fund to the department of transportation one hundred ~~twenty-five~~ sixty thousand dollars or as much thereof as is necessary to be used to pay the cost of notice and personal delivery of service, as necessary to meet the notice requirement of this section. The department shall 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 the manner provided in section 321.192, as reimbursement for the costs of notice under this section.

Sec. 38. Section 321A.3, subsection 1, Code Supplement 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 one million three hundred fifty thousand dollars collected and~~ shall credit to the general fund all ~~additional~~ moneys collected.

Sec. 39. Section 321L.2, subsection 3, unnumbered paragraph 2, Code Supplement 1989, is amended to read as follows:

A handicapped person who owns a motor vehicle for which the handicapped person has been issued radio operator registration plates under section 321.34, subsection 3, or 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. 40. NEW SECTION. 325.37 ADVERTISING BY MOTOR CARRIERS OF PROPERTY.

Any advertising of available service provided by a motor carrier of property shall contain or display the number of the certificate issued by the department pursuant to this chapter.

Sec. 41. Section 331.660, Code 1989, is amended to read as follows:

331.660 APPROPRIATION — INDIAN SETTLEMENT OFFICER.

There is appropriated annually from the general fund of the state to the county of Tama the sum of ~~three thousand three hundred sixty-five~~ twenty-five thousand dollars to be used by the county only for the payment of the salary and expenses of an additional deputy sheriff for the county. The principal duty of the deputy sheriff is to provide law enforcement on the Sac and Fox Indian settlement in the county of Tama. If possible, the deputy sheriff shall reside on the settlement. Additional funds necessary to pay the salary and expenses of the deputy sheriff shall be paid by the county of Tama. The state shall not be held liable for the performance or nonperformance of law enforcement duties pursuant to this section.

Sec. 42. Section 455G.9, subsection 1, paragraph a, subparagraph (1), unnumbered paragraph 2, Code Supplement 1989, as amended by 1990 Iowa Acts, House File 2552,* is amended to read as follows:

Total payments for claims pursuant to this subparagraph are limited to no more than ~~six~~ eight million dollars. Claims for eligible retroactive releases shall be prorated if claims filed in a permitted application period or for a particular priority class of applicants exceed ~~six~~ eight million dollars or the then remaining balance of ~~six~~ eight million dollars. If claims remain partially or totally unpaid after total payments equal ~~six~~ eight million dollars, all remaining claims are void, and no entitlement exists for further payment.

Sec. 43. Section 455G.9, subsection 1, paragraph a, Code Supplement 1989, as amended by 1990 Iowa Acts, House File 2552,* is amended by inserting the following new subparagraph:

NEW SUBPARAGRAPH. (3) Corrective action for an eligible release reported to the department of natural resources on or after January 1, 1985, but prior to July 1, 1987. 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 January 1, 1985.

(d) The claim for coverage pursuant to this subparagraph must have been filed with the board prior to September 1, 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.

Sec. 44. 1990 Iowa Acts, House File 2552,* section 43, is amended to read as follows:

SEC. 43.

Provided that amounts reserved for the retroactive portion of the remedial account claims pursuant to section 455G.9, subsection 1, paragraph "a", subparagraph (1), do not exceed ~~six~~ eight million dollars, the administrator shall from the effective date of this Act, through September 1, 1990, reopen applications previously received but denied based upon section 455G.9,

*Chapter 1235 herein

subsection 1, paragraph "a", subparagraph (1), subparagraph subdivision (a), Code Supplement 1989, which subparagraph subdivision is repealed by this Act, and may accept new applications under section 455G.9, subsection 1, paragraph "a", subparagraph (1) for that period. If claims reopened or received exceed the remaining balance of unobligated or unreserved funds of the ~~six~~ eight million dollars, the remaining balance shall be ~~prorated among the reopened and newly received claims. If claims remain partially or totally unpaid after total payments under the retroactive portion of the remedial account exceed six million dollars, all remaining claims are void, and no entitlement exists for further payment. If claims paid pursuant to this section do not exceed the remaining balance of unobligated or unreserved funds of the six million dollars, the remaining balance shall be distributed among the claims accepted for payment which were submitted on or before January 31, 1990, by increasing the allowable percentage of payment contained in section 455G.9, subsection 1, paragraph "a", subparagraph (1) by an amount necessary to reduce the remaining balance of the six million dollars allocated for retroactive claims to zero.~~distributed according to the following priority:

1. Claims reopened or submitted pursuant to section 455G.9, subsection 1, paragraph "a", subparagraph (1), first; provided, however, that payments pursuant to this subsection shall not exceed one million two hundred thousand dollars.

2. Claims submitted pursuant to section 455G.9, subsection 1, paragraph "a", subparagraph (3), second, on a first-come-first-served basis.

3. Claims submitted pursuant to section 455G.9, subsection 1, paragraph "a", subparagraph (3), not previously accepted for payment or paid because the claim was ineligible solely on the basis of section 455G.9, subsection 1, paragraph "a", subparagraph (3), subparagraph subdivision (a), third.

4. If claims paid pursuant to subsections 1, 2, and 3 do not exceed the remaining balance of unobligated or unreserved funds of the eight million dollars, the remaining balance shall be distributed among the claims accepted for payment which were submitted on or before January 31, 1990, by increasing the allowable percentage of payment contained in section 455G.9, subsection 1, paragraph "a", subparagraph (1) by an amount necessary to reduce the remaining balance of the eight million dollars allocated for retroactive claims to zero.

If claims remain partially or totally unpaid after total payments under the retroactive portion of the remedial account equal eight million dollars, all remaining claims are void, and no entitlement exists for further payment.

Sec. 45. Section 321A.3A, Code Supplement 1989, is repealed.

Sec. 46.

Sections 23, 42, 43, and 44 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 7, 1990, except the items which I hereby disapprove and which are designated as section 1, subsection 2 in its entirety; section 3, subsection 3, paragraph b in its entirety; section 3, subsection 7 in its entirely; section 6, subsection 2 in its entirety; section 6, subsection 7 in its entirety; section 8, unnumbered and unlettered paragraph 3 in its entirety; section 15, subsection 2 in its entirety; section 16 in its entirety; section 17 in its entirety; section 21 in its entirety; section 22 in its entirety and section 33 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 2402, 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, primary road fund, and state aviation fund, mandating reports of certain agency purchases, providing expenses for certain members of the Iowa highway research board, providing for certain payments from the remedial account of the Iowa comprehensive petroleum underground storage tank fund, and providing an effective date.

Senate File 2402 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 calls for an appropriation of $12,000 for replacement of sanitary and maintenance equipment for the Iowa Law Enforcement Academy. Given the fiscal constraints of the 1991 budget, I am unable to approve this item.

I am unable to approve the item designated as Section 3, subsection 3, paragraph b, in its entirety. This item would appropriate $75,000 to the Department of Public Safety for the purchase of DNA laboratory equipment. I recommended an appropriation of $250,000 for the purchase of laboratory equipment and the remodeling of facilities to accommodate this equipment. The remodeling must precede the purchase of equipment. Since this portion of Senate File 2402 has the "cart before the horse", I must disapprove of it. I will work with the legislature to accomplish remodeling prior to a fiscal year 1992 appropriation for the equipment.

I am unable to approve the item designated as Section 3, subsection 7, in its entirety. This item calls for funding the Department of Public Safety's administrative functions to implement the accreditation for law enforcement agencies with an appropriation of $25,000, which is only a minor portion of the funding necessary to complete the accreditation process. The department is in the process of determining the benefits of accreditation and the total cost of implementation.

I am unable to approve the item designated as Section 6, subsection 2, in its entirety, which calls for the lease purchase of a building and equipment related to vehicle theft operations with an appropriation of $350,000. While the Department of Public Safety is interested in new housing for this operation, it is in the process of examining the long term housing needs of the entire department and it would be unwise to enter into such an agreement at this time.

I am unable to approve the item designated as Section 6, subsection 7, in its entirety, which calls for the planning and site selection of a new Highway Patrol Post at Fort Dodge at a cost of $25,000. The department is in the process of developing a priority rating system for post improvements and it is now inappropriate to approve planning money for any specific location.

I am unable to approve the item designated as Section 8, unnumbered paragraph 3, in its entirety. This section unnecessarily limits the utilization of unspent balances for other areas of potential need.

I am unable to approve the item designated as Section 15, subsection 2, in its entirety. This item would require a total expenditure of $250,000 for terminal improvement or construction, marketing, advertising or public relations programs and cultural programs to increase passenger traffic at five airports. The predesignation of recipients of funds by the legislature, as indicated, would be counterproductive to the sound programming of capital improvements. Decisions of this nature are better left to the Transportation Commission.

I am unable to approve the item designated as Section 16, in its entirety. This section appropriates $175,000 from the Parks and Institutional Roads fund for the completion of North Shore

Drive in Clear Lake. Lottery funds were appropriated last year for a similar project in neighboring Ventura but this use of Road Use Tax Funds appear illegal. While this road borders a state park, it is not wholly within the boundaries of the park as required in Iowa Code Section 306.1, subsection 2, paragraph k.

I am unable to approve the item designated as Section 17, in its entirety. This section would unnecessarily limit the transfer of appropriations between programs or functions. While I do not anticipate the need for such transfers, this section could seriously infringe upon the executive branch's ability to manage the department.

I am unable to approve the item designated as Section 21, in its entirety. This item requires the Department of Transportation to post "keep right except to pass" signs on uphill traffic lanes. This would be a departure from the nationally accepted standards recommended by the Federal Highway Administration. Additionally, requiring vehicles to change lanes unnecessarily creates the opportunity for accidents and during winter months the left-hand lanes are plowed and sanded first.

I am unable to approve the item designated as Section 22, in its entirety. It is unncessary to put into law a requirement to have the state of Iowa, in conjunction with other states, initiate a lawsuit against the United States Department of Transportation. The executive branch should weigh the merits of such an action before proceeding.

I am unable to approve the item designated as Section 33, in its entirety. This section creates a standing unlimited appropriation from the Use Tax receipts to retain independent legal counsel to defend the state against suits arising out of appropriations made from the Road Use Tax Fund. The Attorney General is required to defend the state on issues of this nature. Therefore, the retention of independent legal counsel is both expensive and 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 2402 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1268

CORRECTIONS, COURTS, AND JUSTICE DEPARTMENT APPROPRIATIONS AND PROVISIONS

S.F. 2408

AN ACT relating to and making appropriations to the justice system and providing effective dates.

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

Section 1.

There is appropriated from the general fund of the state to the department of justice 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 the general office of attorney general for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	4,705,733
.....	FTEs	166.00

2. Prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 188,400

..... FTEs 3.00

3. Prosecuting intern program; however, counties participating in the prosecuting intern program shall match funds appropriated by this subsection:

..... $ 44,955

4. In addition to the funds appropriated under subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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.

5. In addition to funds appropriated under subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1990, and ending June 30, 1991, an amount not exceeding $50,000 to be used for public education relating to consumer fraud and for enforcement of section 714.16 and $25,000 for the attorney general's task force on fraud against older Iowans to be used for investigation, prosecution, and consumer education relating to consumer and criminal fraud against older persons. 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 funds awarded to the state or a political subdivision of the state by a civil consumer fraud judgment or settlement, if the judgment or settlement authorizes the use of the award for public education on consumer fraud. Notwithstanding section 8.33, funds received in a previous fiscal year which have not been expended shall be credited to this fiscal year.

6. For the farm mediation service program:

..... $ 200,000

7. For the legal assistance for farmers program:

..... $ 225,000

8. For victim assistance grants:

..... $ 540,000

As a condition, limitation, and qualification of this appropriation, $440,000 shall be used to provide grants to care providers providing services to crime victims of domestic abuse, and $100,000 shall be used to provide grants to care providers providing services to crime victims of rape and sexual assault.

9. The balance of the fund created under section 321J.17 may be used to provide salary and support of not more than 6 FTE positions, to provide maintenance for the victim compensation functions of the department of justice.

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, 1990 and ending June 30, 1991, 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:

..... $ 2,049,789

..... FTEs 32.00

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, 1990, and ending June 30, 1991, 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:

..... $ 837,536
..... FTEs 20.00

As a condition, limitation, and qualification of this appropriation the board of parole shall create an automated docket, shall automate the board's risk assessment model, and shall employ a victim registration coordinator.

As a condition, limitation, and qualification of the appropriation the board of parole shall employ 2 statistical research analysts 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 1991 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, 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 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:

..... $ 20,398,056
..... FTEs 501.50

As a condition, limitation, and qualification of this appropriation, the facility shall employ 310 correctional officers, and an additional counselor.

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:

..... $ 15,171,304
..... FTEs 355.00

(1) As a condition, limitation, and qualification of this appropriation, the facility shall employ 211 correctional officers, a part-time chaplain of a minority race, and 2 additional nurses.

(2) Of the funds appropriated, the department's budget for Anamosa shall include funding for 2 full-time substance abuse counselors for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.

*(3) *It is the intent of the general assembly that the department of corrections and the department of personnel shall cooperate to employ the additional correctional officers for the Anamosa facility by July 1, 1990.**

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:

..... $ 10,689,482
..... FTEs 258.50

As a condition, limitation, and qualification of this appropriation, the facility shall employ 132.40 correctional officers and shall employ 3 additional staff for the purposes of compliance with the joint commission on the accreditation of health care organization standards.

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:

..... $ 3,114,302
..... FTEs 71.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 28 correctional officers and an additional nurse.

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:

..... $ 10,933,204
..... FTEs 267.15

As a condition, limitation, and qualification of this appropriation, the facility shall employ 141 correctional officers, and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, an additional nurse, and an additional 8.50 full-time equivalent positions to maintain a licensed substance abuse 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:

..... $ 2,993,389
..... FTEs 73.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 39 correctional officers and an additional 4 positions to establish a substance abuse treatment program and a sex offender 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:

..... $ 4,451,237
..... FTEs 118.30

As a condition, limitation, and qualification of this appropriation, the facility shall employ 68 correctional officers and 2 nurses.

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:

..... $ 3,679,450
..... FTEs 97.00

As a condition, limitation, and qualification of this appropriation, the facility shall employ 54 correctional officers and an additional 5.5 full-time equivalent positions for a substance abuse treatment program.

*Item veto; see message at end of the Act

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, 1991, outlining the implementation of the centralized education program at the institutions. The report shall include a listing of the educational institutions that are 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 $50 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 $50.

Sec. 5.

There is appropriated from the general fund of the state to the department of corrections 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 general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,145,174
..... FTEs 42.52

As a condition, limitation, and qualification of this appropriation the department shall employ an education director and clerk to administer a centralized education program for institutions. The department is authorized to implement the condition contained in this paragraph immediately upon enactment.

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 of corrections shall submit a monthly county jail report to the legislative fiscal bureau containing the information submitted to the department by the county sheriffs pursuant to section 356.49.

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:

..... $ 215,000

3. For federal prison reimbursement and miscellaneous contracts:

..... $ 360,000

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:

..... $ 366,476
..... FTEs 8.22

*Item veto; see message at end of the Act

As a condition, limitation, and qualification of this appropriation, the training center shall employ 2 additional trainers.

5. For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1989 Iowa Acts, chapter 316, section 7, subsection 6:
..... $ 625,860

Sec. 6.

There is appropriated from the general fund of the state to the department of corrections 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 allocated as follows:

1. For the first judicial district department of correctional services, the following amount, or so much thereof as is necessary:

a. For salaries, support, maintenance, and miscellaneous purposes:
..... $ 4,320,847

b. For additional funding of the intensive supervision program and for not more than the following full-time equivalent positions:
..... $ 55,328
..... FTEs 1.66

**c. For additional funding for minimum staffing in field services and for not more than the following full-time equivalent positions:*
..... *$ 296,103*
..... *FTEs 10.00*

d. For contracting for aptitude and job-related interest assessment, career exploration, the individualized employability development plan, and job placement with a private entity which is not controlled or administered by any state agency or any political subdivision of the state, and which has a minimum of fifteen years of service experience with offender and ex-offender populations:
..... *$ 90,000**

e. For continued funding of the treatment alternatives to street crime program:
..... $ 53,519

f. For the job development grant program established in House File 772** enacted during the 1989 session of the general assembly:
..... $ 77,733

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 the sex offender treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "a".

The district department of correctional services, in cooperation with the chief judge of the judicial district, shall develop a plan to divert low-risk offenders to the least restrictive sanction available. The plan shall be designed to take into consideration the impact upon the local communities within the district. The plan shall be implemented by October 1, 1990. The district shall report to the joint justice system appropriations subcommittee and to the department of corrections by October 1, 1990, including the types of proposed diversion programs and the number of offenders likely to be diverted to the lowest sanction available.

2. For the second judicial district department of correctional services, the following amount, or so much thereof as is necessary:

a. For salaries, support, maintenance, and miscellaneous purposes:
..... $ 3,208,365

*Item veto; see message at end of the Act
**Chapter 316, 1989 Iowa Acts

b. For replacement of federal funds for a job development program and for not more than the following full-time equivalent positions:

..... $ 99,505
..... FTEs 3.00

*c. *For additional funding for residential minimum staffing and for not more than the following full-time equivalent positions:*

..... *$ 242,696*
..... *FTEs 8.53*

d. For additional funding for minimum staffing in field services and for not more than the following full-time equivalent positions:

..... *$ 305,319*
..... *FTEs 8.02**

e. For continued funding of the treatment alternatives to street crime program:

..... $ 85,333

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".

The district department of correctional services, in cooperation with the chief judge of the judicial district, shall develop a plan to divert low-risk offenders to the least restrictive sanction available. The plan shall be designed to take into consideration the impact upon the local communities within the district. The plan shall be implemented by October 1, 1990. The district shall report to the joint justice system appropriations subcommittee and to the department of corrections by October 1, 1990, including the types of proposed diversion programs and the number of offenders likely to be diverted to the lowest sanction available.

3. For the third judicial district department of correctional services, the following amount, or so much thereof as is necessary:

a. For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,932,014

b. For staffing 25 additional beds authorized during the 1989 session of the general assembly and for not more than the following full-time equivalent positions:

..... $ 18,278
..... FTEs .50

*c. *For additional funding for minimum staffing in field services:*

..... *$ 76,303*
..... *FTEs 2.07**

d. For funding of the intensive supervision program and for not more than the following full-time equivalent positions:

..... $ 62,327
..... FTEs 1.58

e. For continued funding of the treatment alternatives to street crime program:

..... $ 38,567

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".

The district department of correctional services, in cooperation with the chief judge of the judicial district, shall develop a plan to divert low-risk offenders to the least restrictive sanction available. The plan shall be designed to take into consideration the impact upon the local communities within the district. The plan shall be implemented by October 1, 1990. The district shall report to the joint justice system appropriations subcommittee and to the department of corrections by October 1, 1990, including the types of proposed diversion programs and the number of offenders likely to be diverted to the lowest sanction available.

4. For the fourth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

a. For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,816,247

*Item veto; see message at end of the Act

b. For continued funding of the treatment alternatives to street crime program:
..... $ 42,158
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".

The district department of correctional services, in cooperation with the chief judge of the judicial district, shall develop a plan to divert low-risk offenders to the least restrictive sanction available. The plan shall be designed to take into consideration the impact upon the local communities within the district. The plan shall be implemented by October 1, 1990. The district shall report to the joint justice system appropriations subcommittee and to the department of corrections by October 1, 1990, including the types of proposed diversion programs and the number of offenders likely to be diverted to the lowest sanction available.

5. For the fifth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

a. For salaries, support, maintenance, and miscellaneous purposes:
..... $ 5,468,203

b. For additional funding of the intensive supervision program and for not more than the following full-time equivalent positions:
..... $ 410,348
..... FTEs 6.26

*c. *For funding a tactical unit to be established within the district and for not more than the following full-time equivalent positions:*
..... *$* *86,294*
..... *FTEs* *2.00**

d. For continued funding of the treatment alternatives to street crime program:
..... $ 109,182
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".

The district department of correctional services, in cooperation with the chief judge of the judicial district, shall develop a plan to divert low-risk offenders to the least restrictive sanction available. The plan shall be designed to take into consideration the impact upon the local communities within the district. The plan shall be implemented by October 1, 1990. The district shall report to the joint justice system appropriations subcommittee and to the department of corrections by October 1, 1990, including the types of proposed diversion programs and the number of offenders likely to be diverted to the lowest sanction available.

6. For the sixth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

a. For salaries, support, maintenance, and miscellaneous purposes:
..... $ 3,982,335

*b. *For additional funding for minimum staffing in field services and for not more than the following full-time equivalent positions:*
..... *$* *609,228*
..... *FTEs* *16.79**

c. For additional funding of the intensive supervision program and for not more than the following full-time equivalent positions:
..... $ 179,814
..... FTEs 3.49

d. For staffing of additional new beds at the Cedar Rapids residential facility as authorized during the 1989 session of the general assembly and for not more than the following full-time equivalent positions:
..... $ 337,733
..... FTEs 7.70

e. For establishment of a home work release program within the district and for not more than the following full-time equivalent positions:
..... $ 68,432
..... FTEs 2.00

*Item veto; see message at end of the Act

f. For continued funding of the treatment alternatives to street crime program:
..... $ 35,100

g. For the job development grant program established in House File 772* enacted during the 1989 session of the general assembly:
..... $ 77,733

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 shall continue the sex offender program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "f".

The district department of correctional services, in cooperation with the chief judge of the judicial district, shall develop a plan to divert low-risk offenders to the least restrictive sanction available. The plan shall be designed to take into consideration the impact upon the local communities within the district. The plan shall be implemented by October 1, 1990. The district shall report to the joint justice system appropriations subcommittee and to the department of corrections by October 1, 1990, including the types of proposed diversion programs and the number of offenders likely to be diverted to the lowest sanction available.

7. For the seventh judicial district department of correctional services, the following amount, or so much thereof as is necessary:

a. For salaries, support, maintenance, and miscellaneous purposes:
..... $ 3,227,824

***b. For additional funding for minimum staffing in field services and for not more than the following full-time equivalent positions:*
..... *$* *260,003*
..... *FTEs* *8.83***

c. For additional funding of the intensive supervision program and for not more than the following full-time equivalent positions:
..... $ 57,131
..... FTEs 1.00

d. For continued funding of the treatment alternatives to street crime program:
..... $ 55,890

e. For funding to continue to contract for job development with a private entity which is not controlled or administered by any state agency or any political subdivision of the state, and which has a minimum of 15 years of service experience with offender and ex-offender populations:
..... $ 90,000

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 shall continue the intensive supervision program established within the district for sex offenders and other high-risk clients, and the sex offender treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "g".

The district department of correctional services, in cooperation with the chief judge of the judicial district, shall develop a plan to divert low-risk offenders to the least restrictive sanction available. The plan shall be designed to take into consideration the impact upon the local communities within the district. The plan shall be implemented by October 1, 1990. The district shall report to the joint justice system appropriations subcommittee and to the department of corrections by October 1, 1990, including the types of proposed diversion programs and the number of offenders likely to be diverted to the lowest sanction available.

8. For the eighth judicial district department of correctional services, the following amount, or so much thereof as is necessary:

a. For salaries, support, maintenance, and miscellaneous purposes:
..... $ 1,699,249

***b. For additional funding for minimum staffing in field services and for not more than the following full-time equivalent positions:*
..... *$* *299,190*
..... *FTEs* *8.40*

*Chapter 316, 1989 Iowa Acts
**Item veto; see message at end of the Act

c. For additional funding for residential minimum staffing and for not more than the following full-time equivalent positions:

..... *$* *43,384*

..... *FTEs* *1.23**

d. For staffing of additional new beds at the Ottumwa facility authorized during the 1989 session of the general assembly and for not more than the following full-time equivalent positions:

..... $ 570,035

..... FTEs 13.28

e. For continued funding of the treatment alternatives to street crime program:

..... $ 61,979

f. For the job development grant program established in House File 772** enacted during the 1989 session of the general assembly:

..... $ 77,733

g. For funding to continue to contract for job development with a private entity which is not controlled or administered by any state agency or any political subdivision of the state, and which has a minimum of 15 years of service experience with offender and ex-offender populations:

..... $ 90,000

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 shall continue the sex offender program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "h".

The district department of correctional services, in cooperation with the chief judge of the judicial district, shall develop a plan to divert low-risk offenders to the least restrictive sanction available. The plan shall be designed to take into consideration the impact upon the local communities within the district. The plan shall be implemented by October 1, 1990. The district shall report to the joint justice system appropriations subcommittee and to the department of corrections by October 1, 1990, including the types of proposed diversion programs and the number of offenders likely to be diverted to the lowest sanction available.

9. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary:

a. For the assistance and support of each judicial district department of correctional services:

..... $ 201,798

b. For additional funding of the intensive supervision programs in conjunction with electronic monitoring established within the districts and for not more than the following full-time equivalent positions:

..... $ 85,272

..... FTEs 1.37

c. For additional funding for the treatment alternatives to street crimes program and for not more than the following full-time equivalent positions:

..... $ 150,180

..... FTEs 4.25

**d. For funding of the pilot projects to reduce revocations to prison:*

..... *$* *200,000*

As a condition, limitation, and qualification of this appropriation, the department of corrections shall administer pilot projects to reduce revocation rates to prison. Each district shall submit a proposal to the central office and grants will be awarded on a competitive basis pursuant to criteria established by the department. The districts are to develop a range of sanctions within the local communities intended to reduce the revocations to prison. All districts are eligible to participate, but awards are not required to be made to all districts. The department shall submit a report to the joint justice system appropriations subcommittee and the legislative fiscal bureau by December 1, 1990, which is to include the identification of districts

*Item veto; see message at end of the Act

**Chapter 316, 1989 Iowa Acts

receiving the grants, the dollar amount of each grant, program description upon which each grant was based, and the projected outcomes on the revocation rate to prison.

*As a condition, limitation, and qualification of the additional amounts appropriated to the departments of correctional services and the department of corrections for the intensive supervision program, the department of corrections shall cooperate with the board of parole in developing a plan of early release under the intensive supervision program for additional persons in an effort to assist in controlling the prison population and assuring prison space for the confinement of offenders whose release would be detrimental to the citizens of this state. The department and the board shall report to the legislative fiscal bureau on a monthly basis concerning the implementation of this plan, including the number of inmates released under the intensive supervision program.**

10. The department of corrections shall not make an intradepartmental transfer of moneys appropriated to the department, unless notice of the intradepartmental transfer is given prior to its effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the transfer and details concerning the workload and performance measures upon which the transfers are based.

11. 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.

12. The department of corrections shall continue the OWI facilities established in 1986 Iowa Acts, chapter 1246, section 402, in compliance with the conditions specified in that section.

Sec. 7.

There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 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 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, receipt and disbursement of child support payments, and maintenance, equipment, and miscellaneous purposes:

..... $ 70,272,600

As a condition, limitation, and qualification of this appropriation, the department shall 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, 1990.

As a condition, limitation, and qualification of this appropriation, the judicial department shall, from the funds appropriated in subsection 1 which exceed the amount appropriated to the judicial department for the fiscal year beginning July 1, 1989, and ending June 30, 1990, provide in addition to the amount used for the following designated purposes for the fiscal year beginning July 1, 1989, and ending June 30, 1990, an additional $500,000 which shall be used for the receipt and disbursement of child support payments, and an additional $274,815 which shall be used for juvenile court services.

As a condition, limitation, and qualification of this appropriation, the judicial department, except for purposes of internal processing, shall use the current state budget system, the state

*Item veto; see message at end of the Act

payroll system, and the Iowa finance and accounting system in administration of programs and payments for services, and shall not duplicate the state payroll, accounting, and budgeting systems.

The judicial department shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include a comparison of the dollars and percentage spent of budgeted versus actual revenues and expenditures on a cumulative basis for full-time equivalent positions and dollars.

Of the funds appropriated under this subsection, not more than $1,800,000 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.

Sec. 8.

There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

1. For the Iowa court information system:

..... $ 1,500,000

As a condition, limitation, and qualification of this appropriation, the judicial department, except for purposes of internal processing, shall use the current state budget system, the state payroll system, and the Iowa finance and accounting system in administration of programs and payments for services, and shall not duplicate the state payroll, accounting, and budgeting systems.

*2. *For the implementation of the pilot program of mandatory mediation of contested issues of child custody and visitation established pursuant to House File 2533, if enacted by the Seventy-third General Assembly, 1990 Session:*

..... *$ 136,000*

The department shall establish the program at the dispute resolution center in Linn county.

3. For the implementation of the pilot program establishing a family court pursuant to House File 2533, if enacted by the Seventy-third General Assembly, 1990 Session:

..... *$ 400,000**

4. Notwithstanding section 602.5205, for expenses of judges of the court of appeals located outside the seat of government:

..... $ 7,500

The judicial department shall not change the appropriations from the amounts appropriated under this section, 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.

Sec. 9.

There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, as follows:

For the division of criminal justice planning established pursuant to House File 2468,** if enacted by the Seventy-third General Assembly, 1990 Session, and for not more than the following full-time equivalent positions:

..... $ 100,000
..... FTEs 4.00

*Item veto; see message at end of the Act
**Chapter 1124 herein

Sec. 10. Section 602.1301, subsection 2, paragraph a, Code Supplement 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. The supreme court shall budget and track expenditures by the following separate organization codes:

a. Child support operations.
b. Appellate courts.
c. Central administration.
d. District court administration.
e. Judges and magistrates.
f. Court reporters.
g. Juvenile court officers.
h. District court clerks.
i. Jury and witness fees.

Sec. 11.

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. 12.*

*The department of human services shall enter into a cooperative agreement with the judicial department by May 1, 1990, which shall provide for reimbursement and incentive payments to the judicial department for those activities eligible for federal financial participation pursuant to 45 C.F.R., pt. 304.**

**Sec. 13.*

*Section 12 of this Act, being deemed of immediate importance, takes effect upon enactment.**

Sec. 14. 1990 Iowa Acts, Senate File 2212, section 23, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, the moneys appropriated in this section that remain unencumbered and unobligated on June 30, 1990, shall not revert to the general fund but shall remain available for expenditure for the purposes designated during the fiscal year beginning July 1, 1990.

Sec. 15. Section 4, subsection 1, paragraph b, subparagraph (3), of this Act, being deemed of immediate importance, takes effect upon enactment.

*Item veto; see message at end of the Act

**Sec. 16.*

*Section 5, subsection 1, unnumbered paragraph 2, of this Act, which relates to the employment of a correctional education administrator, being deemed of immediate importance, takes effect upon enactment and the department shall immediately commence the process for employing the administrator and the department of management shall authorize expenditures to be incurred in commencing this process.**

Approved May 7, 1990, except the items which I hereby disapprove and which are designated as section 4, subsection 1, paragraph b, subparagraph 3 in its entirety; section 5, subsection 1, unnumbered and unlettered paragraph 2 in its entirety; section 6, subsection 1, paragraphs c and d in their entirety; section 6, subsection 2, paragraphs c and d in their entirety; section 6, subsection 3, paragraph c in its entirety; section 6, subsection 5, paragraph c in its entirety; section 6, subsection 6, paragraph b in its entirety; section 6, subsection 7, paragraph b in its entirety; section 6, subsection 8, paragraphs b and c in their entirety; section 6, subsection 9, paragraph d in its entirety; section 8, subsections 2 and 3 in their entirety; sections 12 and 13 in their entirety; and sections 15 and 16 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 2408, an Act relating to and making appropriations to the justice system and providing effective dates.

Senate File 2408 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 4, subsection 1, lettered paragraph b, subparagraph 3. This intent language states that the Department of Corrections and the Department of Personnel shall employ the additional correctional officers for the Anamosa facility by July 1, 1990. While the departments are employing the additional FTE's in an orderly process, there is no greater need at Anamosa than at other institutions and this provision would disrupt the hiring and training of new staff and placing them where the greatest need exists. The Anamosa staff/inmate ratio is more favorable than several facilities. The additional FTE's will be added without this restrictive language.

I am unable to approve the item designated as Section 5, subsection 1, unnumbered paragraph 2, in its entirety. This paragraph calls for the Department of Corrections to employ an education director and clerk to administer a centralized education program for institutions upon the enactment of Senate File 2408. These are important positions, however, no funding was allocated in fiscal year 1990 for these positions and the department must wait until the beginning of the new fiscal year before filling them.

I am unable to approve the items designated as Section 6, subsections 1, paragraph c; subsection 2, paragraphs c and d; subsection 3, paragraph c; subsection 5, paragraph c; subsection 6, paragraph b; subsection 7, paragraph b; and subsection 8, paragraphs b and c. These items add staff for field services and residential services in specified community-based correction districts and a tactical unit in the fifth CBC district. I recommended increases in these areas but the above goes far beyond what the state's fiscal condition will allow us to appropriate.

I am unable to approve the item designated as Section 6, subsection 1, paragraph d, in its entirety. This item appropriates $90,000 for a personal development program. One hundred thousand dollars was appropriated in Senate File 2212, the supplemental bill, for this same program and carry foward language to fiscal year 1991 is being approved.

*Item veto; see message at end of the Act

I am unable to approve the item designated as Section 6, subsection 9, paragraph d, in its entirety. This item calls for a pilot project to study revocation rates to prison. I recognize that recidivism is a problem however, fiscal constraints do not allow the beginning of this new program. I have asked the Department of Corrections and the Board of Parole to make recommendations for reducing the revocation rate without the need for this $200,000 study. And, I have approved greatly increased funding for treatment and educational programs within our correctional system which will work to reduce revocation.

I am unable to approve the item designated as Section 8, subsections 2 and 3, in their entirety. These items call for $536,000 to be appropriated only if House File 2533 was enacted by the 73rd General Assembly, 1990 Session. House File 2533, which dealt with a pilot program of mandatory mediation of contested issues of child custody and visitation and a pilot program establishing a family court, did not pass, hence there is no need for these appropriations.

I am unable to approve the items designated as Sections 12 and 13, in their entirety. These sections would have directed the Department of Human Services to enter into a cooperative agreement with the Judicial Department by May 1, 1990, for reimbursement and incentive payments to the Judicial Department for activities eligible for federal financial participation. Federal regulations mandate that the federal government review all cooperative agreements and expenditures pertaining to incentive payments. Further, the state must justify and demonstrate the benefits to the child support enforcement program resulting from a cooperative agreement. If the cooperative agreement is not cost effective, it may result in a decrease in incentives paid to the state thereby creating a negative fiscal impact on Iowa. It is premature to authorize such an agreement between the Department of Human Services and the Judicial Department because Senate File 2408, Section 12, does not provide adequate time to meet these federal mandates and determine the costs and benefits of such a cooperative agreement. Further, it is impossible to meet the May 1, 1990, effective date since that date has already passed.

I am unable to approve the items designated as Sections 15 and 16, in their entirety, for they are immediate enactment clauses for items in Senate File 2408 which I have item vetoed.

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 2408 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1269

IOWA PLAN FUND APPROPRIATIONS AND PROVISIONS

S.F. 2433

AN ACT relating to the appropriations from and the reallotment of the moneys in the surplus account of the Iowa plan fund, to certain corporations appropriated moneys from the Iowa plan fund, and authorizing the creation of a disaster recovery program to provide low-interest and guaranteed loans to public and private entities for which an appropriation is made 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 15.284, subsection 4, Code Supplement 1989, is amended to read as follows:

4. The finance division of the department shall rank the applicants according to financial need, cost-benefit of the project, percent of match, impact, including an increase in fire or public safety because of completion of the project, and ability to administer project.

Sec. 2. Section 18B.4, Code Supplement 1989, is amended to read as follows:

18B.4 AUTHORIZED CORPORATION — STAFF.

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~~ Iowa public employees' retirement system, state health and dental plans, and other state employee benefits and chapter 25A. A natural person hired by the executive director who is a salaried employee of the board is a state employee for purposes of the Iowa public employees' retirement system, state health and dental plans, and other state employee benefits and chapter 25A. 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. Chapters 8, 18, 19A, and 20, and other provisions of law that relate to requirements or restrictions dealing with state personnel or state funds do not apply to the INTERNET corporation, the executive director, and any employees of the board or the corporation, except to the extent provided in this chapter.

Sec. 3. Section 18B.11, unnumbered paragraphs 1, 3, and 4, Code Supplement 1989, are amended to read as follows:

There ~~is created within the state treasury,~~ shall be created by the board of directors of INTERNET 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 ~~auditor of state shall conduct regular~~ corporation shall arrange, at least annually, for regular independent audits of the fund and shall ~~make~~ submit a certified report relating to the condition of the fund to the ~~treasurer of state and to the executive director~~ governor and general assembly.

~~The board and executive director shall administer the fund in accordance with procedures of the treasurer of state.~~ In administering the fund, the board may do all of the following:

Sec. 4. Section 28.153, Code Supplement 1989, is amended to read as follows:

28.153 AUTHORIZED CORPORATION.

A Wallace technology transfer foundation of Iowa 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~~ Iowa public employees' retirement system, state health and dental plans, and other state employee benefits and chapter 25A. A natural person employed by the executive director is a state employee for purposes of the Iowa public employees' retirement system, state health and dental plans, and other state employee benefits plans and chapter 25A. Chapters 8, 18, 19A, and 20, and other provisions of law that relate to requirements or restrictions dealing with state personnel or state funds do not apply to the foundation, the executive director, and any employees of the board or the foundation, except to the extent provided in this chapter.

Sec. 5. Section 28.156, subsection 3, paragraph g, Code Supplement 1989, is amended by striking the paragraph.

Sec. 6. NEW SECTION. 28.161 WALLACE TECHNOLOGY TRANSFER FOUNDATION FUND.

1. There shall be created by the board of directors a Wallace technology transfer foundation 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.

2. 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.

3. The foundation shall arrange, at least annually, for regular independent audits of the fund and shall submit a certified report relating to the condition of the fund to the governor and general assembly.

4. In administering the fund, the board may do all of the following:

a. 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.

b. Authorize payment from the fund, from fees and from any income received by investment 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.

5. Section 8.33 shall not apply to moneys in the fund.

*Sec. 7. NEW SECTION. *29C.100 DISASTER RECOVERY PROGRAM — FINANCING — DEFINITIONS — FUNDING — BONDS AND NOTES.*

1. As used in this subchapter, unless the context otherwise requires, "authority" means the Iowa finance authority.

2. The authority shall cooperate with the department of public defense in the creation, administration, and funding of the disaster recovery program established in this subchapter.

3. The authority may issue its bonds and notes for the purpose of funding guaranteed loans to eligible persons and projects as part of a disaster recovery action authorized pursuant to this subchapter.

4. The authority may issue its bonds and notes for the purposes of this subchapter and may enter into one or more lending agreements or purchase agreements with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders or a trustee agent designated by the authority may enter into agreements to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the authority or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amount payable under the loan agreements or any other instruments securing the debt obligations under the loan agreements.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreements or other instruments on their own behalf without the appointment or designation of a trustee. If there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the loan agreements or other instruments, the payment or performance may be enforced in accordance with the loan agreement or other instrument.

d. Other terms and conditions as deemed necessary or appropriate by the authority.

5. The powers granted the authority under this section are in addition to other powers contained in chapter 220. All other provisions of chapter 220, except section 220.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section, except to the extent they are inconsistent with this section.

*6. All bonds or notes issued by the authority in connection with the program are exempt from taxation by this state and the interest on the bonds or notes is exempt from state income tax, both personal and corporate.**

*Item veto; see message at end of the Act

*Sec. 8. NEW SECTION. *29C.101 SECURITY — RESERVE FUNDS — PLEDGES — NONLIABILITY — IRREVOCABLE CONTRACTS.*

1. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 29C.100 that the principal of, premium, and interest on the bonds or notes are payable from any of the following and may pledge the same to its bonds and notes:

a. The income and receipts or other moneys derived from the projects financed with the proceeds of the bonds or notes.

b. The income and receipts or other money derived from designated projects whether or not the projects are financed in whole or in part with the proceeds of the bonds or notes.

c. The amounts on deposit in the disaster recovery fund created in section 29C.100.

d. The amounts payable to the authority by jurisdictions or persons eligible for disaster recovery program assistance.

e. Any other funds or accounts established by the authority in connection with the program or the sale and issuance of its bonds or notes.

2. The authority may establish reserve funds to secure one or more issues of its bonds or notes. The authority may deposit in a reserve fund established under this subsection, the proceeds of the sale of its bonds or notes and other money which is made available from any other source. The authority shall establish a disaster recovery fund for the deposit of moneys appropriated for this program, and section 8.33 notwithstanding, such moneys remaining in the disaster recovery fund, including interest and investment income, shall not revert to the general fund, but shall remain in the disaster recovery fund, and shall be a continuing appropriation for the purposes of this program. These moneys may be used to leverage additional private or public funds, including, by way of example, but not limitation, reducing the rate of interest or cost of money loaned to beneficiaries of the program.

3. A pledge made in respect of bonds or notes is valid and binding from the time the pledge is made. The money or property so pledged and received after the pledge by the authority is immediately subject to the lien of the pledge without physical delivery or further act. The lien of the pledge is valid and binding as against all persons having claims of any kind in tort, contract, or otherwise against the authority whether or not the parties have notice of the lien. Neither the resolution, trust agreement, or any other instrument by which a pledge is created needs to be recorded, filed, or perfected under chapter 554, to be valid, binding, or effective against all persons.

4. The members of the authority or persons executing the bonds or notes are not personally liable on the bonds or notes and are not subject to personal liability or accountability by reason of the issuance of the bonds or notes.

*5. The state pledges to and agrees with the holders of bonds or notes issued under this subchapter that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds or notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.**

*Sec. 9. NEW SECTION. *29C.102 RULES.*

*The authority shall adopt rules pursuant to chapter 17A to implement sections 29C.100 and 29C.101.**

*Sec. 10. NEW SECTION. *29C.103 DISASTER ASSISTANCE RECOVERY ACTION.*

1. Upon the recommendation of the administrator, the governor may issue an order approving a disaster recovery action for persons affected by a disaster which meets all of the following criteria:

*Item veto; see message at end of the Act

a. A major disaster has not been declared by the president of the United States.

b. Persons eligible for assistance pursuant to the order shall be limited to those who are not beneficiaries of state assistance approved pursuant to section 29C.6.

2. Subject to the terms and conditions of the disaster recovery action order, a political subdivision may obtain guaranteed financial assistance through the authority acting pursuant to sections 29C.100 through 29C.102 and this section. The authority may issue bonds or notes secured as provided by this subchapter including such moneys as may be pledged by the political subdivision and income from facilities or projects which are the subject of the financial assistance.

3. Subject to the terms and conditions of the disaster recovery action order, a private person who satisfies all of the following criteria may obtain guaranteed financial assistance through the authority action pursuant to sections 29C.100 through 29C.102 and this section:

a. A person must have suffered a property casualty from a disaster.

b. The casualty must have been uninsured or underinsured.

Assistance to a private person is limited to the amount of the damages which were uninsured or underinsured. Assistance shall be in the form of a low-interest guaranteed loan, issued on such terms and conditions as may be required by the authority. The authority may issue such bonds or notes to finance these loans, secured as provided by this subchapter, including by the repayment of the loans and such other security as may be pledged by the private beneficiaries and income from facilities or projects which are the subject of the financial assistance.

*4. The disaster recovery program authorized by this subchapter shall be for the public purpose of restoring political subdivisions and private persons adversely impacted by an uninsured or underinsured property casualty caused by a disaster which exceeds current economic resources. Through long-term financial assistance, beneficiaries of the program are to be restored in their life, property, and security, permitting continued operation of the affected instruments of government and civic and economic contributions by affected private persons.**

Sec. 11. Section 99E.32, subsection 3, paragraph y, Code Supplement 1989, is amended to read as follows:

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~~ to the extent possible 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. 12. Section 99E.32, subsection 4, paragraph b, subparagraph (4), Code Supplement 1989, is amended to read as follows:

(4) (a) 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 thousand dollars shall be allocated and used to 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 thousand dollars, one hundred thousand dollars is allocated to each of the consortiums. The department of economic development and the consortiums shall coordinate activities relating to purposes of chapter 262B. Of the amount appropriated in this subparagraph, five hundred thousand dollars is allocated to the University of Northern Iowa for the decision-making science institute; ~~one~~ two 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 and which shall use one hundred thousand dollars of the funds for the development, with

*Item veto; see message at end of the Act

the involvement of the public and private sector, of a curriculum on international trade; 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 chapter 18B, which shall transfer four hundred thousand dollars of its allocation to the Wallace technology transfer foundation of Iowa established in section 28.152; sixty thousand dollars for grants under subparagraph subdivision (c); 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.

(b) Notwithstanding section 99E.31, subsection 4, paragraph "a", for the fiscal year beginning July 1, 1989, the department of economic development shall waive the matching funds requirement for programs under this subparagraph except for the Iowa State University of science and technology biotechnology research and development program, the technology innovation centers, and the applied technology program.

(c) For the fiscal year beginning July 1, 1989, the department of economic development shall provide a grant of thirty thousand dollars to each agricultural marketing resources cooperative that has qualified for a loan from the community economic betterment account under subsection 2 to insure the adequate capitalization of each cooperative.

Sec. 13. Section 99E.32, subsection 5, paragraph p, Code Supplement 1989, is amended to read as follows:

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~~ five hundred thousand dollars to provide facilities to house booths, displays, and other promotional activities for local tourism groups and organizations.

Sec. 14. Section 99E.32, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. There is appropriated from the surplus account to the designated agency or office 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:

*a. *To the department of public defense, the sum of one million five hundred thousand dollars for purposes of the disaster recovery program created in sections 29C.100 through 29C.103.*

b. To the Iowa civil rights commission, an amount up to thirty-five thousand dollars as a one-for-one match with private contributions for the purpose of conducting a week-long program of public education throughout the state to call attention to the mission and accomplishments of the commission over the past twenty-five years.

c. To the prosecuting attorneys training coordinator in the department of justice, the sum of fifty thousand dollars. This appropriation is conditional upon receiving a grant from the national institute of dispute resolution for the purpose of conducting a statewide survey of alternate dispute resolution services to evaluate their effectiveness, level of training, and success rates, and to make recommendations to the governor and general assembly concerning the development of a state mediation service.

d. To the department of agriculture and land stewardship, the sum of fifty thousand dollars for the establishment and operation of a foreign trade office in Taipei, Taiwan.

*e. To the Iowa department of public health, the sum of one hundred thousand dollars for the rural health office for the purpose of rural health planning.**

f. To the Terrace Hill commission, the sum of thirty thousand dollars for maintenance and repair at Terrace Hill and for .5 FTEs.

g. To the Terrace Hill commission, the sum of five thousand dollars for landscaping at Terrace Hill.

h. To Iowa state university of science and technology for the Iowa cooperative extension service in agriculture and home economics, the sum of one hundred thousand dollars to hire up to four horticultural specialists.

*Item veto; see message at end of the Act

i. To the department of public defense, the sum of five hundred thousand dollars for construction of a STARC armory at Camp Dodge to house national guard units and to use the basement area to continue state government activities which include the state alternate emergency operations center, the Iowa communications network primary "HUB", and associated disaster service divisions required to maintain continuity of state government.

*Sec. 15. NEW SECTION. *220.163 AUTHORITY TO ISSUE STATE DISASTER RECOVERY PROGRAM BONDS AND NOTES.*

*The authority shall assist the department of public defense as provided in chapter 29C, subchapter II, and the authority shall have all of the powers delegated to it by the department of public defense or a public or private beneficiary of the program in a chapter 28E agreement with respect to the issuance and securing of bonds or notes and the carrying out of the purposes of chapter 29C, subchapter II.**

Sec. 16.

1. All moneys in the surplus account of the Iowa plan fund on the effective date of this Act in excess of the amount needed to fund the appropriations made in section 99E.32, subsections 9 and 10, and the amount needed under subsection 2, shall be reallotted to the community economic betterment account, jobs now account, and education and agriculture research and development account for the fiscal year beginning July 1, 1989, and ending June 30, 1990. From the amount allotted to the community economic betterment account, two hundred fifty thousand dollars shall be appropriated for the construction of a short term nonprofit rehabilitation facility for head-injured patients located in Ankeny, Iowa. The reallotment shall be made as provided in section 99E.32 for the fiscal year beginning July 1, 1989. The reallotment made under this section shall not increase the amounts allotted to the various accounts of the Iowa plan fund under section 99E.32, subsection 1, paragraphs "a" and "b" for the fiscal year beginning July 1, 1989.

2. After the appropriations made in section 99E.32, subsection 9, have been met and an amount equal to the appropriations made in section 99E.32, subsection 10, has been set aside for those purposes, the treasurer of state shall make available from the surplus account to the education and agriculture research and development account the sum of one million six hundred twenty thousand dollars to be used as a prepayment of up to seventy-five percent of the appropriations made for the fiscal year beginning July 1, 1989, to the programs under section 99E.32, subsection 4, paragraph "b", subparagraph (4), except to the Iowa state university of science and technology research and development program. Prepayments made under this subsection shall be repaid as the fiscal year beginning July 1, 1989, allocations to these programs become available. **The repayments shall be reallotted as provided in subsection 1.**

Sec. 17.

Moneys in the international network on trade fund created within the state treasury are appropriated and shall be transferred to the international network on trade fund created by the board of directors of INTERNET.

Sec. 18.

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

Approved May 7, 1990, except the items which I hereby disapprove and which are designated as sections 7, 8, 9, and 10 in their entirety; those portions of section 14 which are herein bracketed in ink and initialed by me; section 15 in its entirety; section 16, subsection 1 in its entirety; and that portion of section 16, subsection 2 which is herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the secretary of state this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit Senate File 2433, an Act relating to the appropriations from and the reallotment of the moneys in the surplus account of the Iowa plan fund, to certain corporations appropriated moneys from the Iowa plan fund, and authorizing the creation of a disaster recovery program to provide low-interest and guaranteed loans to public and private entities for which an appropriation is made from the Iowa plan fund, and providing an effective date.

Senate File 2433 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Sections 7, 8, 9, and 10, in their entirety, Section 14, new subsection 10, paragraph a, in its entirety, and Section 15, in its entirety. These sections relate to the creation, administration and $1.5 million appropriation for a new disaster recovery program. Particularly in light of our difficult fiscal situation, it would be unwise to embark on a new program with potentially unlimited exposure for the state as an insurer for non-insured or underinsured individuals. Moreover, creation of such a program could jeopardize our ability to receive federal disaster assistance in the future.

I am unable to approve the item designated as Section 14, new subsection 10, paragraph b, in its entirety. This provision appropriates $35,000 to the Iowa Civil Rights Commission for a program to recognize twenty-five years of achievement. Certainly the commission has reason to be proud of its record of accomplishments, and I personally pledge to work with the Commission in garnering private sector support for the project. However, the use of tax dollars for this purpose cannot be justified at this time.

I am unable to approve the item designated as Section 14, new subsection 10, paragraph c, in its entirety. This provision appropriates $50,000 to the Department of Justice for a study of dispute resolution services. Earlier this year I vetoed Senate File 2296, which would have created a council for dispute resolution, substantially changing the informal dispute resolution program currently administered in the Office of the Prosecuting Attorneys Training Coordinator of the Department of Justice. This office should be able to provide recommendations without the necessity of a formal study.

I am unable to approve the item designated as Section 14, new subsection 10, paragraph d, in its entirety. This provision appropriates $50,000 to the Department of Agriculture and Land Stewardship for the establishment and operation of a foreign trade office in Taipei, Taiwan. This action by the legislature is contrary to the marketing plan developed at the legislature's direction by the Agricultural Products Advisory Council. The plan calls for foreign offices to be attached to the Department of Economic Development whose Hong Kong office serves the Pacific Rim including Taiwan.

I am unable to approve the item designated as Section 14, new subsection 10, paragraph e, in its entirety. This provision appropriates $100,000 to the Department of Public Health for rural health planning. Improving rural health care is one of my priorities. However, an additional appropriation is unnecessary since the Department received a $100,000 increase in House File 2371 for rural health planning and may also access the Department of Economic Development's rural enterprise fund for this purpose. Rural health safety will be further augmented as a result of a $250,000 appropriation for this purpose contained in House File 2569.

I am unable to approve the item designated as Section 14, new subsection 10, paragraph h, in its entirety. This provision appropriates $100,000 to the Iowa State University Cooperative Extension Service for four horticultural specialists. This item was not included in the university's budget request nor in the Board of Regents' budget recommendation to me.

I am unable to approve the item designated as Section 16, subsection 1, in its entirety. This subsection would appropriate all remaining funds in the Iowa Plan surplus account to the items

receiving Iowa Plan funds for fiscal year 1990 as specified in House File 785, 1989 Acts of the 73rd General Assembly. This provision cannot be approved in view of the state's difficult fiscal situation.

Section 16, subsection 1 also appropriates $250,000 from the Community Economic Betterment account for construction of a rehabilitation center for head-injured patients located in Ankeny, Iowa. This project should stand on its own merits within the rules of the Community Economic Betterment program.

I am unable to approve the item designated as Section 16, subsection 2. This language would reallot repayments made in the subsection according to the provisions in subsection 1, which I have vetoed. The result of this veto will be to send the repayments back to the surplus account.

Because economic development is one of my most important priorities, the decision to exercise my veto authority in this bill is a very difficult one to make. However, it is clear that in order to provide a responsible budget, even my priority areas must be considered. As a result of the item vetoes in this message, it is estimated the balance in the lottery surplus account will be essentially "frozen" at $6.8 million. This action will significantly enhance the ability of both the executive and legislative branches to construct a balanced budget for fiscal year 1992.

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 2433 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1270

HUMAN SERVICES APPROPRIATIONS AND OTHER PROVISIONS

S.F. 2435

AN ACT relating to human services and making appropriations to the department of human services and other properly related matters, providing for retroactive applicability of certain provisions, 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For aid to families with dependent children:

..... $ 42,050,000

1. The department may fund the cash bonus program from unspent funds under this appropriation and shall continue to evaluate the program.

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. The waiver program services shall be provided for the entire fiscal year beginning July 1, 1990, and ending June 30, 1991. Of the funds appropriated

under this section, up to $116,000 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. The department shall submit a report to the legislative fiscal bureau on or before November 1, 1990, providing an update regarding the evaluation of the waiver program and technical assistance which includes recommendations regarding continuation of the program and technical assistance during the fiscal year beginning July 1, 1991.

3. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall apply the self-employment investment demonstration project statewide during the fiscal period delineated in the federal waiver submitted to operate the program statewide, provided training is available to a recipient through a recognized self-employment training program. However, if the application for the federal waiver is denied, the department may determine the counties in which it is feasible to operate the project and shall provide the project in those counties.

4. 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, 1990, is established as follows:

a. For 1 person at $183.
b. For 2 persons at $361.
c. For 3 persons at $426.
d. For 4 persons at $495.
e. For 5 persons at $548.
f. For 6 persons at $610.
g. For 7 persons at $670.
h. For 8 persons at $731.
i. For 9 persons at $791.
j. For 10 persons at $865.
k. For each additional person over 10 persons at $87.

5. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall continue the special needs program under the aid to dependent children program.

6. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall work with the United States department of health and human services to develop a waiver to exempt income received by a participant in the "dollar-a-day" program under an adolescent pregnancy prevention grant, in determining the participant's eligibility for aid to dependent children.

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose 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:

..... $ 224,050,000

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 45 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 150 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 that program.

3. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall track any cost savings realized by the use of the health maintenance organizations under the medical assistance program and shall report any cost savings to the legislative fiscal bureau at the start of each calendar quarter.

4. Notwithstanding section 8.39, the department may transfer funds appropriated in this section to a separate account established in the department's case management unit for expenditures required to provide case management services pursuant to the appropriation in this Act for enhanced mental health, mental retardation, and developmental disabilities services, pending final settlement of the expenditures. Funds received by the case management unit 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.

*5. *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.*

6. Of the funds appropriated in this section, not more than $20,000 may be used to contract with the user liaison program of the agency for health care policy and research to conduct a workshop for Iowa policymakers on health care issues with an emphasis on rural health delivery, system capacity, expanding maternal and child health services, and cost containment.

*7. As a condition, qualification, and limitation of the funds appropriated in this section, the costs of transportation connected with the health of a resident of a health care facility reimbursed under medical assistance shall be reimbursed. If the cost of the resident's care is less than the authorized maximum per diem reimbursement rate, the transportation costs shall be considered an allowable expense. If the cost of the resident's care is equal to the authorized maximum per diem reimbursement rate, the transportation costs shall be reimbursed as an additional expense. The department shall authorize reimbursement of the resident's transportation by wheelchair transportation, if it is less costly to the state.**

8. As a condition, limitation, and qualification of the funds appropriated in this section, effective July 1, 1990, the differential reimbursement amount paid to hospitals which provide a disproportionate share of care to medical assistance recipients shall be increased by 2.5 times the amount paid to the hospitals on June 30, 1990. Of the funds appropriated by the Seventy-third General Assembly to the university of Iowa hospitals and clinics for treatment of indigent patients in accordance with chapter 255, $1,134,000 shall be transferred to the department of human services to be used as additional funds for the purposes designated for medical assistance in this appropriation, provided the differential reimbursement amount is changed in accordance with this subsection in a manner which results in an increase in the disproportionate share of care differential reimbursement payments to the university of Iowa hospitals and clinics in an amount which is at least $1,134,000 more than the amount received by the hospitals and clinics in the fiscal year which began July 1, 1989.

*9. *As a condition, qualification, and limitation of the funds appropriated in this section, a newly constructed intermediate care facility or an existing intermediate care facility which*

*Item veto; see message at end of the Act

*has added or converted beds to intermediate care use shall be granted a 6-month period from the date the new facility, the addition of beds, or the conversion of beds is approved for occupancy before an occupancy limit is applied to facility costs used to determine the medical assistance reimbursement rate for the facility. If the facility does not meet the occupancy limit at the end of the 6-month period, the facility shall be granted an additional 6-month period in which an occupancy limit shall not be applied if the facility has an occupancy of at least 50 percent of its capacity. For subsequent time periods, the facility shall be considered to have an occupancy rate of at least 80 percent of its capacity. In all cost reporting periods, the medical assistance reimbursement rate for an intermediate care facility for the mentally retarded shall be based upon an occupancy of at least 80 percent of the facility's capacity.**

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... $ 3,870,000

As a condition, qualification, and limitation of the funds appropriated in this section, the department shall continue to contract for drug utilization review under the medical assistance program.

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state supplementary assistance:

..... $ 18,160,000

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For aid to Indians under section 252.43:

..... $ 38,000

The tribal council shall not use more than 10 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For protective and state child care assistance:

..... $ 6,833,000

1. It is the intent of the general assembly that $2,587,000 of the funds appropriated under this section, be used for protective child day care assistance.

2. It is the intent of the general assembly that $4,246,000 of the funds appropriated under this section, be used for state child care assistance.

3. a. 25 percent of the funds not otherwise allocated in this section shall be allocated to the 8 department of human services' districts according to a formula based upon the number of children in a district whose family income is equal to or less than 150 percent of federal office of management and budget poverty guidelines. 75 percent of the funds not otherwise allocated

*Item veto; see message at end of the Act

in this section shall be allocated to the 8 districts based upon the department's estimate of a district's expenditures for child day care assistance during the fiscal year which ended June 30, 1990. A district shall distribute funds to each county office within the district in an amount which is at least equal to the combined expenditures in the county for protective and state child care assistance in the fiscal year which began July 1, 1989. If the district documents that funds remaining in a county will be sufficient to meet current demand and projected growth, the district may transfer excess funds to another county office. If the department determines that funds remaining in a district will be sufficient to meet current demand and projected growth, the department may transfer excess funds to another district.

b. Nothing in this section 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 150 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.

Sec. 7. TRANSITIONAL CHILD 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For transitional child care assistance:

..... $ 250,000

Notwithstanding section 239.21, the department of human services shall provide the transitional child care program in accordance with the federal Family Support Act of 1988, Pub. L. No. 100-485, § 302, and applicable federal regulations. Reimbursement for services shall be limited to registered or licensed child day care providers and programs administered by a public or nonpublic school system approved or accredited to provide child day care by the department of education or the state board of regents.

Sec. 8. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family development and self-sufficiency grant program as provided under sections 217.11 and 217.12:

..... $ 925,000

1. No more than 5 percent of the funds appropriated in 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.

2. Based upon the annual evaluation report concerning each grantee funded by this appropriation, the family development and self-sufficiency council may use the amount of funds appropriated in excess of the amount required for existing grants to increase existing grants or to fund an evaluation of the program. Grant renewals shall be awarded on or before January 1, 1991.

Sec. 9. JOBS PROGRAM.

There is appropriated from the general fund of the state to the department of human services 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 the JOBS program:

..... $ 3,310,000

The department may use up to $10,000 of the funds appropriated in this section to implement the family friends program in 2 districts to provide mentors for persons receiving aid to families with dependent children under chapter 239.

2. For the food stamp employment and training program:

..... $ 62,000

Sec. 10. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child support recoveries, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,900,000
..... FTEs 234.5

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. In the event the director adds additional employees, the department shall demonstrate the cost-effectiveness of the current and additional employees by reporting to the joint human services appropriations subcommittee the ratio of the total amount of administrative costs for child support recoveries to the total amount of the child support recovered.

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. As a condition, qualification, and limitation of the funds appropriated in this section, the department's share of the federal nonpublic assistance financial incentives received for support recoveries shall be used for the purposes for which funds were appropriated for aid to families with dependent children.

4. As a condition, qualification, and limitation of the funds appropriated in this section, in all cases involving paternity determination initiated on or after July 1, 1990, by the child support recovery unit, the unit shall make reasonable efforts to encourage and increase the use of testing involving genetic markers or their equivalent which provide a statistical probability in determining paternity.

Sec. 11. COLLECTION SERVICES CENTER.

If the Seventy-third General Assembly, 1990 Session, enacts authorizing legislation* for the collection services center to remain in the department of human services, there is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the collection services center, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 260,000
..... FTEs 26.00

DIVISION III

Sec. 12. 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, 1990, and ending June 30, 1991, 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:

..... $ 4,518,000
..... FTEs 128.5

*See chapter 1224 herein

2. For the state training school at Eldora:

..... $ 7,809,000

..... FTEs 229.00

Sec. 13. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For foster care:

..... $ 48,457,000

1. As a condition, qualification, and limitation of the funds appropriated in this section, up to $1,000,000 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 $3,010,053 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 **including $350,000 for reimbursements to decategorization counties which are designing programs to reduce their counties' use of placements in the Iowa juvenile home, the state training school, and the state mental health institutes.**

2. The department may use funds appropriated in 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 1989 Iowa Acts, chapter 318, section 11.

3. The department may transfer a portion of the funds appropriated in 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 30 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 24 months.

6. Of the funds appropriated in 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 on June 30, 1991, shall not revert to the general fund but shall remain available for expenditure in the fiscal year beginning July 1, 1991, for the purposes designated.**

7. 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.

8. 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.

9. As a condition, qualification, and limitation of the funds appropriated in this section, within available funds and using outside technical assistance where available, the department shall seek to maximize funding for services available to the state under the federal Social Security Act, Title IV-E. Reimbursement in excess of $3,081,470 obtained under the federal Social Security Act, Title IV-E, shall not revert to the general fund, but shall be used for the purposes designated in this section. An amount equal to 80 percent of the excess amount shall

*Item veto; see message at end of the Act

*be transferred from funds appropriated in this section to increase services provided in the appropriation for home-based services in this Act and 20 percent shall remain in this appropriation to be used to increase foster care provider reimbursement rates provided that the maximum reimbursement rate paid to group foster care providers is calculated under the cost-based system.**

10. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall review the need to provide additional day treatment alternatives within the child welfare system and the potential to provide additional services by including day treatment provided by psychiatric medical institutions for children as a service reimbursed under medical assistance. The department shall identify the effect of providing day treatment services reimbursement under medical assistance upon state expenditures for residential treatment and other foster care services. **The department may use funds appropriated in this Act for medical assistance to pay the nonfederal share of costs for services reimbursed under medical assistance which are provided in a psychiatric medical institution for children.*

11. The department may use $30,000 of the funds appropriated in this section to contract for a study of the effectiveness of needs-based and therapeutic family foster care and enhanced residential care.

*12. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall develop a therapeutic foster care program in at least 1 district in the state. The program's foster care worker support staff shall serve no more than 7 foster families and shall provide respite and special support services to foster parents to enable them to serve in an active treatment capacity with the children under their care. Of the funds appropriated in this section, up to $200,000 shall be used for therapeutic foster care reimbursement.**

13. Funds appropriated in this section may be used to recruit foster parents and to implement a pilot project utilizing the "Model Approach to Partnership in Parenting" preservice training for foster parents.

14. Of the funds appropriated in this section, up to $140,000 may be used to develop and maintain the state's implementation of the national adoption and foster care information system pursuant to the requirements of Pub. L. No. 99-509.

15. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall establish a family foster care advisory committee to examine department practices and policies to improve the recruitment and retention of foster parents, provide training and professional guidance where appropriate, and seek the involvement of family foster care providers in designing, developing, and participating in the creation of therapeutic foster family homes. The department shall review initiatives of other states in recruiting foster parents from appropriate families who are recipients of public assistance. In consultation with the advisory committee, the department shall seek federal waivers and make program modifications as necessary to develop a similar program for Iowa upon receiving federal approval to do so.

16. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall seek outside funding support to continue foster care payments to foster families and foster care youths in independent living situations, if the youths wish to pursue a postsecondary education upon turning 18 years of age and eligibility for foster care payments expires. In consultation with the family foster care advisory committee, the department shall report on options available to the state to provide assistance to foster families and foster care youths who wish to pursue a postsecondary education when the youths reach 18 years of age.

17. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall establish specialized family foster care homes and provide specialized support and respite services to qualifying foster care families who accept infants with chemical addictions from intrauterine transmission who would otherwise remain in a hospital.

18. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall continue the demonstration program to decategorize child welfare

*Item veto; see message at end of the Act

services in the 2 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 2 additional counties shall provide that the program be implemented on or after July 1, 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 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 3-year period. The 3-year time period for a decategorization project in Dubuque, Polk, Pottawattamie, or Scott county shall be considered to begin on January 1 in the first year following the year in which the county's decategorization project was approved by the department.

Sec. 14. 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, 1990, and ending June 30, 1991, the following amounts, 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 general administration of the department to improve staff training efforts:
..... $ 420,000

2. For funding required to oversee termination of parental rights and permanency planning efforts on a statewide basis on the condition that regular reports regarding the statewide program efforts shall be provided to the legislative fiscal bureau:
..... $ 120,000
..... FTEs 3.00

3. For use by the department in general administration 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:
..... $ 40,000
..... FTEs 1.00

4. For personnel, assigned by the attorney general, to provide additional services relating to termination of parental rights and child in need of assistance cases:
..... $ 88,000

5. For funding of the state multidisciplinary team to assist with difficult cases within the child abuse and foster care system and with respect to child protective investigation and initial case planning and to develop and coordinate local multidisciplinary teams:
..... $ 75,000

6. For use by the department in conducting outcome-oriented evaluations of child protection, prevention, and treatment programs:
..... $ 35,000

*7. *For a statewide conference on the issue of providing reasonable efforts. The conference shall involve members of the general assembly, juvenile court judges and officers, workers in the child welfare and foster care system, and executive branch officials. The department shall seek support from the national conference of state legislatures, the national governor's association, and private foundations in conducting the conference:*
..... $ *10,000**

Sec. 15. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose 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:
..... $ 11,290,000

1. Of the funds appropriated in 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.

2. Of the funds appropriated in this section, $3,486,087 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 the department's Mason City district, in remaining counties of the Des Moines district, and to intensify services in 2 districts of the department, following review by the statewide family preservation and decategorization committee. A limited amount of the funds may be used for the family assistance fund to provide other resources required for a family participating in a project to stay together or to be reunified. Not more than $70,000 of the funds appropriated in this section 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. 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 statewide family preservation and decategorization committee to assist in selecting additional projects.

Sec. 16. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For community-based programs on the condition that the prevention grants relating to adolescent pregnancy are funded:
..... $ 3,324,000

1. As a condition, qualification, and limitation of the funds appropriated in this section, up to $250,900 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.

*Item veto; see message at end of the Act

2. Of the funds appropriated in this section, $523,500 shall be used for adolescent pregnancy prevention grants. At least 75 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 7 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, a maternal and child health center, an adolescent services provider, or a nonprofit organization which is involved in adolescent issues. Grants shall be awarded for a 1-year period and targeted to provide services primarily in the 7 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 18 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 18 years of age or older.

b. A grant shall only be awarded to a project which provides 1 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, to provide information regarding acquired immune deficiency syndrome and sexually transmitted diseases, 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 in this section, at least $250,000 shall be used to provide grants administered in accordance with the provisions for adolescent pregnancy prevention grants, except for requirements to target certain specific geographic areas of the state. The grants shall be awarded to fund any of the following purposes:

a. Programs targeted to children. A program must include the following: components for parental involvement; parental education, including techniques for encouraging sexual abstinence; outreach services for recruiting parents and children into the program; and the provision of transportation to program staff and participants necessary for recruiting and encouraging program participation.

b. Programs intended to prevent an additional pregnancy by a parent who is less than 19 years of age. Preference in grant awards shall be given to programs which provide financial incentives to clients for their program participation and success in avoiding an additional pregnancy.

c. Providing additional pregnancy prevention grants. Preference in grant awards shall be given to programs which, in addition to other services, provide counseling to mixed gender groups of adolescents.

5. As a condition, qualification, and limitation of the funds appropriated in this section, $550,686 shall be used by the department for child abuse prevention grants.

Sec. 17. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For supplementation of federal social services block grant funds and for allocation to the various counties for the purchase of local services:

..... $ 4,643,000

The funds appropriated in this section shall be allocated to the counties pursuant to the rules of the department in effect on January 1, 1985. The department shall increase the income guidelines for income eligible persons receiving services funded with federal social services block grant funds for the fiscal year beginning July 1, 1990, 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.

Sec. 18. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For juvenile justice expenditures pursuant to section 232.141, subsection 4:

..... $ 5,385,000

As a condition, qualification, and limitation of the funds appropriated in this section, the department shall submit quarterly reports to the fiscal committee of the legislative council which provide the expenditures of the funds appropriated in this section for each judicial district.

Sec. 19. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose 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:

..... $ 28,680,000
..... FTEs 836.87

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.

**Sec. 20. IOWA VETERANS HOME — AUTOMATED CLINICAL INFORMATION SYSTEM.*

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For costs related to the purchase and implementation of an automated clinical information system at the Iowa veterans home:

..... *$ 176,000**

DIVISION IV

Sec. 21. 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, 1990, and ending June 30, 1991, the following amounts, 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:

..... $ 15,158,000
..... FTEs 409.33

As a condition, qualification, and limitation of the funds appropriated in this subsection, up to $850,000 shall be used to phase in new residential treatment programs for adolescents who are substance abusers and to develop secure beds for juveniles placed at the state mental health institute at Cherokee.

*Item veto; see message at end of the Act

2. State mental health institute at Clarinda:

	$	7,442,000
	FTEs	192.06

3. State mental health institute at Independence:

	$	15,033,000
	FTEs	424.77

4. State mental health institute at Mount Pleasant:

	$	8,490,000
	FTEs	207.5

Sec. 22. 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, 1990, and ending June 30, 1991, the following amounts, 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:

	$	38,044,000
	FTEs	1,178.00

2. State hospital-school at Woodward:

	$	31,383,000
	FTEs	957.3

Sec. 23. MENTAL HEALTH AND MENTAL 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary:

	$	3,255,000

1. Not more than $30,000 of the funds appropriated in this section shall be used to support counseling services employing veterans to counsel veterans afflicted with delayed stress syndrome and their families.

2. Notwithstanding section 225C.7, subsection 2, $130,000 of the funds appropriated in this section shall not be divided into 2 parts, but shall be used only for grants under the special allocation of the state community mental health and mental retardation services fund.

Sec. 24. MENTAL HEALTH – MENTAL RETARDATION – DEVELOPMENTAL DISABILITIES SPECIAL SERVICES.

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental health, mental retardation, and developmental disabilities special services:

	$	975,000

1. The department and the Iowa finance authority shall develop methods to implement financing for community-based intermediate care facilities for the mentally retarded and residential care facilities for the mentally retarded. The department shall develop criteria for these facilities which will include provisions to restrict placements to current state hospital-school clients and to avert the placement of persons in a state hospital-school. The department of human services shall assure that clients are referred to the facility upon development.

2. Of the funds appropriated in this section, $550,000 is allocated to provide supplemental per diems to community-based residential care facilities. The per diem is restricted to clients placed from the state hospital-schools and persons averted from placement in a state hospital-school who meet the appropriate level of functioning for this type of care.

3. Of the funds appropriated in this section, $200,000 is allocated to provide funds for construction and start-up costs to develop community living arrangements to provide for persons

who are mentally ill and homeless. These funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.

*4. *Of the funds appropriated in this section, $150,000 is allocated to provide supplemental per diems for community living arrangements developed under subsection 3.*

5. As a condition, qualification, and limitation of the funds appropriated in this section, $75,000 shall be used by the department to contract to provide technical assistance services to counties and service providers in strategic planning and implementation of community-based services for persons with mental retardation, mental illness, or developmental disabilities. A 13-member technical assistance panel shall determine the types and methods of technical assistance to be provided within available funding. The options considered by the panel shall include but are not limited to needs identified by individual counties, service providers, and the department of human services. The panel membership shall consist of the following persons:

a. 5 persons appointed by the Iowa state association of counties.

b. 3 persons, including 1 person who is a county human services director, appointed by the director of the department of human services.

c. 1 person appointed by the community mental health centers association of Iowa.

d. 1 person appointed by the governor's planning council on developmental disabilities.

e. 1 person appointed by the mental health and mental retardation commission.

f. 1 person appointed by the human needs advocates organization.

g. 1 person appointed by the Iowa association of rehabilitation and residential facilities.

*6. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall adopt rules pursuant to chapter 17A providing for reimbursement under state supplementary assistance to pay for supervised apartment living and cooperative housing arrangements for persons with mental retardation, mental illness, or developmental disabilities. The rules shall take effect July 1, 1991.**

Sec. 25. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program:

..... $ 590,000

As a condition, qualification, and limitation of the funds appropriated in this section, the department shall study the effect of establishing an eligibility spend-down provision for the family support subsidy program which is similar to eligibility spend-down provisions used for other public assistance programs. The study shall provide recommendations to address the needs of families who meet the family support subsidy program eligibility criteria except for income level and have extraordinary medical or other expenses as a result of caring for a child with a disability in their home.

Sec. 26. SPECIAL NEEDS GRANTS.

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To provide special needs grants to families with a family member at home who has a developmental disability or to a person with a developmental disability:

..... $ 55,000

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 or to provide for independent living costs. A grant may provide up to $5,000 per person for costs associated with an assistive animal. The grants may be administered by a private nonprofit agency which serves people statewide 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.

*Item veto; see message at end of the Act

Sec. 27. ENHANCED MENTAL HEALTH – MENTAL RETARDATION – DEVELOPMENTAL DISABILITIES SERVICES.

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the state candidate services fund:

..... $ 2,630,000

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, 1990, and ends June 30, 1991. The oversight committee shall 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.

3. a. The county of legal settlement shall be billed for 50 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 not receive credit for the amount of the costs.

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, 1990, 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 in this section which are unobligated or unencumbered on June 30, 1991, shall not revert to the general fund but shall be deposited in the state community mental health and mental retardation services fund for use in the fiscal year beginning July 1, 1991. 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, 1990, for this purpose.*

b. Notwithstanding section 8.39, funds appropriated in this Act for the state mental health institutes and for the state hospital-schools shall not be subject to transfer, except to the state candidate services fund after January 1, 1991, subsequent to a reevaluation of the institutional budgets for the remainder of the fiscal year.*

*Item veto; see message at end of the Act

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, 1990, 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, 1990, 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, 1990, 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, 1990, less any carryover amount from the fiscal year which began July 1, 1989, 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.

DIVISION V

Sec. 28. FIELD OPERATIONS.

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For field operations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	41,963,000
.....	FTEs	2,318.50

1. 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.

2. 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 field operations.

*3. *a. As a condition, qualification, and limitation of the funds appropriated in this section, the director of human services shall, no later than August 10, 1990, and by the 10th of each subsequent month, project the number of staff terminations in the field operations unit which are expected to occur during the succeeding 90 days. This projection shall be based upon the number of terminations which have occurred in the unit during the preceding 90 days, and other relevant factors. The director shall review the projection and the current number of vacant positions and shall initiate hiring as many field operations staff as are required to maintain the vacancy factor at a level which is no higher than 5 percent during the following 90-day period, based upon the budgeted full-time equivalent position level. The director shall report monthly to the chairpersons and ranking members of the joint human services appropriations subcommittee and to the legislative fiscal bureau concerning the projected number of terminations, the number of vacant full-time equivalent positions, the number of full-time equivalent positions in the process of being hired, and other information needed by the legislative fiscal bureau to determine compliance with the provisions of this section.*

*b. The director of human services, the director of the department of personnel, and the director of the department of management shall by August 1, 1990, meet to develop changes in policies and procedures which can be implemented administratively to improve the hiring process for the field operations unit of the department of human services, in order that all budgeted full-time equivalent positions are filled and that the budgeted caseweight levels for employees are maintained. These changes shall be implemented as soon as is practicable and shall be reported to the chairpersons and ranking members of the joint human services appropriation subcommittee and the legislative fiscal bureau prior to implementation.**

4. As a condition, qualification, and limitation of the funds appropriated in this section, if the field operations staffing level meets the funded full-time equivalent position limit authorized in this section and a district identifies a critical position vacancy or a position with a caseweight factor greater than 120 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, 1990, and ending June 30, 1991, is 163 for income maintenance workers and 170 for social workers. **In addition, if the field operations staffing level meets the funded full-time equivalent position limit authorized in this section and there is a critical position vacancy in the state or the statewide average caseweight factor for a particular type of position exceeds 105 percent of the budgeted caseweight factor for that type of position, the director of human services may exceed the*

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*full-time equivalent position limit authorized in this section in an amount necessary to fill the critical position vacancy or to reduce the caseweight factor to the budgeted level.** The department shall report monthly to the chairpersons and ranking members of the joint human services appropriations subcommittee and 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.

5. Notwithstanding the full-time equivalent position limit authorized in this section, a county implementing a decategorization project, consistent with the county's decategorization plan, may modify the staffing level in the county's human services office and the modification shall not affect other county or district human services staffing levels and shall not be considered to be subject to the full-time equivalent position limit in this section.

6. As a condition, qualification, and limitation of the funds appropriated in this section, at least 2 FTEs provided in this section shall be used to expand early preventive screening, diagnosis, and treatment outreach service efforts and to provide additional educational efforts for major providers of services to pregnant women and children.

7. It is the intent of the general assembly that eligibility workers shall be present in at least 3 additional high volume health care sites to process applications for medical assistance eligibility at those sites.

8. As a condition, qualification, and limitation of the funds appropriated in this section, up to $100,000 shall be used for a study of caseweight factors, including staffing needs. The department shall work with the department of personnel in conducting the study, including any study component involving a request for proposals to retain a consultant.

Sec. 29. 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, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For general administration, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	9,000,000
.....	FTEs	350.95

1. Full-time equivalent positions which are funded entirely with federal, public, or private grants, or the gamblers 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, 1 FTE shall be filled by a homeless programs coordinator.

3. 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.

4. As a condition, qualification, and limitation of the funds appropriated in this section, not more than $38,000 shall be used for staff assigned to develop home and community-based waivers under the federal-state medicaid program. The department shall identify experienced staff to develop the waivers, and shall consult with service providers, advocates, and other interested parties in developing the waivers.

5. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall seek federal approval of home and community-based waivers for services provided under medical assistance to persons with mental retardation, mental illness, or developmental disabilities.

6. As a condition, qualification, and limitation of the funds appropriated in this section, the department of human services, in consultation with the general assembly health care

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expansion task force, the governor's task force on the uninsured, and the Iowa department of public health, shall explore opportunities for state participation in authorized federal demonstration programs directed toward low-income children. The department shall submit a report of its findings to the governor and the general assembly on or before January 2, 1991.

7. As a condition, qualification, and limitation of the funds appropriated in this section, in cooperation with the department of human rights, division of community action agencies, and the Iowa department of public health, community health division, the department of human services shall develop a proposal outlining necessary actions to simplify and integrate the exchange of information across major programs serving the health and nutrition needs of low-income women and children, including the aid to dependent children program, the federal food stamp program, the medical assistance program, and the women, infants, and children nutrition program.

8. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall establish an advisory committee to study the department's proposed community residential-services development plan to implement more appropriate care and services to persons with mental retardation, mental illness, and developmental disabilities and related issues. The advisory committee shall include representatives from the department and other state agencies and representatives of the following groups: the alliance for the mentally ill, the association for retarded citizens of Iowa, the community mental health centers association of Iowa, protection and advocacy of Iowa, the Iowa association of rehabilitation and residential facilities, the Iowa state association of counties, the Iowa coalition for persons with disabilities, the American federation of state, county, and municipal employees council 61, and the governor's planning council for persons with developmental disabilities. The advisory committee's study shall include but is not limited to the following issues and areas: developing alternative living arrangements, services, and support for persons who are in institutions or community services and for the persons' families; assessing the flexibility and adequacy of funding sources for services, including federal block grants, state supplementary assistance, the family support subsidy program, vocational rehabilitation, the state candidate services fund, the state community mental health and mental retardation services fund, and medical assistance; providing recommendations for alternatives consistent with the bill of rights for persons with mental retardation, chronic mental illness, and developmental disabilities; and providing a 5-year plan to implement and finance the alternatives recommended by the advisory committee. The advisory committee shall submit a report containing its findings and recommendations to the director of the department of human services, the mental health and mental retardation commission, the human services council, and the general assembly on or before November 1, 1990.

*9. *As a condition, qualification, and limitation of the funds appropriated in this section, $30,000 shall be transferred to the governor's planning council for developmental disabilities for use in contracting to continue operating a computerized information and referral project for Iowans with developmental disabilities and their families.**

10. As a condition, qualification, and limitation of the funds appropriated in this section, the director of human services or the director's designee shall participate in an interagency work group convened by the governor's planning council for developmental disabilities to examine the feasibility of establishing an office of disability prevention within state government.

*11. *As a condition, qualification, and limitation of the funds appropriated in this section, $75,000 shall be used and 4 FTEs shall be assigned to computerization of manuals in an effort to assist income maintenance workers and other employees and improve services to clients.**

12. The director of human services may contract for services to secure medical support payments from third parties and to develop a tracking system for claims paid under medical assistance for children who have an order for medical support.

13. The department may transfer up to $20,013 of the funds appropriated and 1 FTE authorized for field operations in this Act to be used, in addition to the funds appropriated and full-time equivalent positions authorized in the appropriation made in this section, for the purpose

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of managing and monitoring early preventive screening, diagnosis, and treatment outreach service efforts.

*14. *Of the funds appropriated in this section, up to $50,000 shall be used for staff and support costs required to implement section 36 of this Act, relating to development of children's programs in community settings. The number of staff persons shall be limited to not more than 2 FTEs and the full-time equivalent positions are considered to be in addition to the full-time equivalent position limit authorized in this section.*

15. As a condition, qualification, and limitation of the funds appropriated in this section, the department shall seek additional funds through supplemental appropriation if in relation to the appropriations for field operations in this Act, the expected federal cost allocation share is less than expected, the average base salary and support cost is more than expected, or the vacancy factor is lower than expected. The department shall report monthly to the fiscal committee of the legislative council, the chairpersons and ranking members of the joint human services appropriations subcommittee, and the legislative fiscal bureau regarding the projections of expenditures relating to the appropriations in this Act, and regarding any changes that occur relating to the federal cost allocation share, the average base salary and support cost, and the vacancy factor which affect the appropriation for field operations.

*16. As a condition, qualification, and limitation of the funds appropriated in this section, the director of human services, in consultation with the chairpersons and ranking members of the joint human services appropriations subcommittee and other members of the general assembly designated by the fiscal committee of the legislative council, shall develop a proposal which is capable of implementation on or before July 1, 1991, to reduce the number of district offices in the department to not more than five offices. The proposal shall contain provisions to restructure county offices as appropriate to reduce the number of administrative staff positions in the department. The proposal shall be submitted to the governor and the general assembly on or before January 2, 1991.**

Sec. 30. VOLUNTEERS.

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:

..... $ 95,000

Sec. 31. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. For the fiscal year beginning July 1, 1990, the following providers shall have their medical assistance reimbursement rates increased by 4 percent over the rates in effect on June 30, 1990: psychiatric medical institutions for children, providers of waivered services under the home and community-based programs, optometrists for service fees only, opticians for service fees only, podiatrists, dentists, chiropractors, physical therapists, birthing centers, ambulance services, independent laboratories, area education agencies, clinics, audiologists, rehabilitation agencies, community mental health centers, family planning clinics, psychologists, hearing aid dealers, orthopedic shoe dealers, ambulatory surgery centers, and genetic counseling clinics. Reimbursement for optometric products, and durable medical products and supplies, shall be increased by 6.4 percent. The department of human services may utilize flexibility in allocating the increase for medical equipment and supplies so that equipment and supplies which have greater wholesale cost increases may be reimbursed at a higher rate and those which have a lower or no wholesale cost increase may be reimbursed at a lower rate or have no increase. Reimbursement rates for physicians and certified registered nurse anesthetists shall be increased by 3.2 percent. Reimbursement rates for screening centers, maternal health centers, obstetric services when provided by physicians or certified nurse midwives, and pediatric services shall be increased by 7.44 percent.

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The department shall provide a differential per diem reimbursement rate to a psychiatric medical institution for children for short-term treatment or diagnosis services provided within a segregated unit of the institution. The differential per diem reimbursement rate shall not exceed 120 percent of the per diem rate authorized in this section for psychiatric medical institutions for children.

The dispensing fee for pharmacists shall be increased by 4 percent. The department shall adjust the average wholesale price of drug product costs in accordance with federal regulations. Dispensing fees for pharmacists shall be further adjusted to reflect the adjustment to the average wholesale price of drug product costs. Total adjustments to reimbursements for prescription drugs shall remain within funds appropriated.

a. Reimbursement rates to hospitals shall be increased by 5.7 percent over the rates in effect on June 30, 1990.

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, hospice services, and acute care mental hospitals shall be reimbursed for their current federal medicare audited costs.

d. Effective July 1, 1990, skilled nursing facility reimbursement rates shall be increased by 5 percent over the rates in effect on June 30, 1990.

e. Effective July 1, 1990, the basis for establishing the maximum medical assistance reimbursement rate for intermediate care facilities shall be the 74th percentile of facility costs as calculated from the June 30, 1990, unaudited compilation of cost and statistical data.

(1) Effective July 1, 1990, intermediate care facilities shall receive in addition to their approved per diem rate, an amount equal to $2.50 per day for each medical assistance eligible resident identified by the Iowa foundation for medical care as meeting criteria to receive special care or services.

(2) Effective October 1, 1990, the term "intermediate care facility" shall be replaced by the term "nursing facility". Effective October 1, 1990, nursing facilities shall be allowed an increase in their per diem reimbursement rates based on budgeted costs related to meeting nursing home reform requirements pursuant to the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203. To be considered for per diem reimbursement rate adjustment, a nursing facility's budget for costs related to meeting the nursing home reform requirements must be received by the department on or before August 31, 1990. Reports of actual costs related to meeting the nursing home reform requirements shall subsequently be submitted to the department.

Subject to the maximum per diem reimbursement rate for nursing facilities in effect on October 1, 1990, the department shall reconcile the nursing facility's actual costs relative to its budgeted costs and adjust the facility's per diem reimbursement rate accordingly.

(3) Effective October 1, 1990, the maximum reimbursement rate for nursing facilities shall be the 74th percentile of facility costs as calculated from the June 30, 1990, unaudited compilation of cost and statistical data, with the addition of budgeted facility costs related to meeting federal nursing home reform requirements pursuant to the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203.

(4) Intermediate care facilities for the mentally retarded with 15 or fewer beds shall be reimbursed at 95 percent of the authorized per diem reimbursement rate for allowed leave days.

(5) If a resident of a residential program is admitted to a state mental health institute for short-term hospitalization, the residential program shall be reimbursed at the authorized per diem reimbursement rate for the days the resident is in the state mental health institute.

2. a. For the fiscal year beginning July 1, 1990, the cost reimbursement rate for residential care facilities reimbursed by the department shall be increased by $1.11 per day over the maximum cost reimbursement rate in effect on June 30, 1990. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall be increased by $.80 per day over the flat reimbursement rate in effect on June 30, 1990. For the fiscal year beginning July 1, 1990, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall be increased by 6 percent over the rates in effect on June 30, 1990.

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*b. *If the ending balance in the general fund of the state for the fiscal year beginning July 1, 1989, and ending June 30, 1990, is $100,000,000 or more, effective January 1, 1991, the cost reimbursement rate for residential care facilities reimbursed by the department shall be increased by $.37 per day over the maximum cost reimbursement rate in effect on December 31, 1990. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall be increased by $.27 per day over the flat reimbursement rate in effect on December 31, 1990. The maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall be increased by 2 percent over the rates in effect on December 31, 1990.*

3. a. For services provided by social service providers reimbursed by the department in the fiscal year beginning July 1, 1990, rates shall be increased by 6 percent over the unreduced rates in effect on June 30, 1990, except for family foster care provider rates which shall be increased by an average of 9 percent. Increases in rates for foster group care and shelter care services shall not exceed $4.25 per day over the maximum rate in effect on June 30, 1990. The reimbursement rate increase for providers whose cost reimbursement is below the maximum rate on July 1, 1990, shall be the maximum increase provided to providers whose cost reimbursement is at the maximum rate on July 1, 1990.

*b. *If the ending balance in the general fund of the state for the fiscal year beginning July 1, 1989, and ending June 30, 1990, is $100,000,000 or more, effective January 1, 1991, services provided by social service providers reimbursed by the department rates shall be increased by 2 percent over the unreduced rates in effect on December 31, 1990, except for family foster care provider rates which shall remain at the rates in effect on December 31, 1990. Increases in rates for foster group care and shelter care services shall not exceed $1.42 per day over the maximum rate in effect on December 31, 1990. The reimbursement rate increase for providers whose cost reimbursement is below the maximum rate on January 1, 1991, shall be the maximum increase provided to providers whose cost reimbursement is at the maximum rate on January 1, 1991.*

4. For providers reimbursed under subsection 3, reimbursement rate increases may be applied to the maximum reimbursement rate a program has received in any of the last 5 fiscal years, provided that if the program utilizes a reimbursement rate for a year other than the fiscal year beginning July 1, 1989, the program can justify to the department that the costs associated with that reimbursement rate pertain to the fiscal year beginning July 1, 1990.

5. Notwithstanding the provisions of subsections 3 and 4, the department may implement revisions of the methodology for purchasing group foster care services to establish rates for group foster care services based on the study of these issues funded by the general assembly in the fiscal year which began July 1, 1989, provided the overall expenditures for the services are revenue neutral and the revisions of the methodology are agreed to by the affected service providers.

6. As a condition, qualification, and limitation of the funds appropriated in this Act, the department shall develop methodologies to reimburse the actual costs of providers of services under the appropriations for foster care, state supplementary assistance, and social services block grant supplementation in this Act. The department shall report to the governor and the general assembly by October 1, 1991, regarding the methodologies that the department has developed to achieve this purpose and the estimated costs for their implementation. *It is the intent of the general assembly that the providers shall be reimbursed for their actual costs commencing in the fiscal year beginning July 1, 1993. It is the intent of the general assembly that the governor shall propose in the governor's budget submitted to the general assembly, for the fiscal years ending June 30, 1992, and June 30, 1993, increases for social service providers that would allow for a phase-in of this reimbursement system in equal steps toward full implementation in the fiscal year ending June 30, 1994.*

*Sec. 32. *CONTINGENCY APPROPRIATION INCREASE.*

If the ending balance in the general fund of the state for the fiscal year beginning July 1, 1989, and ending June 30, 1990, is $100,000,000 or more, effective January 1, 1991, there is

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appropriated from the general fund of the state to the department of human services for the fiscal period beginning January 1, 1991, and ending June 30, 1991, the following amounts, to be used for increased reimbursement rates for providers of services reimbursed under section 31, subsections 2 and 3, of this Act:

1. For state supplementary assistance:

..... $ *207,331*

2. For protective and state child care assistance:

..... $ *84,720*

3. For foster care:

..... $ *482,498*

4. For home-based services:

..... $ *99,888*

5. For community-based programs:

..... $ *16,508*

6. For supplementation of federal social services block grant funds and for allocation to the various counties for the purchase of local services:

..... $ *134,356*

7. For development and coordination of volunteer services:

..... $ *1,164**

Sec. 33. ASSISTANCE TO GAMBLERS.

The department shall use funds deposited in the gamblers assistance fund established in section 99E.10 only as provided in that section and, in accordance with department of revenue and finance rules relating to reimbursement of state advisory committees, to reimburse advisory committee members for actual and necessary expenses for their attendance at meetings. **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 funding the following full-time equivalent positions to support this program:

..... FTEs 3.00

Sec. 34. REQUIREMENTS RELATING TO PERSONS WITH DISABILITIES.

1. Subject to the limitations of the appropriations in this Act for the state mental health institutes and for state hospital-schools, the department of human services shall modify staffing structures at the state hospital-schools and the state mental health institutes consistent with accreditation and certification requirements and the findings of the study on staffing commissioned by the general assembly in order to improve the level of direct staffing, reduce or simplify the levels of organizational authority where appropriate, and reduce the use of overtime. If, after review of the study recommendations, the department of human services decides to establish the position of "human resource specialist" at the state hospital-schools, the positions shall be established within the department of personnel and the department of human services may transfer to the department of personnel the associated full-time equivalent positions and moneys equal to the salary costs for the positions. Of highest priority is the maintenance of sufficient direct care staff to assure worker and patient safety. The department shall work with all levels of affected employees in carrying out this staff restructuring. The department shall work to assure that vacant positions in direct care are filled promptly and expeditiously.

2. As a condition, qualification, and limitation of the appropriations in this Act for the state mental health institutes and for the state hospital-schools, the department of human services shall identify issues which require legislative attention regarding the impact upon counties of variations in per diem rates for services provided at the individual state hospital-schools, the individual state mental health institutes, and community-based facilities. The issue identification shall include an evaluation of incentives and disincentives which now exist or are likely to exist in the near future relating to county obligations for the costs of care provided

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in state institutions contrasted with county obligations for the costs of care provided in community-based facilities. The department shall identify persons, groups, and organizations whose involvement is necessary to effectively address the identified issues and information which must be obtained in order to develop proposals to address the identified issues. The department shall submit a report which includes the identified issues, a list of persons who should be involved in addressing the issues, and information needs. The report shall provide at least 2 alternative action plans to address the issues and a proposal to equalize rates charged for each service provided at the individual state hospital-schools and the individual state mental health institutes. The report shall be submitted on or before October 1, 1990, to the chairpersons and ranking members of the joint human services appropriations subcommittee and to the fiscal committee of the legislative council. The chairpersons and ranking members shall receive per diem and reimbursement of necessary expenses related to their receipt of the report.

3. As a condition, qualification, and limitation of the appropriations in this Act for the state mental health institutes and for the state hospital-schools, within the applicable guidelines established under the federal Fair Labor Standards Act, the department shall establish a friends-sponsorship program for employees and residents of the state hospital-schools and the state mental health institutes. An employee participant, including but not limited to a direct care worker, resident treatment worker, or other nonexempt employee shall be required to sign a waiver to ensure that time spent with residents as part of the program is considered to be volunteer time and is not paid for by the state. An employee shall not be formally or informally required to participate in the program. The department shall establish standards to provide for consent of employees to participate and for appropriateness and quality of program activities involving residents which take place outside a state hospital-school or state mental health institute.

Sec. 35. 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 co-chairpersons 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. 36. DEVELOPMENT OF CHILDREN'S PROGRAMS IN COMMUNITY SETTINGS.

1. The department of human services and the supreme court, in consultation with existing providers of services, members of the general assembly, and experts in child welfare and juvenile justice, shall conduct a study identifying the types of residential programs which should be developed, either by enhancing reimbursement of foster care services or of psychiatric medical institutions for children, to serve the children who are currently in the following placements: the Iowa juvenile home, out-of-state facilities at high cost to the state, and the state training school when the children could be served in community settings if the proper type of program were available. The recommendations of the juvenile justice advisory committee, established by the legislative council in 1989, regarding the state training school and the Iowa juvenile home shall be considered. In addition, the need to develop specific programs to serve children who are sexual abuse perpetrators, substance abusers, or have a dual diagnosis, and the regions of the state where the specific programs should be located in order to serve children in community settings, shall be identified. The department and the supreme court shall complete the study of the items required under this section on or before June 1, 1990.

2. Based upon the study findings, the department shall request proposals to develop a total of 120 additional residential placement slots in community settings and the slots shall be available on or before October 1, 1991. The department shall work with the Iowa finance authority and service providers to finance the development of resources for these slots at the lowest possible cost. The requests for proposals shall be issued on or before July 1, 1990.

3. Notwithstanding the provisions of section 135H.6, subsection 5, psychiatric medical institution for children beds developed under this section are not subject to the limit upon the number of beds which may be provided under psychiatric medical institution for children licensure.

4. If House File 2517* is enacted by the Seventy-third General Assembly, 1990 Session, containing provisions which are in conflict with this section, the provisions of House File 2517 shall prevail in place of this section.

****Sec. 37. COMPUTERIZATION — ASSESSMENT OF FINANCIAL IMPACT.**

*In order to assess the financial impact of computerizing functions within the department of human services, the department of general services, information services division, shall monitor the utilization of the central processing unit resources maintained by the division, and shall provide quarterly reports to the fiscal committee of the legislative council and the legislative fiscal bureau. The quarterly reports shall contain an analysis of the central processing unit resources utilized by the department of human services by each computerized application within the department. The reports shall also contain information on computerized applications which are under development, and shall project the central processing unit utilization which will occur in 6, 12, 18, and 24 months. The reports shall be designed to enable the fiscal committee and the legislative fiscal bureau to assess the fiscal impact of various computerized applications, with emphasis upon the need for the division to purchase additional computer hardware.***

Sec. 38. 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 section 1, subsection 4, relating to increasing the schedule of basic needs under the aid to dependent children program; section 2, subsection 7, relating to the costs of transportation connected with the health of a resident of a health care facility reimbursed under medical assistance; section 2, subsection 8, relating to differential reimbursement paid to hospitals which provide a disproportionate share of care to medical assistance recipients and related provisions; section 2, subsection 9, relating to occupancy limits applied to intermediate care facilities for reimbursement purposes; section 4, unnumbered paragraph 3, relating to increasing the personal needs allowance of certain persons; section 5, unnumbered paragraph 3, relating to the tribal council's usage of appropriated funds for administrative purposes; section 6, subsection 3, relating to allocating funds appropriated for protective and state child care assistance; section 13, subsection 6, relating to foster care liability insurance; section 13, subsection 15, relating to recruiting foster parents from recipients of public assistance; section 16, subsection 3, relating to grants administered in accordance with provisions for adolescent pregnancy prevention grants; section 17, unnumbered paragraph 3, relating to increasing income guidelines for certain persons; section 24, subsections 1 through 4, relating to financing certain facilities, to providing supplemental per diems to certain facilities, and to providing for costs and reimbursements relating to certain community living arrangements; section 26, relating to special needs grants; and section 31, relating to reimbursements of providers, 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. 39. GAMBLERS ASSISTANCE NOTIFICATION.

The Iowa lottery board and the state racing and gaming commission shall cooperate with the gamblers assistance program in developing procedures to incorporate information regarding the gamblers assistance program and its toll-free telephone number in printed materials distributed. The commission may require licensees to have the information available in a conspicuous place as a condition of licensure.

Sec. 40. 1986 Iowa Acts, chapter 1150, section 3, as amended by 1988 Iowa Acts, chapter 1239, section 1, is repealed.

*Chapter 1239 herein

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Sec. 41. Section 99E.10, subsection 1, paragraph a, Code 1989, is amended by striking the paragraph and inserting in lieu thereof the following:

a. An amount equal to one-half of one percent of the gross lottery revenue shall be deposited in a gamblers assistance fund in the office of the treasurer of state. Notwithstanding section 8.33, moneys deposited in the fund that remain unencumbered and unobligated on June 30 in any fiscal year, shall not revert to the general fund but shall remain available for the purposes designated in subparagraphs (1) through (4). Moneys in the fund shall be administered as follows:

(1) In each fiscal year the first seven hundred fifty thousand dollars of the moneys available in the fund shall be administered by the director of human services and used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses and to promote awareness of "gamblers anonymous" and similar assistance programs.

*(2) *Ten percent of the remaining moneys deposited in the fund in each fiscal year shall be administered by the director of human services as provided in subparagraph (1).*

(3) Thirty percent of the remaining moneys deposited in the fund in each fiscal year shall be administered by the director of human services for child abuse prevention grants under section 235A.1, in recognition that the effects of gambling may be felt by all family members.

*(4) Sixty percent of the remaining moneys deposited in the fund in each fiscal year shall be administered by the director of human services for the purposes of the family support subsidy program in accordance with sections 225C.35 through 225C.40.**

(5) For the fiscal year beginning July 1, 1990, after the first seven hundred fifty thousand dollars available in the fund is administered and made available for use pursuant to subparagraph (1), the next two hundred seventy-five thousand dollars of the moneys available in the fund shall be administered by the director of human services and used for juvenile justice expenditures pursuant to section 232.141, subsection 4.

Sec. 42. Section 234.35, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The department of human services shall be ~~initially~~ responsible for paying the cost of foster care for a child, according to rates established pursuant to section 234.38, under any of the following circumstances:

Sec. 43. Section 234.35, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 5. When a court has entered an order transferring the legal custody of the child to a foster care placement pursuant to section 232.52, subsection 2, paragraph "d", or section 232.102, subsection 1.

Sec. 44. Section 234.38, Code 1989, is amended to read as follows:

234.38 DEPARTMENT MAY PAY FOSTER PARENTS DIRECTLY.

The department of human services is authorized to make payments directly to foster parents for services provided to children pursuant to section 234.6, subsection 6, paragraph "b", or ~~sections~~ section 234.35 ~~and 234.36~~. The rate of payment by the department for foster care shall be fixed by the department by rules adopted pursuant to chapter 17A. Payments may be made from any ~~money~~ funds legally available to the department for that purpose, including but not limited to funds appropriated by the general assembly, ~~money~~ funds available under section 234.37, and ~~money~~ funds received from the parent or legal guardian of a child to pay for that child's foster care.

Sec. 45. Section 234.39, subsection 1, Code Supplement 1989, is amended to read as follows:

1. For an individual to whom section 234.35, subsection 2, ~~or~~ 4, or ~~section 234.36~~ 5, 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

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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.

Sec. 46. Section 237.15, subsection 3, Code 1989, is amended to read as follows:

3. "Child receiving foster care" means a child defined in section 234.1 whose foster care placement is the financial responsibility of the state pursuant to section 234.35 ~~or 234.36~~, who is under the guardianship of the department, or who has been involuntarily hospitalized for mental illness pursuant to chapter 229.

Sec. 47. Section 242.7, Code 1989, is amended to read as follows:

242.7 PLACING IN FAMILIES.

All children committed to and received in the state training school may be placed by the department under foster care arrangements, with any persons or in families of good standing and character where they will be properly cared for and educated. The cost of foster care provided under these arrangements shall be paid as provided in ~~sections~~ section 234.35 ~~and 234.36~~.

Sec. 48. Section 249A.3, subsection 1, paragraph f, Code Supplement 1989, is amended to read as follows:

f. Is a child who is less than ~~six~~ seven years of age and who meets the income and resource requirements of the aid to dependent children program under chapter 239.

Sec. 49. Section 249A.17, Code 1989, is amended to read as follows:

249A.17 TRANSITIONAL MEDICAL ASSISTANCE.

The department shall provide transitional medical coverage comparable to medical assistance provided under this chapter, for twelve months or for the maximum period permitted under federal regulations, whichever is greater, for the family of a recipient who has lost eligibility for public assistance under aid to families with dependent children pursuant to chapter 239 prior to April 1, 1990, because of an increase in earned income.

Sec. 50. Section 234.36, Code 1989, is repealed.

*Sec. 51. *RETROACTIVE APPLICABILITY.*

*Section 2, subsection 9, of this Act applies retroactively to January 1, 1990.**

Sec. 52. EFFECTIVE DATE.

Sections 36, 38, 40, and 49 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 7, 1990, except the items which I hereby disapprove and which are designated as section 2, subsections 5, 6, 7, and 9 in their entirety; that portion of section 13, subsection 1 which is herein bracketed in ink and initialed by me; that portion of section 13, subsection 6 which is herein bracketed in ink and initialed by me; section 13, subsection 9 in its entirety; that portion of section 13, subsection 10 which is herein bracketed in ink and initialed by me; section 13, subsections 11 and 12 in their entirety; section 14, subsection 7 in its entirety;

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section 20 in its entirety; section 24, subsections 4, 5, and 6 in their entirety; those portions of section 27, subsections 2 and 3 which are herein bracketed in ink and initialed by me; section 27, subsection 5 in its entirety; section 28, subsection 3, paragraphs a and b in their entirety; that portion of section 28, subsection 4 which is herein bracketed in ink and initialed by me; section 28, subsection 8 in its entirety; section 29, subsections 9, 11, 14, 15, and 16 in their entirety; section 31, subsection 1, unnumbered and unlettered paragraph 2 in its entirety; section 31, subsection 2, paragraph b in its entirety; section 31, subsection 3, paragraph b in its entirety; that portion of section 31, subsection 6 which is herein bracketed in ink and initialed by me; section 32 in its entirety; that portion of section 33 which is herein bracketed in ink and initialed by me; section 37 in its entirety; section 41, subsection a, paragraphs 2, 3, and 4 in their entirety; and section 51 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 2435, an Act relating to human services and making appropriations to the department of human services and other properly related matters, providing for retroactive applicability of certain provisions, and providing an effective date.

Senate File 2435 provides funding for the operations of the Department of Human Services and the many and various programs it administers. My actions will provide an appropriations increase of approximately 8.6 percent or $47 million for the Department for fiscal year 1991.

I have approved a four percent increase in AFDC benefits to enable families to receive adequate assistance to meet their basic needs. This budget also continues our efforts in welfare reform by providing increased funding for child care, job training, work experience, and self-employment opportunities.

I have also approved significant increases in funding to make further improvements in our child welfare system. Private agencies and families providing foster care will receive increases of six and nine percent, respectively. Increases are provided also for child protective day care assistance and family preservation and reunification services.

New funding is provided to establish a substance abuse treatment unit for adolescents at Cherokee. Also funding for adolescent pregnancy prevention grants and aid for county juvenile detention facilities is increased.

New initiatives are included to address the problems of the homeless and to provide community living alternatives for persons with mental illness, mental retardation and developmental disabilities. The family support subsidy program which provides assistance to families of children with disabilities is expanded to allow more families to participate.

Additionally, nursing facilities and Medicaid providers will receive substantial increases in funding to reimburse them for their costs of caring for our elderly and infirm. I proposed many of these adjustments and initiatives and I am pleased to be signing them into law.

Senate File 2435 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 2, subsection 5, in its entirety. This provision would require the Department of Human Services to reimburse an ambulance service for transporting a medical assistance recipient to a hospital regardless of a determination

*"Paragraph a, subparagraphs 2, 3, and 4" probably intended

of medical necessity. Under the guidelines of the Medicaid Program, federal funding for ambulance services is available only when the state can show the ambulance services provided were medically necessary. The cost to the state of this provision has been estimated at $75,000, for which no appropriation is provided. Given the many critical needs that must be funded in the state Medicaid Program and the fiscal constraints on the state, I cannot approve this provision.

I am unable to approve the item designated as Section 2, subsection 6, in its entirety. This provision would allow up to $20,000 to be used to fund a workshop on health care issues. Rural health care, maternal and child health services and health care cost containment have all been the subject of review by task forces which I have commissioned. Recommendations made by these task forces have been useful in developing a health care strategy for the state. We must continue to focus on these important health care policy issues and can do so without expending the funds specified in this provision.

I am unable to approve the item designated as Section 2, subsection 7, in its entirety. This provision would require the Department of Human Services to reimburse nursing facilities for residents' transportation causing the facilities' costs to exceed their Medicaid reimbursement rate. This provision would also require the department to make direct payment to a single provider of such services. The cost of providing transportation services to obtain medical care can be and is included by most nursing facilities in the costs used to determine their reimbursement from the state. Providing direct Medicaid payments to a particular transportation provider would result in unnecessary cost increases and administrative problems.

I am unable to approve the items designated as Section 2, subsection 9 and Section 51, in their entirety. These provisions would exempt for up to one year new and expanded nursing facilities from the 80 percent occupancy requirements used to determine their Medicaid reimbursement rate. The provisions are made retroactive to January 1, 1990. The full fiscal impact of this provision cannot be determined and it cannot be approved.

I am unable to approve the designated portion of Section 13, subsection 1. This provision appropriates $350,000 to reimburse counties that develop decategorization programs to reduce placements in state institutions. This provides an expansion of the current program which should not be undertaken until its cost effectiveness can be fully evaluated.

I am unable to approve the designated portion of Section 13, subsection 6. This provision would prevent the reversion of unused funds in the foster care home insurance program 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 item designated as Section 13, subsection 9, in its entirety. This provision would prohibit reversion to the general fund of any excess federal funding provided for foster care services. This provision would be difficult to implement since the amount of federal funds actually received will not be known until late in the year. In any event, should a surplus occur, the funding that remains should revert and be subject to the regular appropriation process.

I am unable to approve the designated portion of Section 13, subsection 10. This provision would authorize the Department of Human Services to use Medicaid dollars to pay for day treatment services provided by psychiatric medical institutions for children. I have approved language directing the department to review the need for such services. Until the department's study is complete and the needs and costs identified, it would be premature to authorize the department to spend for this new program. Given the fiscal constraints on the state, spending for this purpose cannot be approved at this time.

I am unable to approve the item designated as Section 13, subsection 11, in its entirety. This provision would appropriate $30,000 for a study of the foster care system. While a study may

be useful in making improvements in our foster care system, my emphasis at this time must be on direct program services. Thus in a period of fiscal constraint, I must defer this study until a future time.

I am unable to approve the item designated as Section 13, subsection 12, in its entirety. This program would require the Department of Human Services to develop a therapeutic foster care pilot program at a total cost of nearly $400,000. While there may be merit in developing such a program, I cannot approve spending for this purpose at this time.

I am unable to approve the item designated as Section 14, subsection 7, in its entirety. This provision would appropriate funding for a conference on the issue of providing reasonable efforts to avert out-of-home placements. This is a worthwhile project and I am supportive of it. However, child protection training funds are available and can be used to pay for the costs of this conference making this appropriation unnecessary.

I am unable to approve the item designated as Section 20, in its entirety. This provision would establish a computerized system to record patient clinical information at the Iowa Veterans Home in Marshalltown. I included this project in my original recommendations but eliminated it from my revised budget to the Legislature when it became apparent that the state would not be receiving revenues at the rate earlier projected. During a time of fiscal constraints, I cannot approve spending for this purpose.

I am unable to approve the item designated as Section 24, subsection 4, in its entirety. This provision would make an appropriation to provide an enhanced reimbursement for community-based facilities for persons with mental illness. The level of funding included in the bill is substantially more than I recommended and cannot be approved given the state's current fiscal situation.

I am unable to approve the item designated as Section 24, subsection 5, in its entirety. This provision would appropriate $75,000 to the Department of Human Services to contract for technical assistance for counties and service providers for the development of community-based services for persons with mental retardation, mental illness, and developmental disabilities. Staff and resources are available within the Department of Human Services to assist counties and providers in the development of their plans. Additional spending for this purpose is unnecessary.

I am unable to approve the item designated as Section 24, subsection 6, in its entirety. This provision directs the Department of Human Services to adopt rules providing for reimbursement of supervised apartment living and cooperative housing arrangements under state supplementary assistance effective July 1, 1991. While the language in this provision suggests that the supplemental per diem would be available only in situations involving certain populations of persons receiving state supplementary services, it would have to be extended to all SSI eligible persons receiving services in those facilities. Estimates of providing the supplemental payment to all who would be eligible run as high as $11.7 million. Given our current fiscal situation, I cannot commit the state to such a costly program.

I am unable to approve the designated portions of Section 27, subsections 2 and 3, and subsection 5, paragraphs a and b, in their entirety. These provisions would expand the Medicaid program to include rehabilitation services. Funds not spent for enhanced mental health, mental retardation, and developmental disabilities services would be automatically transferred to the mental health and mental retardation fund. Also, transfers of encumbered funds from the mental health institutes and the hospitals-schools would be restricted to the enhanced services fund.

Federal approval to include rehabilitation services in our state Medicaid plan has not been received and is unlikely given the uncertain status of the waivers granted to two other states for the inclusion of rehabilitation services. While we will continue to pursue federal approval, in its absence, authorization to provide funding for this purpose should not be approved. Also, I cannot approve provisions which prohibit the reversion of unused funds to the state general fund.

I am unable to approve the item designated as Section 28, subsection 3, paragraphs a and b, in their entirety, and the designated portion of Section 28, subsection 4. These provisions would require the Department of Human Services to project possible vacancies in field staff positions and to begin hiring for those positions regardless of the budget impact or FTE limits. While I agree with the need to provide necessary staff to carry out the programs of the department, filling of those positions should occur as the need arises and in accordance with the process which applies to all agencies of state government. I cannot approve provisions which would direct a department to exceed its authorized spending level.

I am unable to approve the item designated as Section 28, subsection 8, in its entirety. This provision would require the Department of Human Services to spend up to $100,000 to contract a field staff caseweight study. I agree with the need to study caseweight factors and staffing needs. However, I believe the resources and staff are available within state government to undertake this project. I have requested the Department of Human Services to work with the Departments of Management and Personnel to review these issues and to make their recommendations to me.

I am unable to approve the item designated as Section 29, subsection 9, in its entirety. This provision would authorize the Developmental Disabilities Council to spend state dollars on a computerized information and referral project for which federal dollars are available. Given the limited amount of discretionary funds available in the state budget, federal funds should be used to finance this project.

I am unable to approve the item designated as Section 29, subsection 11, in its entirety. This provision would appropriate $75,000 for computerization of department manuals and would authorize staff for this purpose. The department's estimates indicate in the second year of this project an additional $168,985 will be necessary as well as more staff. Again, given the fiscal constraints on the state, I cannot approve this spending at this time.

I am unable to approve the item designated as Section 29, subsection 14, in its entirety. This provision would authorize the Department of Human Services to expend $50,000 and hire two staff to assist in the development of a plan identifying the needs which exist in residential programs for children. I have approved in this bill and support the development of such a plan, however, adequate resources and staff are available in the department to assist in this effort.

I am unable to approve the item designated as Section 29, subsection 15, in its entirety. This provision would require the Department of Human Services to request a supplemental appropriation to address budget short-falls. The department should make every effort to operate within the funds appropriated.

I am unable to approve the item designated as Section 29, subsection 16, in its entirety. This provision requires the Department of Human Services to develop a plan to reduce the number of field operation district offices to not less than five. The department has, on its own initiative, recently undergone a reorganization in its central office operations and should be allowed to decide whether and when it would be appropriate to reorganize the district offices.

I am unable to approve the item designated as Section 31, subsection 1, unnumbered and unlettered paragraph 2, in its entirety. This provision authorizes the Department of Human Services to provide a differential per diem for psychiatric medical institutions for children for certain services up to 120 percent of the current rate. The estimated cost of providing this higher level of payment for PMICs is approximately $110,000 for which no appropriation is provided.

I am unable to approve the items designated as Section 31, subsection 2, paragraph b, Section 31, subsection 3, paragraph b, and Section 32, in their entirety. These provisions would authorize an additional increase to human services providers on January 1, 1991, if there is a $100 million balance in the general fund on June 30, 1990. I have approved in this budget significant additional funding to the human services providers, increasing their reimbursement from the state by six percent. I cannot approve this additional spending at this time.

I am unable to approve the designated portion of Section 31, subsection 6. This provision attempts to restrict the Governor's discretion in developing his or her budget by directing the level of spending the Governor can recommend in certain human services programs. The Governor, by law, must submit a proposed budget to the Legislature which includes a summary of appropriations recommended for the following fiscal year for each department of state government. The Legislature may accept, modify or reject the Governor's recommendations. The Legislature cannot and should not attempt to interfere with the Governor's responsibility to establish priorities and make recommendations which ensure that his or her proposed budget is balanced.

I am unable to approve the designated portion of Section 33. This provision again provides antireversionary language, which I cannot approve.

I am unable to approve the item designated as Section 37, in its entirety. This provision would require the Department of General Services to assess the computer needs of the Department of Human Services and to submit a quarterly report to the Legislature regarding those needs. This intrusion into the prerogatives of the executive branch cannot be approved.

I am unable to approve the items designated as Section 41, subsection a, paragraphs 2, 3, and 4,* in their entirety. These provisions would shift funding from the Gambler's Assistance Fund to provide additional increases to programs already funded in this bill. Funds which exceed the needs of the Gambler's Assistance Program should be reverted to the general fund.

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 2435 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1271

STATE GOVERNMENT APPROPRIATIONS AND OTHER PROVISIONS
H.F. 2569

AN ACT relating to and making appropriations to finance state government, its regulatory functions, and its obligations, and providing effective dates.

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

DIVISION I

Section 101. DROUGHT ASSISTANCE.

**1. *DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP.*

a. 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, 1990, and ending June 30, 1991, 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 hot line and for climatological services:

..... $ *50,000*

b. As a condition, limitation, and qualification of the appropriation made under paragraph "a", the appropriation shall be used to support the following full-time equivalent positions:

(1) For the hay hot line:

..... *FTEs* *2.0*

(2) For climatological services:

..... *FTEs* *0.5*

*"Paragraph a, subparagraphs 2, 3, and 4" probably intended
**Item veto; see message at end of the Act

(3) For miscellaneous purposes relating to laboratory analysis activities:

..... *FTEs* *2.0*

The full-time equivalent positions specified under this subsection shall be temporary positions as specified by the department. However, the positions shall terminate not later than June 30, 1991.

2. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY.

a. 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.

b. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For Iowa state university of science and technology extension service to administer a rural concern drought hot line, to carry out the provisions in paragraph "a", to administer 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**

3. DEPARTMENT OF NATURAL RESOURCES. The department of natural resources shall administer a statewide water conservation education program.

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 areas, which may be utilized as animal feed. However, this subsection does not prohibit the use of pesticides necessary to control noxious weeds, as defined in section 317.1.

**5. REPORTING. The department of agriculture and land stewardship and Iowa state university of science and technology shall not later than December 15, 1990, report to the committees on appropriations in the senate and house of representatives, and to the agriculture and natural resources appropriations subcommittee, information relating to expenditure of moneys appropriated to the departments under this section, including a review of activities supported by the appropriations.*

*6. REVERSION. Moneys appropriated under this section which are not expended by June 30, 1991, shall revert to the general fund of the state as provided in section 8.33.**

Sec. 102. 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 section 101, subsections 1 and 2, of this Act until at least 15 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 101, subsection 3, of this Act until at least 15 counties are subject to a proclamation of a disaster emergency due to a drought which is issued by the governor.

3. Provisions contained in section 101, subsection 4, of this Act which prohibit the spraying of pesticides shall not be effective on or after January 1, 1991.

4. Section 101, subsection 4, of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

Sec. 201. MEDICAL ASSISTANCE SUPPLEMENT.

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 purpose designated:

For medical assistance to be used for the same purposes and to supplement funds appropriated by 1989 Iowa Acts, chapter 318, section 2:

..... $ 3,920,000

*Item veto; see message at end of the Act

Sec. 202. STUDY REQUIRED.

Notwithstanding section 8.33, the department of human services shall complete by January 2, 1991, the studies required pursuant to 1989 Iowa Acts, chapter 318, section 1, subsection 5, and the funds appropriated for this purpose that remain unencumbered and unobligated on June 30, 1990, shall not revert to the general fund but shall remain available for the purposes designated during the fiscal year beginning July 1, 1990.

*Sec. 203. DRUG UTILIZATION REVIEW.

There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... $ 140,000

*The funds appropriated in this section shall be used in addition to funds appropriated for this purpose in Senate File 2435, if enacted by the Seventy-third General Assembly, 1990 Session, to continue the contract with the Iowa pharmacists association and the Iowa foundation for medical care for drug utilization review of services and products provided under the medical assistance program. The drug utilization review shall be continued as a state only contract.**

Sec. 204. EFFECTIVE DATE.

Sections 201 and 202 of this Act, being deemed of immediate importance, take effect upon enactment.

DIVISION III

*Sec. 301. CAPITOL COMPLEX CHILD DAY CARE PROGRAM.

1. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount or so much thereof as is necessary, to be used for the purposes designated:

For planning, design, site acquisition and preparation, and other expenditures necessary to establish a child day care program available to public employees officed at or near the capitol complex:

..... $ 600,000

2. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amount or so much thereof as is necessary, to be used for the purposes designated:

For planning and other expenditures, which may include a lease purchase contract, necessary to establish a child day care program available to public employees officed at or near the capitol complex:

..... $ 1,100,000

3. Notwithstanding section 8.33, the moneys appropriated in this section that remain unencumbered and unobligated on June 30 of the fiscal year in which the moneys were appropriated, shall not revert to the general fund of the state but shall remain available for expenditure for the purposes designated during the succeeding fiscal year.

4. The general assembly considers child day care to be an important service for employers, employees, and their children. Employer-supported child care can have a positive impact upon employee morale and retention and can positively affect the children who are receiving child care services. High quality child care is of significant value to employers. It is believed that a quality, on-site child care program available to the children of state employees will provide a model for other employers in this state to emulate.

5. a. The legislative council is requested to appoint a capitol complex child day care program steering committee to provide direction to the department of general services in developing facility plans, establishing the facilities, developing operating policies, contracting with a vendor to operate the program, and other decisions involving establishment and operation of the program. The steering committee shall utilize the March 1990 consultant report to the

*Item veto; see message at end of the Act

capitol complex ad hoc committee on child care, particularly the intermediate quality recommendations, in its decision making.

b. The steering committee membership shall include members of the general assembly; representatives of the departments of general services, personnel, human services, and education; employees officed at the capitol complex who purchase child day care services; a representative of the state board of regents center for early childhood education; a representative of the Iowa state university of science and technology early childhood education programs; and other persons knowledgeable concerning child day care programs.

6. In consultation with the steering committee, the director of the department of general services shall retain a consultant to oversee the process of developing the program and shall contract with a vendor to manage the program.

*7. The program shall be designed to operate with a capacity of 150 children and to regularly serve infants, toddlers, preschool, school age, and mildly ill children.**

**Sec. 302. FIRE FIGHTERS' MEMORIAL.*

There is appropriated from the general fund of the state to the office of the treasurer of state for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To fund in part the cost of building a memorial honoring fallen fire fighters:

..... *$ 50,000*

*Notwithstanding section 8.33, the moneys appropriated in this section shall not revert after the end of the fiscal year ending June 30, 1991, but shall remain available for expenditure during the fiscal year beginning July 1, 1991, and ending June 30, 1992.**

DIVISION IV

**Sec. 401. CONTINGENCY REDUCTIONS IN APPROPRIATIONS.*

Notwithstanding section 8.31, if actual revenue collected by the state in the fiscal year ending June 30, 1990, is less than the revenue estimate agreed to at the March 13, 1990, meeting of the revenue estimating conference or if revenue collected in the fiscal year ending June 30, 1991, is significantly less than the estimate agreed to by the same meeting of the revenue estimating conference for the fiscal year ending June 30, 1991, and it is determined that the estimated budget resources are insufficient to pay in full all appropriations for the fiscal year ending June 30, 1991, before the governor orders uniform reductions in budgeted resources, appropriations enacted by the Seventy-third General Assembly, 1990 Session, shall be reduced in accordance with the priority order listed in this section.

1. In addition to the $20,000,000 in expenditure reductions for the fiscal year ending June 30, 1991, contained in the governor's budget austerity plan issued to department heads, dated March 21, 1990, by reducing discretionary expenditures in executive branch agencies by up to $10,000,000 by denying approval of expenditures as follows:

a. Purchasing of new vehicles, noncritical equipment, office furnishings, or other noncritical expenditures.

b. Expenditures for out-of-state travel, airplane travel, or subscriptions to periodicals shall not exceed the expenditure amount for these purposes in the fiscal year ending June 30, 1990.

c. An exception to permit an expenditure for an item or service listed in this subsection may be granted in individual cases by the director of the department of management, with the approval of the governor.

d. An expenditure reduction made pursuant to this subsection shall not involve an employee layoff.

2. By reducing by 2 percent, all annual appropriations for operations from the general fund of the state made by the Seventy-third General Assembly, 1990 Session, to all state agencies within the executive branch of state government, except for the regents' institutions, the department of human services, and state correctional institutions. The reduction is expected to realize a savings of $5,000,000. An appropriation for operations does not include a grant-in-aid, a standing appropriation, or a capital appropriation.

*Item veto; see message at end of the Act

*3. By reducing expenditure of funds appropriated by 1990 Iowa Acts, Senate File 2422, by no more than 5 percent for a savings in an amount up to $2,905,000.**

DIVISION V

**Sec. 501. CONTINGENCY APPROPRIATIONS.*

*In the event that the anticipated ending balance of the general fund of the state for the fiscal year ending June 30, 1990, as certified by the director of the department of management exceeds $132,200,000, or so much as is necessary to assure an ending balance for the fiscal year ending June 30, 1991, of $30,000,000, 50 percent of such excess, up to a maximum of $49,600,000, shall be used for recognizing additional liabilities, identified in section 502, subsection 1, of this Act, necessary to continue the GAAP implementation schedule required by 1986 Iowa Acts, chapter 1245, section 2046, and 50 percent of such excess, up to a maximum of $31,870,000, shall be used for various capital projects identified in section 502, subsection 2, of this Act.**

**Sec. 502.*

1. From the funds set aside in section 501 of this Act for recognizing additional liabilities necessary to complete the GAAP implementation schedule required by 1986 Iowa Acts, chapter 1245, section 2046, there is appropriated in the following priority order to the following named agencies for the designated fiscal year the specified amounts, or as much thereof as may be available, for the purposes designated:

a. For the fiscal year beginning July 1, 1989, and ending June 30, 1990, to the department of management 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:

..... $ 13,579,598

The funds appropriated in this paragraph shall be allocated to each school as follows:

(1)	MergedArea I	$ 611,887
(2)	MergedArea II	$ 795,008
(3)	MergedArea III	$ 739,949
(4)	MergedArea IV	$ 377,297
(5)	MergedArea V	$ 745,291
(6)	MergedArea VI	$ 782,118
(7)	MergedArea VII	$ 1,105,991
(8)	MergedArea IX	$ 1,099,495
(9)	MergedArea X	$ 1,744,567
(10)	MergedArea XI	$ 1,875,037
(11)	MergedArea XII	$ 835,261
(12)	MergedArea XIII	$ 797,531
(13)	MergedArea XIV	$ 353,975
(14)	MergedArea XV	$ 1,097,051
(15)	MergedArea XVI	$ 619,140

b. For the fiscal year beginning July 1, 1990, and ending June 30, 1991, to the following agencies:

(1) To the department of revenue and finance an amount sufficient to charge all franchise tax refunds to the appropriate fiscal year.

(2) To the department of revenue and finance an amount sufficient to charge all special education appropriations to the appropriate fiscal year.

(3) To the department of human services an amount sufficient to charge all foster care appropriations to the appropriate fiscal year.

(4) To the department of revenue and finance an amount sufficient to charge all standing unlimited appropriations to the appropriate fiscal year.

(5) Notwithstanding section 442.26, to the department of education an amount sufficient to charge up to an additional 65 percent of the amount of state school foundation aid equal to

*Item veto; see message at end of the Act

the general allocation of the school district as determined under section 405A.2 and the amount of the tax credit for livestock pursuant to section 442.2, subsection 2, 1987 Code.

2. From the funds set aside in section 501 of this Act for various capital projects, there is appropriated in the following priority order to the following named agencies for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the specified amounts, or as much thereof as may be available, for the purposes designated:

a. To the department of general services for capitol restoration:

..... $ 6,400,000

b. To the state communications network fund:

..... $ 5,000,000

c. To the department of human services for construction of a residential facility at the Eldora training school:

..... $ 920,000

d. To the department of general services up to the following amount, for fire safety improvements to buildings located in the capitol complex:

..... $ 1,000,000

e. To the Iowa court information system (ICIS) and micrographics:

..... $ 5,300,000

The funds appropriated in this subsection shall be allocated as follows:

(1) Iowa court information system:

..... $ 4,500,000

(2) Micrographics:

..... $ 800,000

f. To the Iowa state university of science and technology for planning the construction of a livestock research facility:

..... $ 1,000,000

g. To the university of northern Iowa for wellness center planning:

..... $ 1,000,000

h. To the Iowa national guard for armories at Corning and Oskaloosa:

..... $ 850,000

i. To the department of general services for renovation of the Lucas state office building:

..... $ 1,000,000

j. To the department of general services for remodeling the old historical building:

..... $ 2,000,000

k. To the Iowa state university of science and technology for the cattle/swine research facilities:

..... $ 3,500,000

l. To the Iowa state fair board for capital projects:

..... $ 1,000,000

m. To the state board of regents for distribution to the state universities for capital utility projects:

..... $ 1,500,000

n. To the university of Iowa for college of medicine research facility planning:

..... $ 1,000,000

o. To the department of general services to demolish the Court avenue bridge:

..... $ 400,000*

Sec. 503. 1989 Iowa Acts, chapter 319, section 12, is repealed.*

**Sec. 504.*

*If section 502, subsection 1, paragraph "a" and section 503 of this Act are enacted by the general assembly then the full appropriation for general state financial aid to merged areas for the fiscal year ending June 30, 1991, shall be made in the fiscal year ending June 30, 1991.**

*Item veto; see message at end of the Act

*Sec. 505.

*Sections 501 through 504 of this Act, being deemed of immediate importance, take effect upon enactment.**

DIVISION VI

Sec. 601. PRISON CONSTRUCTION PAYMENT.

There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1990 Iowa Acts, Senate File 2212,** section 24:

..... $ 1,028,000

*Sec. 602. *1990 Iowa Acts, Senate File 2408, section 6, subsection 1, paragraph d, is amended by striking the paragraph and inserting in lieu thereof the following:*

d. For contracting for aptitude and job-related interest assessment, career exploration, the individualized employability development plan, and job retention skills with a private entity which is not controlled or administered by any state agency or any political subdivision of the state, and which has programs with a minimum of 15 years of service experience with offender and ex-offender populations:

..... *$ 90,000**

Sec. 603. 1990 Iowa Acts, Senate File 2408,*** section 6, subsection 8, paragraph g, is amended by striking the paragraph.

DIVISION VII

Sec. 701. Section 21.2, subsection 1, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A nonprofit corporation licensed to conduct gambling games pursuant to chapter 99F.

Sec. 702. Section 22.1, unnumbered paragraphs 1 and 2, Code 1989, are amended to read as follows:

~~Wherever~~ As used in this chapter, "public records" includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, township, school corporation, political subdivision, nonprofit corporation whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or tax-supported district in this state, or any branch, department, board, bureau, commission, council, or committee of any of the foregoing.

The term "government body" means this state, or any county, city, township, school corporation, political subdivision, tax supported district, nonprofit corporation whose facilities or indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or other entity of this state, or any branch, department, board, bureau, commission, council, committee, official or officer, of any of the foregoing or any employee delegated the responsibility for implementing the requirements of this chapter.

Sec. 703. Section 22.7, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 27. Marketing and advertising budget and strategy of a nonprofit corporation which is subject to this chapter. However, this exemption does not apply to salaries or benefits of employees who are employed by the nonprofit corporation to handle the marketing and advertising responsibilities.

*Item veto; see message at end of the Act

**Chapter 1257 herein

***Chapter 1268 herein

Sec. 704.

Sections 701 through 703 of this Act take effect September 1, 1991.

DIVISION VIII

Sec. 801. 1990 Iowa Acts, Senate File 2328,* section 23, subsection 3, unnumbered paragraph 3, is amended to read as follows:

The appropriation in this section is in addition to the appropriation to the racing and gaming commission from the excursion boat gambling revolving fund in section ~~21~~ 22.

DIVISION IX

****Sec. 901.* NEW SECTION. *281.10 ADDITIONAL SPECIAL EDUCATION WEIGHTING.*

In addition to the programs and services offered to children requiring special education during the regular school year, school districts shall offer programs and services beyond the required one hundred eighty day school year to children requiring special education and assigned a weight under section 281.9, subsection 1, paragraph "d", and placed in the category of profoundly multiply handicapped, commonly referred to as severely and profoundly handicapped, who would benefit from additional instructional programming. The programs and services offered under this section are not special education extended year programs and are not a part of a child's individual education program. However, a child provided an extended year program may also be eligible for the programs and services provided under this section if they meet the requirements of this section.

Programs and services offered under this section shall be at least one week in duration. In order to provide funds for the excess costs of the programs and services, each full-time equivalent child receiving programs and services under this section is assigned an additional weighting of one-tenth for each week that programs and services are provided under this section, not to exceed six-tenths, for the excess costs of the programs and services above the moneys generated from the special education weighting plan in section 281.9. The additional weighting shall be included in the weighted enrollment of the school district of the residence of the child and the enrollment count under this section shall be taken on December 1 of each year.

The school budget review committee shall calculate the additional amount added for the weighting under this section to the nearest one-hundredth of one percent so that, to the extent possible, the moneys generated by the weighting on and after July 1, 1991, will be equivalent to the moneys generated by the one-tenth weighting prior to July 1, 1991.

*If a part of the district's programs and services offered pursuant to this section includes special education support services, the district shall contract with the applicable area education agency and shall pay the area education agency for those services from moneys generated under this section. A district may pay transportation costs for the child for attendance at programs offered under this section from moneys generated under this section.***

***Sec. 902.* *Section 257.15, Code Supplement 1989, is amended by adding the following new subsection:*

NEW SUBSECTION. *4. INAPPLICABILITY. This section does not apply to moneys generated pursuant to section 281.10.***

***Sec. 903.*

*Section 901 of this Act, being deemed of immediate importance, takes effect upon enactment.***

DIVISION X

Sec. 1001. Section 262A.6A, subsection 1, Code 1989, is amended to read as follows:

1. The board shall issue bonds authorized under section 262A.4 by the Seventy-second General Assembly in an amount not exceeding nineteen million dollars; and from the forty-one million

*Chapter 1261 herein

**Item veto; see message at end of the Act

three hundred thousand dollars authorized by 1990 Iowa Acts, House* Concurrent Resolution 133, if approved by the governor, in an amount not exceeding fifteen million dollars; in the form of capital appreciation bonds as provided in this section rather than the form prescribed in sections 262A.5 and 262A.6. The capital appreciation bonds shall be designed to be marketed primarily to Iowans to facilitate savings for future higher education costs.

DIVISION XI

Sec. 1101. Section 256.9, Code Supplement 1989, is amended by adding the following new subsections:

NEW SUBSECTION. *39. Develop model guidelines for district in-service training programs for truancy officers and direct the area education agencies to assist local school districts in providing the programs.*

NEW SUBSECTION. 40. Prepare a plan and a report for ensuring that all Iowa children will be able to satisfy the requirements for high school graduation. The plan and report shall include a statement of the dimensions of the dropout problem in Iowa; a survey of existing programs geared to dropout prevention; a plan for use of competency-based outcome methods and measures; proposals for alternative means for satisfying graduation requirements including alternative high school settings, supervised vocational experiences, education experiences within the correctional system, screening and assessment mechanisms for identifying students who are at-risk of dropping out and the development of an individualized education plan for identified students; a requirement that schools provide information to students who drop out of school on options for pursuing education at a later date; the development of basic materials and information for schools to present to students leaving school; a requirement that students notify their school districts of residence when the student discontinues school, including the reasons for leaving school and future plans for career development; a requirement that, unless a student chooses to make the information relating to the student leaving school confidential, schools make the information available to community colleges, area education agencies, and other educational institutions upon request; and recommendations for the establishment of pilot projects for the development of model alternative options education programs; a plan for implementation of any recommended courses of action to attain a zero dropout rate by the year 2000; and other requirements necessary to achieve the goals of this subsection. Alternative means for satisfying graduation requirements which relate to the development of individualized education plans for students who have dropped out of the regular school program shall include, but are not limited to, a tracking component that requires a school district to maintain periodic contact with a student, assistance to a dropout in curing any of the student's academic deficiencies, an assessment of the student's employability skills and plans to improve those skills, and treatment or counseling for a student's social needs. The department shall also prepare a cost estimate associated with implementation of proposals to attain a zero dropout rate, including but not limited to evaluation of existing funding sources and a recommended allocation of the financial burden among federal, state, local, and family resources. ***The department, in conjunction with the plan and report, shall prepare an education bill of rights that delineates education opportunities that are to be legal entitlements for Iowa children.*** The report and plan shall be submitted to the general assembly by January 15, 1993.

Sec. 1102. NEW SECTION. 280.19A ALTERNATIVE OPTIONS EDUCATION PROGRAMS.

By January 15, 1995, each school district shall adopt a plan to provide alternative options education programs to students who are either at risk of dropping out or have dropped out. An alternative options education program may be provided in a district, through a sharing agreement with a school in a contiguous district, or through an areawide program available at the community college serving the merged area in which the school district is located. Each area education agency shall provide assistance in establishing a plan to provide alternative education options to students attending a public school in a district served by the agency.

*Senate probably intended; chapter 1273 herein

**Item veto; see message at end of the Act

*Sec. 1103. *DEPARTMENTAL STUDY.*

The department of education shall assess the expected impact of an increase in the maximum compulsory attendance age from sixteen to up to eighteen on increased enrollment of sixteen and seventeen-year-olds, and the characteristics of this population with respect to educational and basic skill level, family support structure, orientation to the traditional school curricula, and orientation to alternative curricula.

The department of education shall, by January 1992, do the following:

1. Identify experiences other states have had, and educational and social support responses they have made, as a result of increasing the compulsory attendance age from sixteen to eighteen years of age.

2. Seek to develop program materials that consider health, employment and training, and human service needs in addition to education needs to assist local districts in serving students who are at risk of dropping out of the regular schools and programs.

3. Develop definitions of the terms "at-risk student" and "dropout" which are appropriate for students in middle and high schools and which will assist districts in identifying students in need of alternative academic programming.

4. Develop recommendations regarding alternative programming for students who are at risk of dropping out of the regular schools and programs. The recommendations shall include, but are not limited to, the following:

a. Modification of the minimum educational standards contained in section 256.11.

b. Alternative curricula, including competency-based instruction.

c. Alternative teaching methods, including individualized programming.

d. Alternative options for graduation.

*The department of education, in coordination with the department of human services, the supreme court, the department of public health, and the department of employment services, by July 1992, shall build a data base which will assist in the identification of at-risk students and middle and high schools within the state having a significant population of at-risk students. At-risk characteristics to be considered may include, but are not limited to, high levels of one or more of the following: below grade level performing students, grade retention, school dropouts, school expulsions, teen pregnancy, poverty, single parent families, substance abuse, teenage suicides, youth underemployment, juvenile delinquency, and child abuse. In building this data base, consideration shall be given to protecting the privacy of the individual student and limiting the data burden on school districts.**

Sec. 1104. ALTERNATIVE PROGRAMS.

Alternative options education programs, for middle school and high school students, designed to provide incentives for the students to remain in school, shall not be subject to the minimum hours of instruction requirement adopted by the state board of education.

DIVISION XII

Sec. 1201. 1990 Iowa Acts, Senate File 2327,** section 1, subsection 1, is amended to read as follows:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions

..... $ ~~815,706~~
1,040,706

..... FTEs ~~21.00~~
25.50

Sec. 1202. 1990 Iowa Acts, Senate File 2327,** section 1, subsection 12, paragraph a, is amended to read as follows:

*Item veto; see message at end of the Act

**Chapter 1262 herein

a. Small business program:

..... $ ~~151,314~~
207,559

..... FTEs ~~2.00~~
3.50

Sec. 1203. 1990 Iowa Acts, Senate File 2327,* sections 7, 9, 18 through 22, and 30 through 35, are repealed.

DIVISION XIII

**Sec. 1301.*

There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To provide grants to any Iowa city for development of a proposed public river front park, wetlands, and recreational area, for purposes including but not limited to support of educational, scientific, cultural, recreational, or other public purposes, or a combination of these purposes:

..... *$ 50,000*

As a condition, limitation, and qualification of the appropriation in this section, the criteria used by the department of economic development in selecting a city applying for the grant, shall assign weight and priority to the applications based on all of the following criteria:

1. That the development of the proposed project is in response to a stipulation and settlement of a lawsuit filed in federal court requiring a comprehensive recreational master plan for the park.

2. That all or a portion of the park is situated on wetlands and the design or location of the park enhances or helps preserve a natural wildlife area.

3. That the grant funds shall be matched in the amount of at least one-third by the community through the installation of public infrastructure to the area or by in-kind labor contributions performed by a union local apprentice training program, or both.

4. That the proposed project will extend present recreational and bicycle trail systems.

5. That the proposed project will improve water-based recreational activities for the community.

*6. That the proposed project will establish an educational eco-laboratory.***

DIVISION XIV

Sec. 1401.

The appropriation in the section of 1990 Iowa Acts, Senate File 2423,*** which appropriates $355,000 to the state board of regents for the state university of Iowa, for agricultural health and safety programs, shall be reduced by $105,000 to $250,000.

DIVISION XV

***Sec. 1501. JUDICIAL DEPARTMENT — PILOT PROJECT AND STUDY.*

There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For the implementation of the pilot program for mediation of child custody and visitation issues in dissolution issues established in this Act:

..... *$ 136,000*

2. For the family court system feasibility study required of the supreme court in this Act:

..... *$ 70,000***

Sec. 1502. Section 222.59, subsection 4, Code 1989, is amended to read as follows:

*Chapter 1262 herein

**Item veto; see message at end of the Act

***Chapter 1272 herein

4. If a proposed placement of a patient from a hospital-school or special unit which is not satisfactory to the patient's parent, guardian or advocate is approved by the administrator; or a proposed placement which is satisfactory to the patient's parent, guardian or advocate is modified, altered or rescinded by the administrator, the parent, guardian or advocate may appeal to the department of human services, within thirty days after notification to the parent, guardian or advocate of the proposed placement. The department shall give the appellant reasonable notice and opportunity for a fair hearing, conducted by the director or the director's designee who shall act as an impartial arbiter of fact and law. In such hearing the parent, guardian or advocate shall have the opportunity to confront witnesses, to have access to hospital records, to present evidence and witnesses on their behalf and to be represented by counsel. The standard for such fair hearing shall be to provide "that placement which inures to the best interest of the patient." Judicial review of actions of the department may be sought in accordance with the terms of the Iowa administrative procedure Act. The department shall furnish the petitioner with a copy of any papers filed by the petitioner in support of the petitioner's position, a transcript of any testimony taken, and a copy of the department's decision. In the district court hearings, the parent, guardian or advocate has the right to be represented by counsel. The court shall, in all cases where the interests of the patient conflict with that of parent, guardian, or advocate, appoint counsel as guardian ad litem for the patient. The guardian ad litem shall be a practicing attorney. Notwithstanding the terms of the Iowa administrative procedure Act, where a petition is filed for judicial review of a proposed placement, the proposed placement shall be stayed pending the outcome of said review proceeding.

Sec. 1503. Section 226.31, Code 1989, is amended to read as follows:

226.31 EXAMINATION BY COURT — NOTICE.

Before granting the order authorized in section 226.30 the court or judge shall investigate the allegations of the petition and before proceeding to a hearing ~~thereon~~ on the allegations shall require notice to be served on the attorney who represented the patient in any prior proceedings under sections 229.6 to 229.15 or the advocate appointed under section 229.19, or in the case of a patient who entered the hospital voluntarily, on any relative, friend, or guardian of the person in question of the filing of ~~said~~ the application. ~~On such~~ At the hearing the court or judge shall appoint a guardian ad litem for ~~said~~ the person, if ~~it~~ the court or judge deems such action necessary to protect the rights of ~~such~~ the person. The guardian ad litem shall be a practicing attorney.

**Sec. 1504. Section 232.2, subsection 20, Code Supplement 1989, is amended to read as follows:*

*20. "Guardian ad litem" means a ~~person~~ practicing attorney appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party. ~~and includes a court appointed special advocate, except that a court appointed special advocate shall not file motions pursuant to section 232.54, subsections 1 and 4, and section 232.103, subsection 2, paragraph "c".**

Sec. 1505. Section 232.52, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. If a child has previously been adjudicated as a child in need of assistance, and a social worker or other caseworker from the department of human services has been assigned to work on the child's case, the court may order the department of human services to assign the same social worker or caseworker to work on any matters related to the child arising under this division.

Sec. 1506. Section 232.89, subsection 2, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

Upon the filing of a petition, the court shall appoint counsel and a guardian ad litem for the child identified in the petition as a party to the proceedings. If a guardian ad litem has previously been appointed for the child in a proceeding under division II of this chapter or a proceeding in which the court has waived jurisdiction under section 232.45, the court shall appoint

*Item veto; see message at end of the Act

the same guardian ad litem upon the filing of the petition under this part. Counsel shall be appointed as follows:

Sec. 1507. Section 232.89, subsection 4, Code Supplement 1989, is amended to read as follows:

4. The same person may serve both as the child's counsel and as guardian ad litem. However, the court may appoint a separate guardian ad litem, if the same person cannot properly represent the legal interests of the child as legal counsel and also represent the best interest of the child as guardian ad litem, or a separate guardian ad litem is required to fulfill the requirements of subsection 2.

Sec. 1508. Section 232.147, subsection 3, paragraph c, Code 1989, is amended to read as follows:

c. The child's parent, guardian or custodian, court-appointed special advocate, and guardian ad litem.

Sec. 1509. Section 235B.1, subsection 8, paragraph c, Code Supplement 1989, is amended to read as follows:

c. In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The guardian ad litem shall be a practicing attorney. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to this section, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

Sec. 1510. Section 600A.2, subsection 9, Code 1989, is amended to read as follows:

9. "Guardian ad litem" means a person appointed by a court or juvenile court having jurisdiction over the minor child to represent that child in a legal action. A guardian ad litem appointed under this chapter shall be a practicing attorney.

Sec. 1511. Section 602.1612, subsection 1, Code 1989, is amended to read as follows:

1. Justices of the supreme court, judges of the court of appeals, district judges, and district associate judges who are retired by reason of age or who are drawing benefits under section 602.9106, and senior judges who have retired under section 602.9207 or who have relinquished senior judgeship under section 602.9208, subsection 1, may with their consent be assigned by the supreme court ~~or by the chief judge in the case of district associate judges~~ to temporary judicial duties on a court in this state if the assignment is deemed necessary by the supreme court to expedite the administration of justice. ~~A retired justice or judge shall not be assigned to temporary judicial duties on any court superior to the highest court to which that justice or judge had been appointed prior to retirement, and shall not be assigned for temporary duties with the supreme court or the court of appeals except in the case of a temporary absence of a member of one of those courts.~~

Sec. 1512. Section 602.9206, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Section 602.1612 does not apply to a senior judge but does apply to a retired senior judge. During the tenure of a senior judge, if the judge is able to serve, the judge may be assigned by the supreme court to temporary judicial duties on courts of this state without salary for an aggregate of thirteen weeks out of each twelve-month period, and for additional weeks with the judge's consent. ~~A senior judge shall not be assigned to judicial duties on a court superior~~

~~to the highest court to which the judge was appointed prior to retirement, and shall not be assigned to the court of appeals or the supreme court except to serve in the temporary absence of a member of that court.~~ A senior judge shall not be assigned to judicial duties on the supreme court unless the judge has been appointed to serve on the supreme court prior to retirement. While serving on temporary assignment, a senior judge has and may exercise all of the authority of the office to which the judge is assigned, shall continue to be paid the judge's annuity as senior judge, shall be reimbursed for the judge's actual expenses to the extent expenses of a district judge are reimbursable under section 602.1509, may, if permitted by the assignment order, appoint a temporary court reporter, who shall be paid the remuneration and reimbursement for actual expenses provided by law for a reporter in the court to which the senior judge is assigned, and, if assigned to the court of appeals or the supreme court, shall be given the assistance of a law clerk and a secretary designated by the court administrator of the judicial department from the court administrator's staff. Each order of temporary assignment shall be filed with the clerks of court at the places where the senior judge is to serve.

Sec. 1513. Section 633.244, Code 1989, is amended to read as follows:

633.244 INCOMPETENT SPOUSE — ELECTION BY COURT.

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

Sec. 1514. Section 633.514, Code 1989, is amended to read as follows:

633.514 HEARING — CONTINUANCE — ORDERS.

If, on the day set for hearing, the absentee fails to appear, the court shall appoint some disinterested person as guardian ad litem to appear for the absentee and all distributees not appearing, and said cause shall thereupon stand continued for twenty days. The guardian ad litem shall be a practicing attorney. The court shall have authority to make further continuance upon proper showing. The guardian ad litem shall investigate the matter and things alleged in the petition. Upon the further hearing, the court shall hear the proofs, and, if satisfied of the truth of the allegations of the petition, shall enter an order establishing the death of the absentee as a matter of law.

Sec. 1515. Section 910A.15, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A prosecuting witness who is a child, as defined in section 702.5, in a case involving a violation of chapter 709 or section 726.2, 726.3, 726.6, or 728.12, is entitled to have the witness's interests represented by a guardian ad litem at all stages of the proceedings arising from such violation. The guardian ad litem ~~may but need not~~ shall be a practicing attorney and shall be designated by the court after due consideration is given to the desires and needs of the child and the compatibility of the child and the child's interests with the prospective guardian ad litem. ~~However, a person who is also a prosecuting witness in the same proceeding shall not be designated guardian ad litem.~~ If a guardian ad litem has previously been appointed for the child in a proceeding under chapter 232 or a proceeding in which the juvenile court has waived jurisdiction under section 232.45, the court shall appoint the same guardian ad litem under this section. The guardian ad litem shall receive notice of and may attend all depositions, hearings and trial proceedings to support the child and advocate for the protection of the child but shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. However, the guardian ad litem shall file reports to the court as required by the court.

Sec. 1516. 1989 Iowa Acts, chapter 165, is repealed.

**Sec. 1517. PILOT PROGRAM FOR MEDIATION OF CHILD CUSTODY AND VISITATION ISSUES IN DISSOLUTION CASES ESTABLISHED.*

1. The supreme court shall establish a pilot program for mandatory mediation of child custody and visitation issues in dissolution cases pursuant to chapter 598. However, mediation shall not be mandatory and shall not be ordered if any of the following conditions apply:

a. The court determines that there is no reasonable possibility that mediation will promote settlement of the issues in dispute.

b. The court determines there is a substantial allegation of direct physical or significant emotional harm to a party or to a child.

c. The court determines that mediation will otherwise fail to serve the best interests of the child.

d. The court determines that a verified petition alleging domestic abuse has been filed by a party pursuant to chapter 236.

e. The court determines that a child in need of assistance petition has been filed pursuant to chapter 232, division III, concerning a child for whom a custody or visitation determination is necessary.

If the court determines that mediation is inappropriate pursuant to this subsection, the court shall state its findings and conclusions in writing.

The pilot program shall be established in Linn county for a period of two years, beginning July 1, 1990, and ending June 30, 1992.

Proceedings under the program shall be conducted pursuant to the rules for mediation proceedings adopted by the supreme court.

2. The supreme court shall submit a report to the general assembly by January 1, 1993. The report shall contain recommendations regarding the use of mediation in child custody and visitation matters on a statewide basis in proceedings brought under chapter 598. The report shall also include an evaluation of the program as directed by the supreme court.

3. In a proceeding under chapter 598 involving either a temporary or permanent child custody or visitation determination, the court shall order mediation at no cost to the parties.

*4. The implementation of this section is contingent upon the appropriation of state funds to carry out its purposes.**

Sec. 1518. FAMILY COURT STUDY COMMITTEE.

1. The legislative council is requested to establish an interim study committee to consider the feasibility of the implementation of a family court system within the unified trial court system. The study committee shall submit a report of its findings and recommendations to the legislative council and the general assembly by January 15, 1991.

2. The supreme court shall develop a plan to implement a family court system within the unified trial court system. In developing the plan, the supreme court shall establish a panel consisting of a statewide, geographical representation of each of the following groups:

a. District judges.

b. District associate judges.

c. Juvenile court referees.

d. Juvenile court officers.

e. Members of the Iowa state bar association.

f. Members of the general assembly who shall be ex officio, nonvoting members of the panel.

The supreme court shall submit a report of the findings and conclusions of the panel to the legislative interim study committee, established to study the feasibility of a family court system, by November 15, 1990.

Sec. 1519. STUDY REGARDING LEGAL EDUCATION REQUIREMENTS FOR ATTORNEYS PRACTICING IN FAMILY LAW.

The supreme court is requested to further review the feasibility of implementing an expanded continuing legal education requirement for judges and attorneys practicing in the family law

*Item veto; see message at end of the Act

area, to enhance the quality of justice and representation of persons involved in family law issues. In conducting the review, the supreme court shall consider requiring attorneys to attend classes at accredited colleges and universities, in order to indicate a limitation or description of practice by listing in the field of domestic relations and family law pursuant to disciplinary rule 2-105 of the Iowa code of professional responsibility for lawyers.

DIVISION XVI

Section 1601. FEASIBILITY STUDY.

There is appropriated from the general fund of the state to the Iowa peace institute established in chapter 38 for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For a study of the feasibility of establishing an international museum:

..... $ 35,000

DIVISION XVII

Sec. 1701.

Notwithstanding the appropriations made in 1989 Iowa Acts, chapter 322, section 3, and the certification by the governor to the department of revenue and finance that the ending fund balance on June 30, 1989, was sufficient to fund all of the projects listed in that section, the appropriation of $33,940,000 for the fiscal year beginning July 1, 1989, and ending June 30, 1990, is reduced by $28,369,405, and there is appropriated from the general fund of the state to the state board of regents for the following listed fiscal years the amounts specified, to be allocated by the state board of regents for the projects listed in 1989 Iowa Acts, chapter 322, section 3, as follows:

1. For the fiscal year beginning July 1, 1990, and ending June 30, 1991:

..... $ 10,925,405

2. For the fiscal year beginning July 1, 1991, and ending June 30, 1992:

..... $ 13,530,400

3. For the fiscal year beginning July 1, 1992, and ending June 30, 1993:

..... $ 3,913,600

The state board of regents shall determine which of the projects listed in 1989 Iowa Acts, chapter 322, section 3, shall be funded for a fiscal year and the amount to be allocated for a project based upon project needs, but the total funding for a project for all fiscal years shall not exceed the amount listed in 1989 Iowa Acts, chapter 322, section 3.

Notwithstanding 1989 Iowa Acts, chapter 322, section 3, as it relates to the reversion of the moneys appropriated in that section, and notwithstanding section 8.33, unobligated or unencumbered funds appropriated in this section for a fiscal year shall not revert to the general fund of the state on June 30 of the fiscal year for which the moneys are appropriated, but shall remain available for the purposes for which appropriated until September 30, 1993.

Sec. 1702.

Section 1701 of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION XVIII

Sec. 1801.

There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as is necessary, for a 2 percent salary contribution by the state, to the peace officers' retirement, accident, and disability system provided for in chapter 97A, to supplement the 16 percent state salary contribution provided for in 1990 Iowa Acts, Senate File 2402,* in order to raise the total salary contribution to 18 percent, as follows:

1. For the division of criminal investigation and bureau of identification containing the bureaus of identification, liquor law enforcement, and riverboat gambling enforcement:

..... $ 53,115

*Chapter 1267 herein

2. For the division of narcotics:

..... $ 20,837

3. For the fire marshal's office:

..... $ 7,641

Sec. 1802.

Notwithstanding sections 99D.17 and 99D.18, there is appropriated from funds paid to the state racing and gaming commission pursuant to section 99D.14, to the department of public safety for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for a 2 percent salary contribution by the state, to the peace officers' retirement, accident, and disability system provided for in chapter 97A, to supplement the 16 percent state salary contribution provided for in 1990 Iowa Acts, Senate File 2402,* in order to raise the total salary contribution to 18 percent, as follows:

For the pari-mutuel law enforcement agents:

..... $ 3,207

Sec. 1803.

There is appropriated from the road use tax fund to the department of public safety for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, for a 2 percent salary contribution by the state, to the peace officers' retirement, accident, and disability system provided for in chapter 97A, to supplement the 16 percent state salary contribution provided for in 1990 Iowa Acts, Senate File 2402,* in order to raise the total salary contribution to 18 percent, as follows:

For the division of highway safety and uniformed force:

..... $ 281,156

Sec. 1804.

It is the intent of the general assembly that the appropriations made in sections 1801 through 1803, be used solely for the purposes stated.

Sec. 1805. SPECIAL OLYMPICS FUND.

There is appropriated from the general fund of the state to the Iowa special olympics fund for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the Iowa special olympics fund:

..... $ 5,000

1. An Iowa special olympics fund is established in the office of the treasurer of state, which shall consist of the amounts appropriated to the fund by the general assembly for each fiscal year.

2. The moneys in the Iowa special olympics fund shall be expended at the request of the honorary chairperson of the Iowa special olympics.

DIVISION XIX

Sec. 1901. Section 422.7, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 23. 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 subsection 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, a pension and annuity retirement system for public school teachers under chapter 294, a disabled and retired fire fighters and police officers system under chapter 410, the Iowa police officers and fire fighters 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

*Chapter 1267 herein

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 fifty-five years of age or older can only exclude the amount of annuities received as a result of the death of the other spouse.

Sec. 1902. RETROACTIVE APPLICABILITY.

Section 1901 of this Act applies retroactively to January 1, 1990, for tax years beginning on or after that date.

Sec. 1903. REPEAL.

Section 1901 of this Act is repealed effective January 1, 1991, for tax years beginning on or after that date.

Approved May 8, 1990, except those items which I hereby disapprove and which are designated as section 101, subsections 1, 2, 5, and 6 in their entirety; section 102, subsection 1 in its entirety; section 203 in its entirety; section 301 in its entirety; section 302 in its entirety; section 401 in its entirety; sections 501, 502, 503, 504, and 505 in their entirety; section 602 in its entirety; sections 901, 902, and 903 in their entirety; those portions of section 1101 which are herein bracketed in ink and initialed by me; section 1103 in its entirety; section 1301 in its entirety; section 1501 in its entirety; section 1504 in its entirety; section 1516 in its entirety; and section 1517 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 2569, an Act relating to and making appropriations to finance state government, its regulatory functions, and its obligations, and providing effective dates.

House File 2569 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 101, subsections 1, 2, 5, and 6, in their entirety, and Section 102, subsection 1, in its entirety. These items call for general fund appropriations of $50,000 to the Department of Agriculture and Land Stewardship and $150,000 to the State Board of Regents, for programs to be administered in the event of a drought. Much progress has been made through the combined efforts of the Farmers Home Administration and the Department of Economic Development's Community Development Block Grant Program and if drought conditions reoccur, the above agencies along with the Department of Natural Resources will respond by providing appropriate assistance. This may be accomplished with resources provided by the general appropriation to those agencies.

I am unable to approve the item designated as Section 203, in its entirety. Funds are provided by Senate File 2435 to implement this program. This provision would appropriate $140,000 to the Department of Human Services to continue a sole source contract with the Iowa Pharmacists Association for drug utilization review. The department has been notified that federal funding would no longer be available to pay its share of the cost of the contract if the state did not allow competitive bidding on the contract.

This provision grants the IPA sole source status and assumes the federal government's cost of the contract. At a time when state funding for essential services is limited, I cannot approve action which would avoid an opportunity to receive federal funds. The contract with the Iowa

Pharmacist Association has been very successful in reducing prescription costs and I would strongly encourage the association to bid on the contract.

I am unable to approve the item designated as Section 301, in its entirety. This provision would appropriate $1.7 million over a two-year period to establish a child day care program for public employees. The program would be located at or near the Capitol Complex. Child care services are available from private providers within a reasonable distance from the Capitol Complex. Furthermore, child care benefits is a proper subject of collective bargaining; indeed, in the current collective bargaining agreement, the significant benefit of pretax treatment for child care expenses is provided for state employees throughout the state, not just in Des Moines. The establishment of a child care center at the Capitol Complex would create an inequity among state employees because employees who are stationed outside of the Capitol area would not have access to child care services which are subsidized directly by the state. This expenditure of $1.7 million on a new program is unacceptable.

I am unable to approve the item designated as Section 302, in its entirety. This section would fund in part the cost of building a memorial honoring fallen firefighters at a cost of $50,000. While this is a laudable project, it would be appropriate for this memorial to be funded by private contributions. During my administration, other memorials have been constructed with private donations raised with my assistance. Those honor the veterans of the Vietnam and Korean Wars, and the memorial for fallen Iowa peace officers. I will assist with fundraising for this project, too.

I am unable to approve the item designated as Section 401, in its entirety. This provision calls for contingency reductions if actual revenue collected by the state in the fiscal year ending June 30, 1990, is less than the revenue estimate established at the March 13, 1990, meeting of the Revenue Estimating Conference. Similar stipulations are made for the fiscal year ending June 30, 1991. The approval of a budget with a realistic ending balance would have been preferable.

I am unable to approve the items designated as Sections 501, 502, 503, 504, and 505, in their entirety. These provisions call for contingency appropriations if the general fund's ending balance for fiscal year 1990 exceeds $132.2 million or so much as is necessary to assure the fiscal 1991 ending balance of $30 million. I support the items proposed to be funded with these contingency appropriations; indeed, with only one minor exception, they are identical to the contingency appropriations I recommended in January. However, my program required an ending balance of $60 million in fiscal year 1991 before contingency spending would occur. The $30 million balance in fiscal year 1991 is simply too low a trigger to assure a positive ending balance in fiscal year 1992.

I am unable to approve the item designated as Section 602, in its entirety. This provision would appropriate $90,000 to establish a job development program in the first judicial district. Because I have disapproved a similar provision in 1990 Iowa Acts, Senate File 2408, which House File 2569 amends, I am unable to approve this section. I have previously approved an appropriation of $100,000 for this project in the supplemental appropriations bill.

I am unable to approve the items designated as Sections 901, 902, and 903, in their entirety. Because Iowa school districts and area education agencies are currently required to provide appropriate instructional programs for handicapped children, and because the Department of Education is moving forward with initiatives to improve programs for those children under the Renewed Service Delivery Systems Project, it would be inappropriate to approve this program without further consideration. Additionally, the Department of Education is currently reviewing methods for financing special education. The department is expected to complete this review in the fall of 1990. For these reasons, and in view of the financial constraints of the state, I am unable to approve this section.

I am unable to approve the designated portions of Section 1101, and the item designated as Section 1103, in its entirety. These provisions would direct the Department of Education to develop model guidelines for truancy, develop an education bill of rights that identifies educational opportunities that are to be legal entitlements, and conduct a study of the expected impact of increasing the compulsory attendance age from sixteen to eighteen.

The Department of Education is currently embarking on an initiative to seek public input on future goals for Iowa's education system and to consider ways in which Iowa schools may help achieve the national education goals that were recently adopted by the nations' governors. This effort will include a review of programming needs for children at-risk.

I am unable to approve the item designated as Section 1301, in its entirety. This section would provide a $50,000 grant to any Iowa city for development of a proposed public riverfront park, wetlands, and recreational area, for purposes including but not limited to support of educational, scientific, cultural, recreational, or other public purposes, or combination of these purposes. I have previously approved a $150,000 appropriation for riverfront development for similar purposes in Senate File 2327. Given the fiscal constraints of the 1991 fiscal year budget, I am unable to approve this additional expenditure.

I am unable to approve the item designated as Section 1501, in its entirety. This provision appropriates $136,000 to the Judicial Department to implement a pilot project for mediation of child custody and visitation issues, and a family court feasibility study. Although I recognize the need to consider alternative mechanisms for domestic dispute resolutions, these expenditures would be unwise given present budgetary constraints.

I am unable to approve the item designated as Section 1504, in its entirety. This section would require that a "Guardian ad litem" appointed by the court to represent the interests of a child be a practicing attorney. This provision would negatively affect the Court Appointed Special Advocate Program, which depends on volunteers to fill this role. The court currently appoints a practicing attorney if it deems necessary.

I am unable to approve the items designated as Sections 1516 and 1517, in their entirety. These provisions would establish gudelines for the Judicial Department's implementation of the pilot project for mediation of child custody and visitation issues and the Judicial Department's implementation of the family court feasibility study, which I have disapproved above.

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 2569 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1272

APPROPRIATIONS AND OTHER PROVISIONS RELATING TO EDUCATIONAL AND CULTURAL PROGRAMS

S.F. 2423

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 effective dates, and providing retroactive applicability.

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, 1990, and ending June 30, 1991, 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:

..... $ 468,735
..... FTEs 10

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:

..... $ 1,239,125
..... FTEs 13

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, 1991, 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, 1991.*

As a condition, limitation, and qualification of the appropriation in this subsection, not more than 10 percent of the difference between the moneys appropriated in this subsection and the moneys appropriated in 1989 Iowa Acts, chapter 319, section 1, subsection 2, shall be expended by the arts division for administrative costs.

3. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,775,453
..... FTEs 76

4. LIBRARY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,326,277
..... FTEs 41

As a condition, limitation, and qualification of the funds appropriated in this subsection, the department of cultural affairs shall adopt, by January 1, 1991, rules relating to the copying of library material and the defraying of copying expenses, including, but not limited to, the charging of reasonable fees for the copying of library material for nonresident persons.

5. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,947,451
..... FTEs 104

*Item veto; see message at end of the Act

6. TERRACE HILL COMMISSION

For salaries, support, maintenance, miscellaneous purposes, for the operation of Terrace Hill and for not more than the following full-time equivalent positions:

..... $ 211,581

..... FTEs 5.25

7. REGIONAL LIBRARY SYSTEM

a. For state aid:

..... $ 1,530,655

*b. *For additional state aid:*

..... *$ 100,000**

8. IOWA PEACE INSTITUTE

For allocation to the Iowa peace institute established in chapter 38:

..... $ 286,600

9. For planning and programming for the community cultural grants program established under section 303.89:

..... $ 885,000

10. For the Iowa town square project:

..... $ 150,000

Sec. 2.

Notwithstanding sections 302.1 and 302.1A, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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 the principal and interest due on moneys loaned to the historical division under section 303.18.

DIVISION II
COLLEGE AID COMMISSION

Sec. 3.

There is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as may be 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:

..... $ 326,271

..... FTEs 8.05

As a condition, limitation, and qualification of the appropriation in this subsection, the college aid commission shall conduct a study of the cosmetology and chiropractic programs available to Iowans at both private and public postsecondary institutions. The study shall include the number of students attending the programs, the type of financial aid that is available to the students, a description of the accreditation standards which are required to be met by each program, a listing of those areas in which programs have failed to meet accreditation standards, the number of students placed within 1 year of graduation in professions for which they have been trained, and the number of students who have continued in the professions for which they have been trained 5 years after graduation from a professional program.

2. STUDENT AID PROGRAMS

For payments to students for student aid programs:

..... $ 2,570,100

As a condition, limitation, and qualification of the funds appropriated in this subsection, $1,850,000 shall be expended for an Iowa grant program, with funds to be allocated to institutions in the following manner:

*Item veto; see message at end of the Act

a. Total allocations to students attending regents' institutions shall be determined by multiplying 72.973 percent of $1,850,000 by 37.6 percent.

b. Total allocations to students attending community colleges shall be determined by multiplying 72.973 percent of $1,850,000 by 25.9 percent and by 2.43.

c. Total allocations to students attending private colleges and universities shall be determined by multiplying 72.973 percent of $1,850,000 by 36.5 percent.

3. NATIONAL GUARD LOAN REPAYMENT

For payments to students for the national guard loan payment program in section 261.49:

..... $ 250,000

4. AID FOR DISPLACED WORKERS

For payments to institutions for attendance of displaced workers:

..... $ 500,000

Notwithstanding the purposes for which moneys are appropriated in this subsection, any unobligated or unencumbered funds remaining on March 15, 1991, from the moneys appropriated in this subsection shall be used for the remainder of the fiscal year by the commission to supplement moneys appropriated for an Iowa grant program.

Sec. 4.

There is appropriated from the general fund of the state to the college aid commission for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES

1. For grants to sophomores, juniors, and seniors and for forgivable loans to freshmen, who are Iowa students attending the university of osteopathic medicine and health sciences, under the grant program pursuant to section 261.18 and the forgivable loan program pursuant to section 261.19A:

..... $ 497,000

2. For the university of osteopathic medicine and health sciences for the admission and education of Iowa students in each of the 4 years of classes at the university of osteopathic medicine and health sciences pursuant to section 261.19:

..... $ 497,000

Sec. 5.

Notwithstanding section 261.85, from the moneys appropriated to the college aid commission in section 261.85 for the work-study program for the fiscal year commencing July 1, 1990, and ending June 30, 1991, the college aid commission shall retain $40,000 for allocation to pilot projects of the Iowa heritage corps created in section 261.81A.

Sec. 6.

There is appropriated from the loan reserve account to the college aid commission for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purposes designated:

For operating costs of the Stafford loan program including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,790,748

..... FTEs 32.52

Sec. 7.

Funds appropriated in section 3 of this Act for the Iowa grant program and the graduate student financial assistance program shall be used to supplement, not supplant, funds appropriated for existing programs at the institutions receiving allocations under the sections.

DIVISION III
DEPARTMENT OF EDUCATION

Sec. 8.

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 may be 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:

..... $ 6,495,093
..... FTEs 135.75

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 the legislative lawmaking process 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 fifth judicial district's department of correctional services to assist clients.

As a condition, limitation, and qualification of the appropriation in this subsection, the bureau of special education of the department of education shall study the impact of student weighting on the appropriateness of student placement in the least restrictive environment. Depending on the results of the study, alternatives to the assignment of student weightings that will encourage the placement of students in the least restrictive appropriate placement shall be developed accordingly. The bureau of special education shall report the findings of the study and any identified alternatives to the state special education advisory panel and the school budget review committee, and the department shall include the findings in a report to the legislative fiscal bureau and the general assembly by December 1, 1990.

*2. *SPECIAL PROGRAMS AND PROJECTS*

For special programs and projects:

..... *$* *500,000*
..... *FTEs* *2**

3. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 150,007
..... FTEs 2

4. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 931,636
..... FTEs 39.6

5. VOCATIONAL AGRICULTURE YOUTH ORGANIZATION

To assist a vocational agriculture youth organization sponsored by the schools to support the foundation established by that vocational agriculture youth organization:

..... $ 50,000

*Item veto; see message at end of the Act

6. PENAL INSTITUTION EDUCATION PROGRAM

For educational programs at state penal institutions:

..... $ 2,293,893

Funds appropriated by this subsection shall be used by the department of education, in coordination with the department of corrections, to provide expanded educational programs to inmates of the Iowa penal institutions and develop education program plans for the offenders and ex-offenders in the community-based corrections system. Educational programs shall emphasize assessment, cognition, literacy, and social skills, and shall provide continuity of instruction as the inmate progresses through the penal system. Educational technology learning systems which would support the continuity of instruction shall be used in combination with an information management system to track student progress. The information tracking system shall be available throughout the state. **An individualized educational plan shall be developed for each inmate, which reflects the inmate's total needs and which can be used to assist in the selection of programs and tracking of the inmate's progress.** An information management system shall be implemented to transmit education information, including the inmate's plan, programs provided, and program outcomes to institutions under whose control the inmate is placed. Evaluation of the results shall be made annually to determine needed changes and to assess results. The department of education, in coordination with the department of corrections, shall investigate, evaluate, and analyze educational technology systems which reflect inmate needs before selection of any system or systems. Funds appropriated in this subsection may be used for individualized, personal development, life management programs established by the general assembly in 1990 Iowa Acts, Senate File 2212,** section 23, under the department of corrections, and to provide the results of the establishment of the individualized, personal development, life management programs to the cochairpersons and ranking members of the joint education appropriations subcommittee and the legislative fiscal bureau.

7. YOUTH LEADERSHIP GRANT PROGRAM

For grants to youth leadership programs:

..... $ 25,000

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.

8. 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, which shall be disbursed according to federal regulations and include salaries and support, for not more than the following full-time equivalent positions:

..... $ 3,200,215

..... FTEs 14

As a condition, limitation, and qualification of the funds appropriated in this subsection, of the $3,200,215 available, $25,000 shall be used to develop guidelines for school lunch and breakfast programs and to plan a nutrition pilot project, if a pilot project to establish model nutrition guidelines for school lunch and breakfast programs is established by the general assembly.

9. 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 $20 per pupil and shall not exceed the comparable services offered to resident public school pupils:

..... $ 643,053

10. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,998,358

..... FTEs 319.50

*Item veto; see message at end of the Act

**Chapter 1257 herein

b. For matching funds for programs to enable severely physically or mentally disabled persons to function more independently, including salaries and support, for not more than the following full-time equivalent positions:

.....	$	19,367
.....	FTEs	1.50

11. CAREER INFORMATION SYSTEM OF IOWA

For the purpose of providing educational information to students in public and nonpublic schools:

.....	$	84,000
.....	FTEs	5

As a condition, limitation, and qualification of the funds appropriated in this subsection, the educational information to students shall include, but is not limited to, information relating to the likelihood of employment in Iowa in the students' career choice areas.

12. MERGED AREA SCHOOLS

For general state financial aid to merged areas as defined in section 280A.2, 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 $86,316,796 to be allocated as follows:

a.	MergedArea I	$	3,936,168
b.	MergedArea II	$	4,909,784
c.	MergedArea III	$	4,646,625
d.	MergedArea IV	$	2,301,829
e.	MergedArea V	$	4,714,422
f.	MergedArea VI	$	4,731,678
g.	MergedArea VII	$	6,656,574
h.	MergedArea IX	$	7,339,996
i.	MergedArea X	$	11,444,016
j.	MergedArea XI	$	12,349,593
k.	MergedArea XII	$	5,144,554
l.	MergedArea XIII	$	5,081,695
m.	MergedArea XIV	$	2,252,941
n.	MergedArea XV	$	6,866,253
o.	MergedArea XVI	$	3,940,668

As a condition, limitation, and qualification of the moneys appropriated in this subsection, the merged area schools shall expend at least $2,100,000 for additional salary increases for full-time nonadministrative licensed faculty members **and at least $141,235 for additional salary increases for full-time salaried professional employees other than administrators, faculty, and hourly support staff at each merged area school.** For purposes of this subsection, full-time licensed faculty includes instructors who teach at an area school on a half-time basis or more. Distribution of the moneys for salary increases shall be negotiated pursuant to chapter 20, if the licensed nonadministrative faculty members of the merged area school are organized for collective bargaining purposes. **For purposes of this subsection, professional staff includes employees of an area school such as academic advisors, media specialists, student services staff, financial aid advisors, data processing staff, program coordinators, counselors, librarians who are not licensed faculty members, and other staff members who are funded pursuant to an existing area school foundation formula cost center under chapter 286A.**

As a condition, limitation, and qualification of the moneys appropriated in this subsection, each merged area school shall adopt a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by the merged area school or in conjunction with activities sponsored by a merged area school. Each merged area school shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, the merged area school shall provide substance abuse prevention programs for students and employees.

*Item veto; see message at end of the Act

13. MERGED AREA SCHOOL PERSONAL PROPERTY TAX REPLACEMENT

For general financial aid to merged areas in lieu of personal property tax replacement payments under section 427A.13, the amount of $828,012 to be allocated as follows:

a.	MergedArea I	$ 65,152
b.	MergedArea II	$ 50,567
c.	MergedArea III	$ 33,891
d.	MergedArea IV	$ 23,204
e.	MergedArea V	$ 60,042
f.	MergedArea VI	$ 34,514
g.	MergedArea VII	$ 57,884
h.	MergedArea IX	$ 69,103
i.	MergedArea X	$ 97,180
j.	MergedArea XI	$ 142,463
k.	MergedArea XII	$ 46,200
l.	MergedArea XIII	$ 40,972
m.	MergedArea XIV	$ 20,826
n.	MergedArea XV	$ 55,026
o.	MergedArea XVI	$ 30,988

**14. PROFESSIONAL DEVELOPMENT*

For professional development programs at each of the merged area schools for full-time, part-time, and administrative faculty or staff:

..... *$ 454,216**

Sec. 9.

There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1991, and ending June 30, 1992, 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 $15,205,373, to be accrued as income and used for expenditures incurred by the area schools during the fiscal year beginning July 1, 1990, and ending June 30, 1991, to be allocated to each area school as follows:

a.	MergedArea I	$ 704,974
b.	MergedArea II	$ 879,444
c.	MergedArea III	$ 832,391
d.	MergedArea IV	$ 379,320
e.	MergedArea V	$ 844,401
f.	MergedArea VI	$ 847,516
g.	MergedArea VII	$ 1,058,390
h.	MergedArea IX	$ 1,314,655
i.	MergedArea X	$ 1,961,430
j.	MergedArea XI	$ 2,211,876
k.	MergedArea XII	$ 921,500
l.	MergedArea XIII	$ 910,137
m.	MergedArea XIV	$ 403,567
n.	MergedArea XV	$ 1,229,954
o.	MergedArea XVI	$ 705,818

**As a condition, limitation, and qualification of the moneys appropriated in this subsection, the merged area schools shall expend at least $370,588 for additional salary increases for full-time nonadministrative licensed faculty members and at least $24,922 for additional salary increases for full-time salaried professional employees other than administrators, faculty, and hourly support staff at each merged area school. For purposes of this subsection, full-time licensed faculty includes instructors who teach at an area school on a half-time basis or more. Distribution of the moneys for salary increases shall be negotiated pursuant to chapter 20, if the licensed nonadministrative faculty members of the merged area school are organized for collective bargaining purposes. For purposes of this subsection, professional*

*Item veto; see message at end of the Act

staff includes employees of an area school such as academic advisors, media specialists, student services staff, financial aid advisors, data processing staff, program coordinators, counselors, librarians who are not licensed faculty members, and other staff members who are funded pursuant to an existing area school foundation formula cost center under chapter 286A. Payments for salary increases under this subsection shall be accrued as income and used for salary increases for the fiscal year beginning July 1, 1990, and ending June 30, 1991.

2. PROFESSIONAL DEVELOPMENT

For professional development programs at each of the merged area schools for full-time, part-time, and administrative faculty or staff:

..... *$ 80,156*

*Payments under this subsection shall be accrued as income and used for professional development for the fiscal year beginning July 1, 1990, and ending June 30, 1991.**

3. Funds appropriated by this section shall be allocated pursuant to this section and paid on or about August 15, 1991.

Sec. 10.

There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1991, and ending June 30, 1992, the following amounts to be used for the purposes designated:

1. For general financial aid to merged areas in lieu of personal 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, 1990, and ending June 30, 1991, to be allocated to each area as follows:

a.	MergedArea I	$	27,922
b.	MergedArea II	$	21,671
c.	MergedArea III	$	14,525
d.	MergedArea IV	$	9,924
e.	MergedArea V	$	25,732
f.	MergedArea VI	$	14,792
g.	MergedArea VII	$	24,807
h.	MergedArea IX	$	29,615
i.	MergedArea X	$	41,649
j.	MergedArea XI	$	61,056
k.	MergedArea XII	$	19,800
l.	MergedArea XIII	$	17,559
m.	MergedArea XIV	$	8,925
n.	MergedArea XV	$	23,582
o.	MergedArea XVI	$	13,281

2. Funds appropriated in subsection 1 shall be allocated pursuant to this section and paid on or about August 15, 1991.

Sec. 11.

Moneys allocated to area schools under section 8, subsections 12 through 14, of this Act, for expenditures incurred during the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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 9 and 10 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. 12.

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, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

*Item veto; see message at end of the Act

For the educational excellence program:

..... $ 92,007,985

Sec. 13.

There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1991, and ending June 30, 1992, for expenditures incurred by school districts during the previous fiscal year the following amount, or so much thereof as is necessary, for vocational education aid to secondary schools:

..... $ 3,666,666

Funds appropriated by this subsection shall be used for aid to school districts for the 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 chapters 258 and 280A, and to purchase instructional equipment for vocational and technical courses of instruction in such schools.

DIVISION IV
STATE BOARD OF REGENTS

Sec. 14.

There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1990, and ending June 30, 1991, 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, 1990, and ending June 30, 1991, and for not more than the following full-time equivalent positions:

..... $ 1,136,134
..... FTEs 19.63

As a condition, limitation, and qualification of the moneys appropriated in this paragraph, the state board of regents shall adopt a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by an institution or in conjunction with activities sponsored by an institution governed by the board. Each institution shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, the institutions shall provide substance abuse prevention programs for students and employees.

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.

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:

..... $ 17,338,340

c. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... $ 75,000

d. For funds to conduct a study for the development of a graduate center in Council Bluffs:

..... $ 40,000

e. For funds to be allocated to the quad-cities graduate studies center:

..... $ 145,000

*Item veto; see message at end of the Act

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:

	$	164,663,389
	FTEs	4,413.65

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, 1990, 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 programs:

	$	355,000
	FTEs	7

b. Minority and women educators enhancement program:

From the moneys appropriated in paragraph "a", subparagraph (1), $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 allocation in this paragraph, unobligated and unencumbered funds remaining on June 30, 1991, from the allocation for use under this paragraph, shall not revert to the general fund of the state, but shall remain available for expenditure during the fiscal year beginning July 1, 1991, for the same purpose or for other minority recruitment programs.

c. College-bound voucher program:

From the moneys appropriated in paragraph "a", subparagraph (1), $100,000 shall be used for implementing the college-bound voucher program.

d. Iowa minority academic grants for economic success program:

From the moneys appropriated in paragraph "a", subparagraph (1), $480,000 shall be used for the Iowa minority academic grants for economic success program.

e. For salary annualization:

	$	323,000

f. For inflation costs:

	$	1,319,000

g. For utility and debt service:

	$	423,000

h. For enhancing undergraduate education:

	$	1,889,000

i. For enhancing medical education:

	$	446,000
	FTEs	10

j. For the statewide tumor registry:

	$	190,500
	FTEs	5.05

k. 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:

	$	28,021,398
	FTEs	5,251.76

(2) For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148D for the family practice program, including salaries and support, and for not more than the following full-time equivalent positions:

..... $ 1,738,142

..... FTEs 174.19

(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:

..... $ 399,945

..... FTEs 12.55

l. As a condition, limitation, and qualification of the appropriation made in paragraph "k", subparagraph (1), the county quotas for indigent patients for the fiscal year commencing July 1, 1990, shall not be lower than the county quotas for the fiscal year commencing July 1, 1989. 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.

m. As a condition, limitation, and qualification of the appropriation made in paragraph "k", 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.

n. As a condition, limitation, and qualification of the appropriation made in paragraph "k", 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 45 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 150 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.

o. 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:

..... $ 6,635,852

..... FTEs 286.76

p. State hygienic laboratory:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,877,214
.....	FTEs	117.26

q. Hospital-school:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	5,179,650
.....	FTEs	184.22

r. Oakdale campus:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,833,505
.....	FTEs	73.60

*s. *Center for simulation and design:*

For planning and development of funding sources related to the creation of the university of Iowa driving simulation center:

.....	*$*	*200,000**

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university:

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	133,589,728
.....	FTEs	3,740.48

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 1, 1990, 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. 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 allocation in this paragraph, unobligated and unencumbered funds remaining on June 30, 1991, from the allocation for use under this paragraph, shall not revert to the general fund of the state, but shall remain available for expenditure during the fiscal year beginning July 1, 1991, for the same purpose or for other minority recruitment programs.

c. College-bound voucher program:

From the moneys appropriated in paragraph "a", $100,000 shall be used for implementing the college-bound voucher program.

d. Iowa minority academic grants for economic success program:

From the moneys appropriated in paragraph "a", $480,000 shall be used for the Iowa minority academic grants for economic success program.

e. Agricultural experiment station:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	17,200,167
.....	FTEs	473

*Item veto; see message at end of the Act

f. Comprehensive agricultural research:
For conducting the comprehensive agricultural research program:
..... $ 4,000,000
g. Leopold center:
For agricultural research grants awarded under section 266.39B:
..... $ 600,000
h. 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:
..... $ 15,878,812
..... FTEs 480
i. Fire service education, including salaries and support, and for not more than the following full-time equivalent positions:
..... $ 417,000
..... FTEs 11
j. For salary annualization:
..... $ 261,000
k. For inflation costs:
..... $ 993,000
l. For utility and debt service costs:
..... $ 724,000
m. For enhancing undergraduate education:
..... $ 1,317,000
n. For opening new buildings:
..... $ 63,000
4. UNIVERSITY OF NORTHERN IOWA
a. For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 53,563,012
..... FTEs 1,385.83

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 1, 1990, 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.

As a condition, limitation, and qualification of the appropriation in this subsection, $50,000 shall be expended for the Iowa academy of science and no more than 20 percent of the funds shall be used for administrative purposes or for publication of the Iowa academy of science journal. The remainder of the $50,000 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 for the Iowa academy of science 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 grant recipient.

b. 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 allocation in this paragraph, unobligated and unencumbered funds remaining on June 30, 1991, from the allocation for use under this paragraph, shall not revert to the general fund of the state, but shall remain available for expenditure during the fiscal year beginning July 1, 1991, for the same purpose or for other minority recruitment programs.

c. College-bound voucher program:

From the moneys appropriated in paragraph "a", $80,000 shall be used for implementing the college-bound voucher program.

d. Iowa minority academic grants for economic success program:

From the moneys appropriated in paragraph "a", $240,000 shall be used for the Iowa minority academic grants for economic success program.

e. For salary annualization:

..... $ 130,000

f. For inflation costs:

..... $ 359,000

g. For utility and debt service costs:

..... $ 54,000

h. For opening new buildings:

..... $ 216,000

i. For enhancing undergraduate education:

..... $ 1,130,000

**j. For leadership for teacher education:*

..... *$ 475,000*

..... *FTEs 7**

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,770,768

..... FTEs 133.24

**As a condition, limitation, and qualification of the funds appropriated in this subsection, in cases where a resident student of the school for the deaf or the Braille and sight-saving school is physically or sexually abused or assaulted and is physically removed from the school by a court order pursuant to a finding by the court that the child has been sexually or physically abused or assaulted, payment for placement of the student in another facility for the deaf or blind, either in state or out of state, shall be made by the school from which the student is removed out of funds allocated for the operation of the school.*

*Before a student is placed at another facility, the school from which the student is removed shall be consulted, and the placement shall reflect, as nearly as possible, comparable education, accessibility, and cost. Students placed at another facility under this paragraph shall not be returned to the school for the deaf or the Braille and sight-saving school until the court rules that the student will not be adversely affected if returned to the school. If the student is counted by the Iowa school for the deaf or the Braille and sight-saving school, for the purpose of generating school foundation aid for the student, those funds generated by the student shall be forwarded to the facility in which the student is placed and the school for the deaf or the Braille and sight-saving school shall pay the difference between the funds generated by the student and the cost of tuition, room, and board at the other facility.**

6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,197,141

..... FTEs 92.45

Sec. 15.

Moneys appropriated in section 14, subsection 2, paragraph "a", subparagraph (1); section 14, subsection 3, paragraph "a"; and section 14, subsection 4, paragraph "a", of this Act and

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designated for the minority and women educators enhancement program under paragraph "b" of those subsections shall be used solely for the purposes for which they have been designated and not for general university purposes.

Sec. 16.

Moneys appropriated in section 14, subsection 2, paragraph "a", subparagraph (1); section 14, subsection 3, paragraph "a"; and section 14, subsection 4, paragraph "a", of this Act and designated for the Iowa minority academic grants for economic success program under paragraph "d" of those subsections shall be used solely for the purposes for which they have been designated and not for general university purposes.

Sec. 17.

Reallocations of sums received under section 14, subsections 2, 3, 4, 5, and 6, including sums received for salaries, shall be reported on a quarterly basis to the co-chairpersons and ranking members of both the legislative fiscal committee and the education appropriations joint subcommittee.

*Sec. 18.

*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, 1990, and July 1, 1991, 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 6 years.**

Sec. 19.

There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to conduct the elderlaw education program under section 249D.54:

..... $ 75,000

Sec. 20.

There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the following amount, or so much thereof as may be necessary, to be used for purposes of administering a graduate nursing grant program at accredited private colleges or universities:

..... $ 225,000

As a condition, limitation, and qualification of the funds appropriated in this paragraph, the moneys appropriated shall be used specifically for instructor salaries, equipment, student services, or rural recruitment. At least 80 percent of the students enrolled in the program shall be Iowa residents. All program participants shall be licensed to practice nursing in Iowa. The Iowa department of public health shall be responsible for the oversight and administration of the program.

As a condition, limitation, and qualification of the funds appropriated in this section the Iowa department of public health shall adopt rules for administration of the graduate nursing grant program.

Sec. 21.

Notwithstanding sections 8.33 and 18.137, unencumbered and unobligated funds remaining from any appropriation made to the state communications network fund shall not revert to the general fund of the state but shall remain in the state communications network fund and are available for expenditure.

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Sec. 22.

Notwithstanding section 267.5, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, there is appropriated to and the college of veterinary medicine at Iowa state university of science and technology shall use $25,000 from the livestock disease research fund, established pursuant to section 267.8, for research into the causes of and available treatment for an unknown reproductive and neonatal disease, generally known as "mysterious pig disease", currently afflicting swine in this state.

Sec. 23.

Notwithstanding the allocation of phase III moneys under sections 294A.14 and 294A.25, for the fiscal year beginning July 1, 1990, prior to the allocation to school districts and area education agencies, $125,000 of the moneys allocated for phase III shall be retained by the department of education to contract with the regional educational laboratory for this state to establish and monitor an independent evaluation of the operation of phase III of the educational excellence program. The regional educational laboratory shall determine the scope of the evaluation, including a methodology for the evaluation; the evaluation techniques; the sampling size for numbers of different plans to evaluate; the sampling size for numbers of interviews to be conducted with teachers, school administrators, school board members, members of the general public, and others; and the process for oversight of the evaluation. The laboratory, in consultation with the department, shall select a consortium consisting of Iowa teachers participating in phase III programs and a public or private institution of higher education offering a graduate program of teacher education to work with the laboratory in the conduct of the evaluation. The results of the evaluation shall be reported to the department of education and to the general assembly by January 1, 1992.

**The evaluation shall be conducted using the following timetable:*

1. By July 15, 1990, an advisory committee shall be selected by the department of education.

2. By August 31, 1990, the determination of the evaluation methodology and oversight process must be completed and members of the consortium selected.

3. By September 30, 1990, the advisory committee shall review the evaluation methodology, the laboratory shall finalize the evaluation methodology, and the laboratory shall begin training the teacher members of the consortium and consulting with the faculty of the institution of higher education.

4. By December 15, 1990, the first phase of the evaluation design must be implemented.

5. By January 15, 1991, the advisory committee shall review progress and the next phase of the evaluation design.

6. By May 31, 1991, the advisory committee shall review a progress report of the evaluation.

7. By September 30, 1991, the laboratory, with the assistance of the consortium, shall write the evaluation report.

8. By October 31, 1991, the advisory committee shall review the evaluation report and may suggest revisions.

*9. By December 15, 1991, the evaluation report must be completed and prepared for distribution.**

Moneys allocated in this section may be paid to the regional educational laboratory and to the consortium. Boards of directors of school districts and area education agencies shall allow their teachers to be members of a consortium and shall be reimbursed under the terms of the contract for the cost of salaries and benefits of each participating teacher.

**Sec. 24. SUPPLEMENTAL ENROLLMENT PAYMENTS.*

1. There is appropriated from the general fund of the state to the school budget review committee for the fiscal year beginning July 1, 1990, and ending June 30, 1991, the amount of $150,000, or so much thereof as is necessary to make supplemental enrollment payments to school districts, for compensation for enrollment losses which are greater than 5 percent of the district's certified enrollment for the previous year due to enrollment of the district's resident children in another school district during the school year beginning July 1, 1990, under

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1990 Iowa Acts, Senate File 2306, section 2, if Senate File 2306 is enacted by the general assembly.

A supplemental enrollment payment for a child under this section is equal to the state aid transmitted to the receiving district for that child for that fiscal year.

A school district eligible for supplemental enrollment payments under this section shall make application for payment to the school budget review committee not later than September 1, 1990. If the moneys appropriated in this section are insufficient to make all supplemental payments, the school budget review committee shall prorate the payments to school districts.

*2. If moneys appropriated exceed the amount required to make supplemental enrollment payments to school districts under subsection 1, school districts receiving supplemental enrollment payments under subsection 1, and school districts which have experienced losses of less than 5 percent of the district's certified enrollment for the previous year but have experienced enrollment loss due to enrollment of the district's resident children in another school district during the school year beginning July 1, 1990, under Senate File 2306, section 2, shall be eligible to receive supplemental enrollment payments under this section, if the district applies for the payments to the school budget review committee by October 15, 1990. If necessary, the school budget review committee shall prorate the payments to school districts under this subsection.**

Sec. 25.

Notwithstanding 1990 Iowa Acts, Senate File 2306,** if Senate File 2306 is enacted by the general assembly, parents filing requests for open enrollment under the good cause exception provisions of that Act shall file the request for open enrollment by June 30, 1990.

**Sec. 26. DEPARTMENTAL STUDY.*

*The department of education shall conduct a study relating to the costs associated with extended year special education based on reteaching periods for acquired critical skills of varying lengths. The department, in conducting the study, shall solicit testimony from experts and review national studies and data relating to extended year special education. The department shall submit its findings, along with any recommendations, in a report to the general assembly by December 1, 1990.**

**Sec. 27.*

*The department of education shall conduct a study of and develop recommendations for an administrators' excellence program. The department's recommendations shall include components which address issues relating to recruitment, skill enhancement, and retention of administrators. In developing recommendations, the department shall consult with education associations or organizations which have developed recommendations relating to an administrators' excellence program. The department shall submit its recommendations in a report to the general assembly by January 1, 1991.**

Sec. 28.

Notwithstanding section 8.33, funds appropriated in 1989 Iowa Acts, chapter 319, section 19, subsection 1, paragraph "b", remaining unencumbered or unobligated on June 30, 1990, shall not revert to the general fund of the state but shall be available for expenditure for the purposes listed in section 14, subsection 1, paragraph "b", of this Act during the fiscal year beginning July 1, 1990, and ending June 30, 1991.

Sec. 29.

Notwithstanding section 282.10, boards of school districts with existing whole grade sharing agreements which wish to include sixth grade as one of the grades in which the pupils of the districts may attend school in other districts under the agreement, but which have failed to meet the February 1, 1990, deadline for the signing of agreements for sharing during the 1990-1991 school year, shall be permitted to amend the existing whole grade sharing agreements to include the sixth grade, provided that the school districts meet all of the other requirements contained in chapter 282 relating to the signing of whole grade agreements and the

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**Chapter 1182 herein

addition of the sixth grade to the current agreement is signed by the board, under chapter 282, by July 1, 1990.

Sec. 30.

Notwithstanding the amounts of the budgets approved under section 273.3, subsection 12, in addition to the moneys available to area education agencies under section 442.7, subsection 7, paragraphs "g" and "h", for special education support services, there is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1990, the amount of $225,000, or as much thereof as may be necessary, to be paid to area education agencies that have fewer than 3.5 public school pupils per square mile, to be expended for special education support services of the applicable area education agencies during the fiscal year beginning July 1, 1990.

Sec. 31. 1989 Iowa Acts, chapter 135, section 130, is amended to read as follows:

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~~ July 1, 1990.

Sec. 32. 1989 Iowa Acts, chapter 278, sections 1 and 2, are amended to read as follows:

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. However, family, consumer, career, and technology education are not required to be taught in nonpublic schools which do not offer vocational education programs.

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; jobseeking, 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. However, this subsection does not apply to nonpublic schools which do not offer vocational education programs.

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. 33. 1989 Iowa Acts, chapter 322, section 7, is amended to read as follows:

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~~ under 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, and $650,000 shall be allocated to merged area VII for use as state matching funds for federal funds applied for prior to June 5, 1989, for technology equipment. Moneys allocated to merged area VII shall be counted as part of the state match for the state communications network under section 18.136, subsection 3.

Sec. 34. Section 18.136, subsection 7, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The narrowcast system advisory committee shall review all requests for grants for educational telecommunications applications, if they are a part of the state communications network, to ensure that the educational telecommunications application is consistent with the telecommunications plan. If the narrowcast system advisory committee finds that a grant request is inconsistent with the telecommunications plan, the grant request shall not be allowed.

**Sec. 35. Section 19A.9, subsection 1, unnumbered paragraph 1, and subsection 2, Code 1989, are amended to read as follows:*

For the preparation, maintenance, and revision of a position classification plan from a schedule by separate department for each position and type of employment not otherwise provided for by law in state government for all positions in the executive branch, excluding positions under the state board of regents, based upon duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class, in the same geographical area. However, in establishing classifications and allocating positions to classifications, with respect to positions within the division of area schools in the department of education, the department shall ensure that classifications are designed to attract persons with superior qualifications in the field of higher education to that division. *After the classification has been approved by the commission, the director shall allocate the position of every employee in the executive branch, excluding employees of the state board of regents* and employees of the division of area schools in the department of education, *to one of the classes in the plan. Any employee or agency officials affected by the allocation of a position to a class shall, after filing with the director a written request for reconsideration in the manner and form the director prescribes, be given a reasonable opportunity to be heard by the director. An appeal may be made to the commission or to a qualified classification committee appointed by the commission. An allocation or reallocation of a position by the director to a different classification shall not become effective if the allocation or reallocation may result in the expenditure of funds in excess of the total amount budgeted for the department of the appointing authority until approval has been obtained from the director of the department of management.*

2. For pay plans within the purview of an appropriation made by the general assembly and not otherwise provided by law for all employees in the executive branch of state government, excluding employees of the state board of regents, after consultation with the governor and appointing authorities with due regard to the terms of collective bargaining agreements negotiated under chapter 20 and after a public hearing held by the commission. Pay plans for positions in the division of area schools, department of education, shall be designed to attract persons with superior qualifications in the field of higher education to that division. *Review of the pay plan for revisions shall be made in the same manner at the discretion of the director, but not less than annually. The annual review by the director shall be made available to the governor a sufficient time in advance of collective bargaining negotiations to permit its recommendations to be considered during the negotiations. Each employee in the executive branch, excluding employees of the state board of regents, shall be paid at one of the rates set forth in the pay plan for the class of position in which employed and, unless otherwise designated by the commission, shall begin employment at the first step of the established range for the employee's class.**

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Sec. 36. Section 255.16, Code 1989, is amended to read as follows:

255.16 COUNTY QUOTAS.

Subject to subsequent qualifications in this section, there shall be treated at the university hospital during each fiscal year a number of committed indigent patients from each county which ~~shall bear~~ bears the same relation to the total number of committed indigent patients admitted during the year as the population of ~~such~~ the county ~~shall bear~~ bears to the total population of the state according to the last preceding official census. This standard shall apply to indigent patients, the expenses of whose commitment, transportation, care and treatment shall be borne by appropriated funds and shall not govern the admission of ~~either~~ obstetrical patients under chapter 255A, ~~or~~ obstetrical or orthopedic patients under this chapter in accordance with eligibility standards pursuant to section 255A.5. If the number of patients admitted from any county ~~shall exceed~~ exceeds by more than ten percent the county quota as fixed and ascertained under the first sentence of this section, the charges and expenses of the care and treatment of such patients in excess of ten percent of the quota shall be paid from the funds of such county at actual cost; but if the number of excess patients from any county ~~shall~~ does not exceed ten percent, all costs, expenses, and charges incurred in their behalf shall be paid from the appropriation for the support of the hospital. Notwithstanding the quota established for a county under this section, the governor, upon a finding of necessity due to a regional or statewide economic emergency, may increase a county's quota of the number of committed indigent patients admitted to the university hospital.

Sec. 37. Section 256.7, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 19. Adopt rules which require each area school which establishes a new jobs training project or projects and receives funds derived from or associated with the project or projects to establish a separate account to act as a repository for any funds received and to report annually, by January 15, to the general assembly on funds received and disbursed during the preceding fiscal year in the form required by the department.

**Sec. 38. Section 256.9, Code Supplement 1989, is amended by adding the following new subsection:*

NEW SUBSECTION. *39. Review and consider defining the disorders of autism and attention deficit in the rules of special education; eliminating autism from the category of behaviorally disordered; establishing broad general categories in which other individuals who are members of special populations, such as autistic persons and the attention deficit disordered could be grouped; and developing a system for the identification of individuals with autism and with attention deficit disorders.**

Sec. 39. Section 256.11, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

The state board shall adopt rules under chapter 17A and a procedure for accrediting all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. The rules of the state board shall require that a multicultural, nonsexist approach is used by schools and school districts. The educational program shall be taught from a multicultural, nonsexist approach. Global perspectives shall be incorporated into all levels of the educational program.

Sec. 40. Section 256.11, subsection 9, and subsection 9A, Code Supplement 1989, are amended to read as follows:

9. a. Effective July 1, 1989, through June 30, ~~1990~~ 1992, to facilitate the implementation and economical operation of the educational program defined in subsections 4 and 5, each school offering any of grades seven through twelve, except a school which offers grades one through eight as an elementary school, shall meet the media center requirements specified in section 256.11, subsection 9, paragraph "a", Code Supplement 1987.

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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 licensing standards prescribed by the 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. However, in determining the requirements for nonpublic schools, the department shall evaluate the schools on a school system basis rather than on an individual school basis.

9A. Each school or school district shall provide an articulated sequential guidance program for grades kindergarten through twelve. Until July 1, ~~1991~~ 1992, 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 licensing standards of the board of educational examiners. However, in determining the requirements for nonpublic schools, the department shall evaluate the schools on a school system basis rather than on an individual school basis.

Sec. 41. Section 256.11A, subsections 3 and 4, Code Supplement 1989, are amended to read as follows:

3. Schools and school districts unable to meet the standard adopted by the state board under section 256.17, Code Supplement 1987, and contained in section 256.11, subsection 9A, effective July 1, 1989, requiring that on July 1, 1989, each board operating a kindergarten through grade twelve program provide an articulated sequential elementary-secondary guidance program may, not later than January 1, 1989, for the school year beginning July 1, 1989, file a written request to the department of education that the department waive the requirement for that school or school district. The procedures specified in subsection 5 apply to the request. Not later than January 1, 1990, for the school year beginning July 1, 1990, the board or authorities may request a one-year extension of the waiver. Not later than January 1, 1991, for the school year beginning July 1, 1991, the board or authorities may request an additional one-year extension of the waiver.

If a waiver is approved under subsection 5, the school or school district shall meet the requirements of section 256.11, subsection 9, paragraph "b", Code Supplement 1987, for the period for which the waiver is approved.

4. Schools and school districts are not required to meet the standard adopted by the state board of education under section 256.17, Code Supplement 1987, and contained in section 256.11, subsection 9, paragraph "b", effective July 1, 1990, that requires the board to establish and operate a media services program to support the total curriculum until July 1, 1990, except as otherwise provided in this subsection. Not later than January 1, 1990, for the school year beginning July 1, 1990, the board of directors of a school district, or authorities in charge of a nonpublic school, may file a written request with the department of education that the department waive the requirement for that district or school. The procedures specified in subsection 5 apply to the request. Not later than January 1, 1991, for the school year beginning July 1, 1991, the board of directors of a school district, or authorities in charge of a nonpublic school, may file a request for a one-year extension of the waiver.

If a waiver is approved under subsection 5, the school district or school shall meet the requirements of section 256.11, subsection 9, paragraph "a", Code Supplement 1987, for the period for which the waiver is approved.

Sec. 42. NEW SECTION. 256.35 REGIONAL AUTISM ASSISTANCE PROGRAM.

The department shall establish a regional autism assistance program, to be administered by the child health specialty clinic of the university of Iowa hospitals and clinics. The program shall be designed to coordinate educational, medical, and other human services for persons with autism, their parents, and providers of services to persons with autism. The function of the program shall include, but is not limited to, the coordination of diagnostic and assessment services, the maintaining of a research base, coordination of in-service training, providing technical assistance, and providing consultation.

Sec. 43. NEW SECTION. 256.43 AMBASSADOR TO EDUCATION.

The department of education shall establish within the department the position of ambassador to education to act as an education liaison to primary and secondary schools in this state. The ambassador to education position shall be filled by the educator selected as teacher of the year by the governor, but only if that person agrees to fill the ambassador to education position.

The ambassador to education's duties shall be established by the director of the department and shall be tailored to the relative skills and educational background of the person designated as ambassador. Duties of the ambassador may include, but are not limited to, providing seminars and workshops in the subject matter area in which the ambassador possesses expertise, accompanying the director of the department of education in the exercise of the director's duties in the state, and speaking at public gatherings in the state.

The ambassador to education shall receive, in lieu of compensation from the district in which the ambassador is regularly employed, a salary which is equal to the amount of salary received by the person during the previous school year or thirty thousand dollars, whichever amount is greater. The ambassador shall also be compensated for actual expenses incurred as a result of the performance of duties under this section.

The district which employs the person selected as the ambassador to education shall grant the person a one-year sabbatical in order to allow the person to be the ambassador to education. The person selected as the ambassador to education shall be entitled to return to the person's same or a comparable position without loss of accrued benefits or seniority.

Sec. 44. Section 257.10, subsection 4, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the special education support services district cost per pupil for the budget year beginning July 1, 1991, calculated under subsection 3, for area education agencies that have fewer than three and five-tenths public school pupils per square mile, the special education support services district cost per pupil for the budget year beginning July 1, 1991, is one hundred forty-seven dollars.

Sec. 45. Section 261.2, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Adopt rules relating to the administration of a displaced workers financial aid program under section 261.5.

Sec. 46. NEW SECTION. 261.5 DISPLACED WORKERS FINANCIAL AID PROGRAM.

A displaced workers financial aid program is established to provide aid for attendance of displaced workers at Iowa-based programs, colleges, or universities.

The commission shall establish an application process for the program. Displaced workers eligible for receipt of moneys under this section shall receive financial aid from the commission to be applied to educational expenses at the institution of higher education in which the displaced worker is enrolled.

Any displaced worker making application for financial aid under this section shall apply for and accept any student aid or job training program aid available to the displaced worker.

The college aid commission shall determine the level of assistance to which the displaced worker is entitled. In making the determination of the amount of the financial aid award to a displaced worker, the commission shall take into account any student aid or job training program aid available and other financial resources. For purposes of this section, "other financial resources" does not include income received by a displaced worker from a person who slaughtered live hogs, who ceased slaughtering operations between January 1, 1989, and December 31, 1990, if that person employed five hundred or more workers at any time during the six-month period immediately preceding the date on which the person ceased slaughtering operations.

The moneys paid for a displaced worker for an academic term shall not exceed the lesser of the tuition at the institution of higher education in which the individual is enrolled or the highest tuition at any area community college or area vocational school.

Institutions of higher education shall receive the financial aid moneys from the college aid commission for eligible students.

For the purpose of this section, "displaced worker" means an unemployed individual who was formerly employed by a person who slaughtered live hogs if that person employed five hundred or more workers at any time during the six-month period immediately preceding the date on which the person ceased slaughtering operations and if the person ceased slaughtering operations between January 1, 1989, and December 31, 1990.

*Sec. 47.

Notwithstanding the allocation of moneys under the community economic betterment account in section 99E.32, for the fiscal year commencing July 1, 1989, and ending June 30, 1990, $250,000 shall be allocated from unobligated moneys in the community economic betterment account to the department of economic development, to be used for services to displaced workers for the following programs and services:

1. Financial counseling for workers eligible to receive benefits under the Economic Dislocation and Workers Adjustment Assistance Act, Pub. L. No. 100-418, 102 Stat. 1107 to be conducted to the extent possible at either the location of the worker's former place of employment or the site of the worker's labor union headquarters.

2. Continued operation of the merged area X dislocated worker center.

*3. Payment to the college aid commission for the displaced workers financial aid program under section 261.5.**

Sec. 48. Section 261.9, subsection 5, Code Supplement 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Which adopts a policy that prohibits unlawful possession, use, or distribution of controlled substances by students and employees on property owned or leased by the institution or in conjunction with activities sponsored by the institution. Each institution shall provide information about the policy to all students and employees. The policy shall include a clear statement of sanctions for violation of the policy and information about available drug or alcohol counseling and rehabilitation programs. In carrying out this policy, an institution shall provide substance abuse prevention programs for students and employees.

Sec. 49. Section 261.12, subsection 1, paragraph b, Code Supplement 1989, is amended to read as follows:

b. For the fiscal year beginning July 1, 1989, and for each following fiscal year, two thousand ~~five~~ six hundred fifty dollars.

Sec. 50. Section 261.17, subsections 2 and 3, Code Supplement 1989, are amended to read as follows:

2. A qualified student may receive vocational-technical tuition grants for not more than four semesters, eight quarters or the equivalent of two full years of study. However, if a student resumes study after at least a two-year absence, the student may again be eligible for the specified amount of time, except that the student shall not receive assistance for courses for which credit was previously received.

3. The amount of a vocational-technical tuition grant shall not exceed the lesser of ~~five~~ six hundred dollars per year or the amount of the student's established financial need.

Sec. 51. Section 261.19, Code Supplement 1989, is amended to read as follows:

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.

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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~~ twenty-two percent of the total students enrolled. If fewer than ~~twenty~~ twenty-two 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~~ twenty-two 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.

Notwithstanding the percentage figure contained in the calculation of the subvention amount per resident student and any corresponding deductions, for each fiscal year during the period commencing with the fiscal year beginning July 1, 1990, and ending with the fiscal year ending June 30, 1993, the percentage of total students enrolled, for purposes of calculating the subvention amount and any corresponding deductions, shall be increased by five-tenths of a percent from twenty percent until the percentage figure reaches twenty-two percent.

For each fiscal year in which funds are appropriated, one-half of the amount appropriated shall not be released until financial audits of the university of osteopathic medicine and health, conducted by an independent third party by June 30 of the previous fiscal year, are delivered to the legislative fiscal bureau.

Sec. 52. NEW SECTION. 261.19A OSTEOPATH FORGIVABLE LOAN PROGRAM.

There is established a forgivable loan program, to be administered by the college aid commission for students enrolled at the university of osteopathic medicine and health sciences. A student from the university of osteopathic medicine is eligible for loan forgiveness if the student:

1. Graduates from the university of osteopathic medicine and health sciences.
2. Has completed a residency program.
3. Practices in the state of Iowa.
4. Has received a loan from moneys appropriated to the college aid commission for this program.

An eligible student is eligible for loan forgiveness in the amount of three thousand five hundred dollars per year of practice in the state of Iowa for up to a maximum of four years. If a student fails to complete a year of practice in the state, as practice is defined by the college aid commission, the loan amount for that year shall not be forgiven. Forgivable loans to eligible students shall not become due, for repayment purposes, until after the student has completed the student's residency.

Sec. 53. PHASE-OUT OF GRANTS — PHASE-IN OF FORGIVABLE LOANS.

Notwithstanding sections 261.18 and 261.19A, for the fiscal year commencing July 1, 1990, and ending June 30, 1991, loans eligible for forgiveness shall be given to Iowa residents who are enrolled as freshmen at the university of osteopathic medicine and health sciences of Des Moines and grant moneys shall be distributed to Iowa residents attending the university of osteopathic medicine and health sciences of Des Moines who are enrolled as sophomores, juniors, and seniors.

Sec. 54. Section 261.25, subsections 1, 2, and 3, Code Supplement 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 ~~thirty~~ thirty-two million ~~six~~ nine hundred ~~eighty-two~~ twelve thousand ~~five~~ eight hundred ~~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 ~~eight hundred~~ one million twenty-three thousand eight hundred forty dollars for scholarships.
3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~seven hundred fifty thousand~~ one million three hundred thirty thousand six hundred forty-seven dollars for vocational-technical tuition grants.

Sec. 55.

Of the $32,912,800 appropriated for tuition grants, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, $400,000 shall be expended by the college aid commission for the Iowa minority academic grants for economic success program for grants to independent colleges and universities under sections 261.101 through 261.105.

Sec. 56. Section 261.44, Code Supplement 1989, is amended to read as follows:

261.44 GUARANTEED LOAN PAYMENT PROGRAM.

A 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. 57. Section 261.50, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, an "eligible community" means a community which agrees to provide an eligible physician with a first year income guarantee, malpractice insurance coverage for four years, family health insurance, reimbursement for moving expenses, two weeks of vacation for each of the first four years, and one week of continuing medical education per year for four years.

Sec. 58. Section 261.85, unnumbered paragraph 1, Code Supplement 1989, is amended to read as follows:

There is appropriated from the general fund of the state to the commission for each fiscal year the sum of three million two hundred ten thousand dollars for the work-study program.

Sec. 59. NEW SECTION. 261.92 DEFINITIONS.

When used in this division, unless the context otherwise requires:

1. "Accredited higher education institution" means a public institution of higher learning located in Iowa which is accredited by the north central association of colleges and secondary schools accrediting agency based on their requirements as of April 1, 1969, or an institution of higher learning located in Iowa which is operated privately and not controlled or administered by any state agency or any subdivision of the state, and which meets the following requirements:

a. Is accredited by the north central association of colleges and secondary schools accrediting agency based on their requirements as of April 1, 1969, and,

b. Promotes equal opportunity and affirmative action efforts in the recruitment, appointment, assignment, and advancement of personnel at the institution. In carrying out this responsibility the institution shall do all of the following:

(1) Designate a position as the affirmative action coordinator.

(2) Adopt affirmative action standards.

(3) Gather data necessary to maintain an ongoing assessment of affirmative action efforts.

(4) Monitor accomplishments with respect to affirmative action remedies identified in affirmative action plans.

(5) Conduct studies of preemployment and postemployment processes in order to evaluate employment practices and develop improved methods of dealing with all employment issues related to equal employment opportunity and affirmative action.

(6) Establish an equal employment committee to assist in addressing affirmative action needs, including recruitment.

(7) Address equal opportunity and affirmative action training needs by doing all of the following:

(a) Providing appropriate training for managers and supervisors.

(b) Insuring that training is available for all staff members whose duties relate to personnel administration.

(c) Investigating means for training in the area of career development.

(8) Require development of equal employment opportunity reports, including the initiation of the processes necessary for the completion of the annual EEO-6 reports required by the federal equal employment opportunity commission.

(9) Address equal opportunity and affirmative action policies with respect to employee benefits and leaves of absence.

(10) File annual reports with the college aid commission of activities under this paragraph.

2. "Commission" means the college student aid commission.

3. "Financial need" means the difference between the student's financial resources available, including those available from the student's parents as determined by a completed parents' confidential statement, and the student's anticipated expenses while attending the accredited higher education institution. Financial need shall be redetermined at least annually.

4. "Full-time resident student" means an individual resident of Iowa who is enrolled at an accredited higher education institution in a course of study including at least twelve semester hours or the trimester equivalent of twelve semester hours or the quarter equivalent of twelve semester hours. "Course of study" does not include correspondence courses.

5. "Grant" means an award by the state of Iowa to an accredited higher education institution for a qualified resident student under the Iowa grant program.

6. "Part-time resident student" means an individual resident of Iowa who is enrolled at an accredited higher education institution in a course of study including at least three semester hours or the trimester or the four quarter equivalent of three semester hours. "Course of study" does not include correspondence courses.

7. "Qualified student" means a resident student who has established financial need and who is making satisfactory progress toward graduation.

Sec. 60. NEW SECTION. 261.93 PROGRAM ESTABLISHED — WHO QUALIFIED.

An Iowa grant program is established.

A grant may be awarded to a resident of Iowa who is admitted and in attendance as a full-time or part-time resident student at an accredited higher education institution and who establishes financial need. Grants awarded shall be distributed to the appropriate accredited higher education institution for payment of educational expenses, including tuition, room, board, and mandatory fees, with any balance to be distributed to the student for whom the grant is awarded.

Sec. 61. NEW SECTION. 261.94 EXTENT OF GRANT.

A qualified full-time resident student may receive grants for not more than eight semesters of undergraduate study or the trimester or quarter equivalent. A qualified part-time resident student may receive grants for not more than sixteen semesters of undergraduate study or the trimester or quarter equivalent.

Sec. 62. NEW SECTION. 261.95 AMOUNT OF GRANT.

1. The amount of a grant to a qualified full-time student for an academic year shall be the lesser of the student's financial need for that period or up to one thousand dollars.

2. The amount of a grant to a qualified part-time student enrolled in a course of study shall be equal to the average amount of a grant to a full-time student times a number which represents twenty-four semester hours, or the trimester or quarter equivalent, divided by the number of hours in which the part-time student is actually enrolled.

3. A grant may be made annually for both the fall and spring semesters or the trimester equivalent. Payments under the grant shall be allocated equally among the semesters or trimesters and shall be paid at the beginning of each semester or trimester, upon certification by the accredited higher education institution that the student is admitted and in attendance. If the student discontinues attendance before the end of the semester or trimester after receiving payment under the grant, the entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the accredited higher education institution to the state.

4. If a student receives financial aid under any other program except a federal, state, or institutional work-study program, the full amount of the other financial aid shall be considered part of the student's financial resources available in determining the amount of the student's financial need for that period. In no case may the total financial aid for the student's education, including financial aid under any other state program, exceed the student's financial need at the institution which the student attends.

Sec. 63. NEW SECTION. 261.96 ADMINISTRATION BY COMMISSION — RULES.

The commission shall administer this program and shall:

1. Provide application forms and parents' confidential statement forms.

2. Adopt rules and regulations for determining financial need, defining tuition and mandatory fees, defining residence for the purposes of the Iowa grant program, determining grant award amounts on the basis of student need, processing and approving applications for grants, and determining priority of grants. If resources are insufficient to award grants to all eligible applicants, the commission shall give priority to students who have the greatest demonstrated financial need. In determining who is a resident of Iowa, the commission's rules shall be at least as restrictive as those of the board of regents.

3. Approve and award grants.

4. Make an annual report to the governor and general assembly, and evaluate the Iowa grant program for the period. The commission may require the accredited higher education institution to promptly furnish any information which the commission may request in connection with the Iowa grant program.

Sec. 64. NEW SECTION. 261.97 APPLICATION FOR GRANTS.

Each applicant, in accordance with the rules of the commission, shall:

1. Complete and file an application for a grant.

2. Be responsible for the submission of the parents' confidential statement for processing, the processed information to be returned both to the commission and to the accredited higher education institution in which the applicant is enrolling.

3. Report promptly to the commission any information requested.

4. File a new application and parents' confidential statement annually on the basis of which the applicant's eligibility for a renewed grant will be evaluated and determined.

Sec. 65. NEW SECTION. 261.98 ACCESS TO EDUCATION PROGRAM.

An access to education program is established for the fiscal year beginning July 1, 1990, and ending June 30, 1991, for purposes of providing grants to resident students who attend community colleges in this state. Students whose financial resources are up to twenty percent over the eligibility level for a PELL grant are eligible to receive grants under this program. Students meeting the eligibility level may receive a grant of up to two hundred fifty dollars.

The program shall be administered by the college student aid commission. The commission shall allocate, from the amount allocated for community colleges under the Iowa grant program, five hundred thousand dollars for purposes of awarding grants under this program. Community colleges which have students receiving grants under the program shall provide the commission with information as to the income levels and age of grant recipients and the length of time since grant recipients have enrolled in an educational program. The commission shall tabulate and submit the information in a report to the general assembly by January 1, 1991.

The commission shall adopt rules for the administration of this program.

**Sec. 66. 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,

*Item veto; see message at end of the Act

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, rules, policies, and procedures of the board of regents 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.*

Sec. 67. NEW SECTION. 262.54 COMPUTER SALES.

Sales, by an institution under the control of the board of regents, of computer equipment, computer software, and computer supplies to students and faculty at the institution are retail sales under chapter 422, division IV.

Sec. 68. Section 279.10, subsection 1, Code 1989, is amended to read as follows:

1. The school year shall begin on the first day of July and each regularly established elementary and secondary school shall begin no sooner than a day during the calendar week in which the first day of September falls but no later than the first Monday in December. However, if the first day of September falls on a Sunday, school may begin on a day during the calendar week which immediately precedes the first day of September. School shall continue for at least one hundred eighty days, except as provided in subsection 3, and may be maintained during the entire calendar year. A school corporation may begin employment of personnel for in-service training and development purposes before the date to begin elementary and secondary school.

Sec. 69. Section 279.51, subsection 1, paragraph d, Code Supplement 1989, is amended to read as follows:

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. Of the amount allocated under this paragraph for each fiscal year, seventy-five thousand dollars shall be allocated to school districts which have an actual student population of ten thousand or less and have an actual non-English speaking student population which represents greater than five percent of the total actual student population for grants to elementary schools in those districts.

Sec. 70. Section 279.51, subsection 1, Code Supplement 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 256A.3, subsection 6, of the amount appropriated for the fiscal year beginning July 1, 1990, less the amount allocated under paragraph "a", three and thirty-three hundredths percent may be used for administrative costs.

Sec. 71. Section 282.28, Code 1989, is amended to read as follows:

282.28 CHILDREN AT ELDORA AND TOLEDO.

Annually, the area education agency in which the state training school and the Iowa juvenile home are located and the department of human services on behalf of the training school and juvenile home shall submit an annual joint application by January 1 for the next succeeding school year to the department of education describing the proposed special education instructional and support programs and service improvements for the training school and juvenile home. The department of education shall review and approve or modify the program and proposed budget by February 1 and shall notify the department of revenue and finance, the area education agency, and the department of human services of the approved budget amount. The moneys for the approved budget shall supplement and not supplant moneys equal to the moneys expended for education for the fiscal year beginning July 1, 1986 by the department of human services. The moneys for the approved budget shall be used to ensure that the training school and juvenile home comply with appropriate administrative rules relating to special education adopted by the department of education. Beginning with the fiscal year commencing July 1, 1990, and ending June 30, 1991, and in succeeding years, the department of revenue and finance

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shall pay the approved budget amount for an area education agency in monthly installments beginning on September 15 and ending on June 15 of the next succeeding school 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's resources. The department of revenue and finance shall transfer the approved budget amount for an area education agency from the moneys appropriated under section 442.26 or section 257.16 and make the payment to the area education agency.

The area education agency shall submit ~~a claim~~ an accounting 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~~ accounting by September 1 and shall notify the department of revenue and finance of the approved ~~claim~~ accounting 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~~ The department of revenue and finance shall adjust the September payment to the area education agency for the next fiscal year by the difference between the amount of the proposed budget paid to the area education agency and the amount of the actual costs as reflected in the area education agency's accounting. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 442.26 or section 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~~ accounting amount 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 for payment to the area education agency.~~

Sec. 72. Section 282.31, subsection 1, Code 1989, is amended to read as follows:

1. 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 department of revenue and finance and the area education agency of its action 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.~~ Beginning with the fiscal year commencing July 1, 1990, and ending June 30, 1991, and in succeeding years, the department of revenue and finance shall pay the approved budget amount for an area education agency in monthly installments beginning September 15 and ending June 15 of the next succeeding school 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's resources. The department of revenue and finance shall transfer the approved budget amount for an area education agency from the moneys appropriated under section 442.26 or section 257.16 and make the payment to the area education agency. The area education agency shall submit an accounting for the actual cost of the program to the department of education by August 1 of the following school year. 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~~ accounting amount ~~by September 1~~. The ~~total amount of the~~ approved ~~claim~~ accounting amount shall be compared with any amounts paid by the department of revenue and finance to the area education agency ~~by October 1~~ and any differences added to or subtracted from the October payment made under this paragraph for the next school year. ~~The total amount~~ Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 442.26 or section 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~~ budget 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 for payment to the area education agencies.~~

b. A child who lives in a facility or home pursuant to section 282.19, and who does not require special education and who is not enrolled in the educational program of the district of residence of the child, shall be included in the basic enrollment of the school district in which the facility or home is located.

However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph who were counted in the basic enrollment of the school district on the third Friday of September of that school year is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph during the school year divided by nine, the secretary of the school district may submit a claim to the department of education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment. The amount of the claim shall be paid by the department of revenue and finance to the school district by October 1 ~~in the same manner as the claims are paid under paragraph "a"~~. The department of revenue and finance shall transfer the total amount of the approved claim of a school district from the moneys appropriated under section 442.26 or under section 257.16 and the amount paid shall be deducted monthly from the state foundation aid paid during the remainder of that fiscal year to all school districts in the state in the manner provided in paragraph "a".

Sec. 73. Section 294A.25, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Commencing with the fiscal year beginning July 1, 1990, the amount of sixty thousand dollars for the ambassador to education program under section 256.43.

Sec. 74. Section 298.20, Code 1989, is amended to read as follows:

298.20 FUNDING OR REFUNDING BONDS.

For the purpose of providing for the payment of any indebtedness of any school corporation represented by judgments or bonds, the board of directors of such school corporation, at any time or times, may provide by resolution for the issuance of bonds of such school corporation, to be known as funding or refunding bonds. The proceeds derived from the ~~negotiation~~ public or private sale of such funding or refunding bonds shall be applied in payment of such indebtedness; or ~~said~~ the funding bonds or refunding bonds may be issued in exchange for the evidences of such indebtedness, par for par.

Sec. 75. Section 301.30, unnumbered paragraph 4, Code Supplement 1989, is amended to read as follows:

Claims for reimbursement shall be made to the department of education by the public school district providing textbook services during a school year on a form prescribed by the department, and the claim shall state the services provided and the actual costs incurred. Claims shall be accompanied by an affidavit of an officer of the public school district affirming the accuracy of the claim. By February 1 and by July 15 of each year the department shall certify to the director of revenue and finance the amounts of approved claims to be paid, and the director of revenue and finance shall draw warrants payable to school districts which have established claims. The ~~public school district in which the pupil resides may contract with the~~ public school district of attendance ~~to have the latter school~~ shall furnish the services and shall receive reimbursement ~~for the payment of said contract; however, said~~ from the state. However, the services must be comparable to the services of the district of ~~residence~~ attendance and cannot exceed the per pupil cost of the program of the district of ~~residence~~ attendance.

Sec. 76. Section 303.18, unnumbered paragraph 2, Code 1989, is amended to read as follows:

The historical division shall repay a portion of the amount of the loan together with annual interest payments due on the balance of the loan over a ten-year period commencing with the fiscal year beginning July 1, 1987. Payments shall be made from gross receipts and other moneys available to the historical division. The historical division shall solicit voluntary contributions on behalf of the historical division, at the entrance and other locations throughout the state historical building and collect entrance fees for the Montauk governor's mansion for purposes of raising funds for making payments under this section. Annual payments shall not be less than the amount of interest on the permanent school fund required to be transferred to the first in the nation in education foundation under section 302.1A or seventy-five percent of the gross receipts, whichever is greater. Payments of both principal and interest made by the state historical division under this section shall be paid quarterly and shall be considered interest earned on the permanent school fund to the extent necessary for payment of interest to the first in the nation in education foundation under section 302.1A.

Sec. 77. NEW SECTION. 303.89 CULTURAL GRANT PROGRAMS.

1. The department shall establish a grant program for cities and nonprofit, tax-exempt community organizations for the development of community programs that provide local jobs for Iowa residents and also promote Iowa's historic, ethnic, and cultural heritages through the development of festivals, music, drama, cultural programs, or tourist attractions. A city or nonprofit, tax-exempt community organization may submit an application to the department for review. The department shall establish criteria for the review and approval of grant applications. The amount of a grant shall not exceed fifty percent of the cost of the community program. Each application shall include information demonstrating that the city or nonprofit, tax-exempt community organization will provide matching funds of fifty percent of the cost of the program. The matching funds requirement may be met by substituting in-kind services, based on the value of the services, for actual dollars.

2. The department shall establish a grant program which provides general operating budget support to major, multidisciplined cultural organizations which demonstrate cultural and managerial excellence on a continuing basis to the citizens of Iowa. Applicant organizations must be incorporated under chapter 504A, be exempt from federal taxation, and not be attached or affiliated with an educational institution. Eligible organizations shall be operated on a year-round basis and employ at least one full-time, paid professional staff member. The department shall establish criteria for review and approval of grant applications. Criteria established shall include, but are not limited to, a matching funds requirement. The matching funds requirement shall permit an applicant to meet the matching requirement by demonstrating that the applicant's budget contains funds, other than state and federal funds, in excess of the grant award.

3. Unobligated or unencumbered funds appropriated to the department for purposes of awarding and administering grants under this section and remaining on June 30, 1991, shall not revert to the general fund of the state under section 8.33, but shall remain available for expenditure by the department for the purposes specified in this section during the fiscal year commencing July 1, 1991.

Sec. 78. Section 442.4, subsection 8, Code 1989, is amended to read as follows:

8. Notwithstanding the procedure prescribed for the calculation of budget enrollment under subsections 3 and 5, if ~~during the first~~ for the budget year ~~following the effective date of a school district reorganization~~ commencing July 1, 1990, a reorganized school district's budget enrollment is less than the combined total of the budget enrollments of the districts involved in the reorganization calculated as if the school districts had not reorganized for that budget year, the budget enrollment of the reorganized district shall be calculated under this subsection for that budget year. The budget enrollment is the total of the budget enrollments of the districts involved in the reorganization calculated as if those districts had not reorganized minus the number of pupils residing in territory not included in the reorganized school

district. For the purpose of this section, a reorganized school district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and will take effect on or after July 1, 1988.

*Sec. 79.

*Notwithstanding section 8.33, moneys appropriated under 1988 Iowa Acts, chapter 1284, section 33, subsection 2, which are unencumbered or unexpended on June 30, 1990, shall not revert to the general fund of the state, but shall remain available for expenditure for the purposes designated under section 256.33, to continue a consultant position and salary support in connection with the special projects and programs, and for special projects and programs designed to strengthen clinical experiences, student teacher programs, and technology in teacher education.**

Sec. 80. 1989 Iowa Acts, Chapter 135, sections 88, 89, and 90 are repealed.

Sec. 81.

Sections 21, 25, 28, 29, 31, 33, 34, 46, 47, 78, and 79 of this Act take effect immediately upon enactment.

Sec. 82.

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.

Approved May 8, 1990, except the items which I hereby disapprove and which are designated as that portion of section 1, subsection 2 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 8, subsection 2 in its entirety; that portion of section 8, subsection 6 which is herein bracketed in ink and initialed by me; those portions of section 8, subsection 12 which are herein bracketed in ink and initialed by me; section 8, subsection 14 in its entirety; that portion of section 9, subsection 1 which is herein bracketed in ink and initialed by me; section 9, subsection 2 in its entirety; that portion of section 14, subsection 1 which is herein bracketed in ink and initialed by me; section 14, subsection 2, lettered paragraph s in its entirety; section 14, subsection 4, lettered paragraph j in its entirety; that portion of section 14, subsection 5 which is herein bracketed in ink and initialed by me; section 18 in its entirety; that portion of section 23 which is herein bracketed in ink and initialed by me; section 24 in its entirety; section 26 in its entirety; section 27 in its entirety; section 35 in its entirety; section 38 in its entirety; section 47 in its entirety; section 66 in its entirety; and section 79 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 2423, 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 effective dates, and providing retroactive applicability.

Senate File 2423 continues Iowa's commitment to providing access to quality education programs. Overall expenditures for education will increase by $140 million in the 1990-91 fiscal year. This includes a $94 million increase in funding for elementary and secondary schools

*Item veto; see message at end of the Act

through the school foundation formula, and a $13 million increase in formula funding for community colleges. This is in addition to future enhancements to community college funding that were made in Senate File 2410, which I have previously approved.

One of the highlights of Senate File 2423 is a substantial increase in funds for tuition assistance at Iowa's institutions of higher education. This includes a $1.85 million appropriation for a new need-based Iowa Grant program, a $1.1 million expansion of the Iowa Minority Academic Grants program, a $1.8 million increase for tuition grants for students attending independent colleges, a $580,000 increase for vocational-technical grants, and an appropriation of $500,000 for tuition replacement for certain displaced workers.

Other provisions of Senate File 2423 are a $2.3 million increase in funding for agricultural research, $1.9 million in additional funds to improve undergraduate education programs at the state universities, $2.1 million for the improvement of faculty salaries at community colleges, $1 million in additional funds to provide education programs at correctional institutions, and $225,000 for graduate nursing programs at private colleges in Iowa.

Senate File 2423 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 2. This provision would authorize the Arts Division of the Department of Cultural Affairs to retain funds that had been allocated to the division to be used as matching funds for federal grant monies. The department has advised me that the project associated with these funds has been completed and that the authorization to retain the funds is no longer needed.

I am unable to approve the designated portion of Section 1, subsection 7. This item would provide an additional $100,000 to the Department of Cultural Affairs for support of the Regional Library System. By taking this action, the regional libraries will receive the amount which I recommended to the General Assembly. Given the financial constraints of the state, the additional funding cannot be provided. Overall, I have approved nearly $1 million in additional funds for the Department of Cultural Affairs.

I am unable to approve the item designated as Section 8, subsection 2, in its entirety. This item would provide $500,000 for special projects to be administered by the Iowa Department of Education. This appropriation exceeds my recommendations by $450,000. While the projects that would have been funded by this appropriation may be worthwhile, I am unable to approve this item due to the financial constraints of the state. I have been assured that the Iowa-Japan Cultural Alliance can be funded from other sources.

I am unable to approve the designated portion of Section 8, subsection 6. This provision would require that an individualized education program be developed for each inmate. Because the amount of funds provided by this appropriation is not sufficient to provide an educational program for all inmates in the correctional system, it would be inappropriate to approve this requirement.

I am unable to approve the designated portions of Section 8, subsection 12. This item would provide $141,235 for salary increases for professional employees at the community colleges other than administrators, faculty, and hourly support staff. The appropriation provided for salary increases and professional development exceeds my revised recommendations by over $1 million. Additionally, the amount of this appropriation would provide relatively small salary increases for individual professional staff members at the community colleges. Because additional funds have been provided through the community college funding formula, and given the financial constraints of the state, I am unable to approve this provision.

I am unable to approve the item designated as Section 8, subsection 14, in its entirety. This item would provide $454,216 for professional development programs at the merged area schools.

While I recommended the establishment of professional development programs at the community colleges, I cannot approve this item given the amount by which the General Assembly exceeded my budget recommendations. I will review this issue in preparation for the 1991 legislative session and will recommend the appropriation of funds for this purpose if sufficient funds are available. I have authorized the establishment of this program in Senate File 2410.

I am unable to approve the designated portion of Section 9, subsection 1, and the item designated as Section 9, subsection 2, in its entirety. These items would have provided $395,510 for salary increases for faculty and professional staff at the community colleges, and $80,156 for professional development programs in the 1991-92 fiscal year. Given the projected financial condition of the state in fiscal year 1992, and my concerns about the practice of deferring appropriations into future years, I am unable to approve these items.

I am unable to approve the designated portion of Section 14, subsection 1, and the item designated as Section 66, 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. The board should continue to be authorized to seek appropriate reimbursements from the universities. A similar provision in 1990 Acts, Senate File 2410, was disapproved earlier this year.

I am unable to approve the items designated as Section 14, subsection 2, lettered paragraph s, and Section 14, subsection 4, lettered paragraph j, in their entirety. These items would appropriate $200,000 to the State University of Iowa for the center for simulation and design and $475,000 to the University of Northern Iowa for the leadership for teacher education program. Given the financial constraints of the state, I am unable to approve these items.

I am unable to approve the designated portion of Section 14, subsection 5. This provision would require the Iowa School for the Deaf or the Iowa Blind and Sight Saving School to pay for the transfer of a student who has been sexually or physically abused at those institutions to another facility. Physical or sexual abuse of students attending those institutions cannot be tolerated. However, decisions about the placement of a student in other institutions, and about the payment of costs associated with the transfer of a student, are appropriately left to the judicial system, and should not be specified by statute.

I am unable to approve the item designated as Section 18, in its entirety. This provision would require the State Board of Regents to issue bonds to finance energy-saving projects at the institutions which are governed by the Board. The Board has undertaken the initiative to implement energy-saving measures at the institutions under their control, and this requirement is not necessary.

I am unable to approve the designated portion of Section 23. This provision would establish a specific timetable for the Department of Education to conduct an evaluation of the use of Phase III moneys under the Educational Excellence program. I support the proposal to conduct an evaluation of the Phase III program, and the Department of Education will complete the study prior to the January 1, 1992, deadline.

I am unable to approve the item designated as Section 24, in its entirety. This provision would appropriate $150,000 to the School Budget Review Committee to assist school districts which are affected by the open enrollment law, as amended by 1990 Acts, Senate File 2306, which I have previously approved. It would be prudent to wait until the financial impact on Iowa schools is known before special financial assistance is appropriated to schools affected by the open enrollment law.

I am unable to approve the items designated as Sections 26, 27, and 38, in their entirety. I am concerned about the cost associated with the studies which have been required of the Department of Education. Because the Department of Education and other state agencies are being asked to restrict hiring and limit expenditures for travel and equipment, it would be inappropriate to require the Department of Education to undertake these additional activities.

I am unable to approve the item designated as Section 35, in its entirety. This provision would establish a separate classification system for the division of area schools within the Department of Education. Any change in classifications should be reviewed by the Department of Education in cooperation with the Department of Personnel. While I am interested in classifying employees in a manner which will attract qualified individuals into state government, it is inappropriate to reclassify groups of employees through statute.

I am unable to approve the item designated as Section 47, in its entirety. This provision would provide financial counseling services to dislocated workers, allocate funds to the dislocated worker center in Merged Area X, and provide funds for the displaced workers financial aid program, which I have approved under Section 3 of this Act. Funding for this program would be provided by a transfer of $250,000 from the Community Economic Betterment Account. These funds should be retained in the Community Economic Betterment Account, to create a climate for new jobs in Iowa. Furthermore, assistance to displaced workers is currently available from the U.S. Department of Labor under the Economic Dislocation and Workers Adjustment Assistance Act and from other student aid and training programs.

I am unable to approve the item designated as Section 79, in its entirety. This provision would prevent the reversion of $290,000 previously appropriated to and unused by the Department of Education. Given the financial constraints of the state, I am unable to approve this provision.

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 2423 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1273

BOARD OF REGENTS TEN-YEAR BUILDING PROGRAM
S.C.R. 133

A CONCURRENT RESOLUTION relating to the state board of regents' ten-year building program and providing for the financing of certain building and remodeling projects.

WHEREAS, pursuant to section 262A.3, the state board of regents prepared and within seven days after the convening of the Seventy-third General Assembly of the State of Iowa, Second Session, submitted to the Seventy-third General Assembly, Second Session, for approval the proposed ten-year building program for each institution of higher learning under the jurisdiction of the board, containing a list of the buildings and facilities which the board deems necessary to further the educational objectives of the institutions, together with an estimate of the cost of each of the buildings and facilities and an estimate of the maximum amount of bonds which the board expects to issue under chapter 262A for the fiscal period beginning July 1, 1990, and ending June 30, 1992; and

WHEREAS, the projects contained in the building program are deemed necessary for the proper performance of the instructional, research, and service functions of the institutions; and

WHEREAS, section 262A.4 provides that the state board of regents, after authorization by a constitutional majority of each house of the general assembly and approval by the governor, may undertake and carry out at the institutions of higher learning under the jurisdiction of the board any project as defined in chapter 262A; and

WHEREAS, chapter 262A authorizes the state board of regents to borrow money and to issue and sell negotiable revenue bonds to pay all or any part of the cost of carrying out projects

at any institution 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; and

WHEREAS, to further the educational objectives of the institutions, the state board of regents requests authorization to undertake and carry out certain projects at this time and to finance their cost by borrowing money and issuing negotiable bonds under chapter 262A in a total amount not to exceed $41,300,000, the remaining cost of the projects to be financed by capital appropriations or by federal or other funds lawfully available; NOW THEREFORE,

BE IT RESOLVED BY THE SENATE, THE HOUSE CONCURRING, That the proposed ten-year building program submitted by the state board of regents for each institution of higher learning under its jurisdiction is approved.

BE IT FURTHER RESOLVED, That no commitment is implied or intended by approval to fund any portion of the proposed ten-year building program submitted by the state board of regents beyond the portion that is approved by the Seventy-third General Assembly, Second Session, and the governor.

BE IT FURTHER RESOLVED, That during the fiscal period which commences July 1, 1990, and which ends June 30, 1992, the maximum amount of bonds which the state board of regents expects to issue under chapter 262A unless additional bonding is authorized is $41,300,000, all or any part of which may be issued during the fiscal year ending June 30, 1991, and if all that amount should not be issued during the fiscal year ending June 30, 1991, any remaining balance may be issued during the fiscal year ending June 30, 1992, and this plan of financing is approved.

BE IT FURTHER RESOLVED, That the state board of regents is authorized to undertake and carry out the following projects and to pay all or any part of the cost of carrying out the projects by borrowing money and issuing negotiable revenue bonds under chapter 262A in a total amount not to exceed $41,300,000:

State Board of Regents

Fire and life safety deficiency corrections at the three state universities to be distributed by the state board of regents from the initial proceeds of the negotiable revenue bonds issued pursuant to this resolution ..... $ 6,000,000

State University of Iowa

Academic building construction

Cost of issuance of bonds ..... $ 24,000,000

Iowa State University of Science and Technology

Sweeney hall remodeling

Cost of issuance of bonds ..... $ 6,600,000

University of Northern Iowa

Seerley hall remodeling

Cost of issuance of bonds ..... $ 4,700,000

Total $ 41,300,000

Approved April 17, 1990

CHAPTER 1274

BANKING LAWS SUSPENSION

S.J.R. 2002

A JOINT RESOLUTION suspending for a limited period of time the enforcement of state banking laws, including branch banking restrictions, to the extent such law may conflict or interfere with the administration of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and providing an effective date.

WHEREAS, Congress passed last summer legislation known as the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which included provisions authorizing federal disposition of state and federal savings and loan associations or savings banks which are in default, in danger of default, or eligible for assistance as those terms are expressed in that legislation, and which are collectively referred to as savings associations eligible for assistance; and

WHEREAS, the Resolution Trust Corporation and other federal agencies have made it clear that they intend to exercise in Iowa the preemptive authority created under that federal legislation to expedite their disposition of savings associations eligible for assistance; and

WHEREAS, Iowa's banking laws have restrictions on matters such as home office protection and branching which will make it extremely difficult for Iowa banks and bank holding companies to be effective, competitive bidders to purchase savings associations eligible for assistance; and

WHEREAS, failure to suspend Iowa banking laws which may interfere with or inhibit federal disposition of savings associations eligible for assistance will force the superintendent of banking to defend Iowa's existing laws in federal court, resulting in an expensive, time-consuming process with a very uncertain outcome; and

WHEREAS, suspending certain of Iowa's present banking laws should result in maximum competition to purchase the savings associations eligible for assistance and should result in the receipt of optimum prices; NOW THEREFORE,

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

That the banking laws contained in Code chapter 524, as identified by the superintendent of banking, are suspended to the extent that the laws restrict any state or nationally chartered bank located in Iowa or bank holding company owning a bank located in Iowa in the acquisition of savings associations eligible for assistance or their assets or liabilities. Such suspension shall remain in effect until July 1, 1991. On and after July 1, 1991, the restrictions in Code chapter 524 shall be applied as though acquisitions made pursuant to this resolution had not been made.

This Joint Resolution, being deemed of immediate importance, takes effect upon enactment.

Approved March 8, 1990

CHAPTER 1275

DISABILITY PREVENTION PROGRAMS

S.J.R. 2003

A JOINT RESOLUTION proposing the establishment of disability prevention activities coordination by certain state agencies, and requiring preparation of a report relating to coordination of disability prevention programs.

WHEREAS, between 50,000 and 60,000 Iowans of all ages have a developmental disability, meaning a disability that arises before 22 years of age which is of sufficient severity to require lifelong or extended care, treatment, and training. In addition, many more Iowans experience less severe physical and mental disabilities which require specialized services in order to achieve independence; and

WHEREAS, an unacceptably large number of these disabilities are due to conditions that can be prevented or minimized if recognized and treated early, including drug abuse, teenage pregnancy, inadequate prenatal care, genetic factors, fetal alcohol syndrome, child abuse, poor nutrition, developmental delay, toxins found in the environment, and preventable injuries; and

WHEREAS, the incidence and the effect of disabling conditions can be reduced by 15 to 25 percent if proven prevention measures are fully implemented, and are known and utilized by the people of the state; and

WHEREAS, there are many existing prevention activities underway within state government that can be enhanced through greater intra-agency and interagency coordination as demonstrated in the Iowa state plan for the prevention of developmental disabilities prepared by the governor's planning council for developmental disabilities in December 1988; and

WHEREAS, it has been further demonstrated that a continuum of comprehensive, integrated, and coordinated prevention services that begin prior to conception and continue through adolescence can prevent developmental disabilities and can reduce the economic, social, and familial costs associated with the disabilities; and

WHEREAS, professional knowledge, as well as public awareness and acceptance of effective measures to prevent disabilities, are essential to achieve a reduction in the incidence and effect of disabilities; and

WHEREAS, disabilities should be prevented, to the extent possible, in order to benefit children, families, and communities, and to provide substantial economic benefit to the state; and

WHEREAS, a coordinated approach to disability prevention activities should be established within state government in order to assist with the prevention of disabilities, and the following activities should be performed:

1. Development of strategies to reduce disabilities which begin prior to conception and continue through adolescence.

2. Coordination of disability prevention efforts of the following state agencies: department of human rights, Iowa department of public health, department of human services, department of education, department of natural resources, state department of transportation, and department of public safety by using the Iowa state plan for the prevention of developmental disabilities.

3. Development of a mechanism to assure ongoing coordination in the planning, implementation, and evaluation of disability prevention activities; NOW THEREFORE,

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

Section 1. AGENCY ACTIVITIES REQUIRED.

The governor's planning council for developmental disabilities shall convene representatives of the department of human rights, Iowa department of public health, department of human services, department of education, department of natural resources, state department of transportation, and department of public safety, to perform the following activities:

1. Identify a unit within the respective state agency which has responsibility for identification of existing prevention programs and activities including the unit, bureau, or division of a department which has responsibility for prevention programs or activities.

2. Jointly identify suggestions for reducing intra-agency and interagency duplication of programs.

3. Jointly identify suggestions for intra-agency and interagency coordination of programs.

4. Establish budget recommendations necessary to coordinate prevention activities.

5. Jointly, and in consultation with representatives of the senate and house of representatives, prepare a report of findings and recommendations concerning a coordinated approach to planning, implementing, and evaluating disability prevention activities and submit the report to the governor and the general assembly on or before October 1, 1990.

Approved March 30, 1990

CHAPTER 1276

BAIL REVIEW; TRIAL DATE

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CRIMINAL PROCEDURE } REPORT OF THE SUPREME COURT

TO: MS. DIANE BOLENDER, 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 concerning amendments to Iowa Rules of Criminal Procedure 43 and 45 which are attached as Exhibit "A" and Exhibit "B" respectively.

Pursuant to Iowa Code section 602.4202(2), these changes are to take effect April 2, 1990.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
December 28, 1989

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the second day of January, 1990, the Report of the Supreme Court pertaining to the Iowa Rules of Criminal Procedure.

/s/ Diane Bolender
Secretary of the Legislative Council

EXHIBIT "A"

Rule 43. Bail. Admission to bail shall be as provided for in Iowa Code chapter 811. Upon proper application, a district court judge or district associate judge is authorized to review and amend the conditions of bail previously imposed. There shall be no more than one review except upon changed conditions.

EXHIBIT "B"

Rule 45. Trial date. Upon a plea other than guilty the magistrate shall set a trial date which shall be at least fifteen days after the plea is entered. The magistrate shall notify the prosecuting attorney of the trial date and shall advise the defendant that the trial will be without a jury unless demand for jury trial is made ~~at least~~ no later than ten days ~~prior to the date set for trial~~ following the plea of not guilty. Failure to make a jury demand in the manner prescribed herein constitutes a waiver of jury. If demand is made, the action shall be tried by a jury of six members. Upon the request of the defendant, the magistrate may set the date of trial at a time less than fifteen days after a plea other than guilty is entered. The magistrate shall notify the defendant that a request for earlier trial date shall constitute a waiver of jury.

CHAPTER 1277

SUPERSEDEAS BOND

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF APPELLATE 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 an amendment to the Iowa Rule of Appellate 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 August 1, 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 twenty-fourth day of May, 1989, the Report of the Supreme Court pertaining to the Iowa Rules of Appellate Procedure.

/s/ Diane Bolender
Acting Secretary of the Legislative Council

EXHIBIT "A"

Rule 7. Supersedeas bond.

(a) Except upon order entered by the supreme court, pursuant to a procedural, appellate, or court rule, nNo appeal shall stay proceedings under a judgment or order unless appellant executes a bond with sureties, to be filed with and approved by the clerk of the court where the judgment or order was entered. The condition of such bond shall be that appellant will satisfy and perform the judgment if affirmed, or any judgment or order, not exceeding in amount or value the obligation of the judgment or order appealed from, which an appellate court may render or order to be rendered by the trail court; and also all costs and damages adjudged against appellant on the appeal, and all rents of or damage to property during the pendency of the appeal of which appellee is deprived by reason of the appeal.

(b) If the judgment or order appealed from be for money, the penalty of such bond shall be one hundred twenty-five percent of the amount thereof, including costs, unless, in exceptional cases, the trial court fixes a larger amount; in all other cases, an amount sufficient to save appellee harmless from the consequences of the appeal; but in no event less than three hundred dollars.

(c) No appeal shall vacate or affect the judgment or order appealed from; but the clerk shall issue a written order requiring appellee and all others to stay proceedings under it or such part of it as has been appealed from, when the appeal bond is filed and approved.

(d) An appeal bond secured by cash, a certificate of deposit, or government security, in a form and in an amount approved by the clerk may be filed in lieu of other bond. If a cash bond is filed, the cash shall be deposited at interest with interest earnings being paid into the general fund of the state in accordance with Iowa Code section 602.8103(5). The cash bond shall be disbursed pursuant to court order upon termination of the appeal.

ANALYSIS OF TABLES

CHAPTER NUMBERS OF THE 1990 IOWA ACTS, CONCURRENT AND JOINT RESOLUTIONS

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81	1010	2181	1070	2334	1077
148	1127	2186	1135	2340	1095
182	1040	2187	1071	2343	1093
199	1005	2197	1139	2349	1216
205	1193	2201	1114	2350	1096
255	1001	2212	1257	2363	1045
280	1006	2221	1016	2364	1260
332	1150	2227	1115	2365	1258
368	1146	2232	1072	2366	1157
390	1245	2235	1116	2369	1097
460	1041	2240	1155	2372	1244
2003	1154	2244	1151	2379	1153
2011	1214	2245	1137	2385	1138
2015	1092	2248	1073	2388	1098
2048	1194	2252	1047	2395	1201
2049	1174	2257	1048	2402	1267
2052	1110	2261	1074	2403	1252
2057	1175	2262	1117	2406	1186
2059	1067	2263	1118	2407	1173
2080	1111	2268	1075	2408	1268
2082	1012	2271	1076	2410	1253
2094	1013	2274	1156	2411	1196
2097	1112	2277	1183	2412	1202
2100	1148	2280	1266	2413	1251
2113	1133	2290	1044	2415	1187
2114	1171	2291	1088	2416	1203
2115	1195	2304	1172	2422	1256
2137	1042	2306	1182	2423	1272
2139	1043	2309	1089	2425	1215
2153	1255	2311	1090	2426	1223
2155	1046	2315	1091	2427	1247
2156	1014	2317	1094	2428	1263
2158	1113	2319	1184	2429	1224
2159	1136	2322	1049	2430	1254
2163	1149	2324	1185	2432	1188
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SENATE CONCURRENT RESOLUTION

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252	1119	2199	1027	2407	1199
324	1017	2201	1161	2412	1210
366	1197	2212	1028	2416	1218
512	1050	2213	1228	2421	1034
534	1165	2233	1029	2423	1035
656	1237	2235	1242	2425	1036
658	1208	2236	1011	2430	1079
664	1099	2238	1103	2431	1163
677	1176	2250	1104	2436	1130
685	1002	2268	1241	2437	1123
705	1140	2270	1180	2440	1249
724	1236	2271	1141	2450	1170
730	1126	2279	1105	2451	1084
737	1229	2287	1227	2453	1061
2001	1007	2294	1246	2454	1062
2016	1004	2296	1108	2455	1164
2044	1018	2304	1058	2457	1063
2045	1055	2307	1106	2458	1064
2057	1209	2308	1107	2459	1219
2068	1190	2309	1059	2460	1037
2092	1100	2312	1168	2461	1131
2103	1051	2313	1233	2465	1132
2104	1052	2314	1080	2468	1124
2105	1025	2320	1234	2471	1038
2109	1053	2321	1147	2475	1158
2113	1008	2322	1081	2476	1212
2114	1003	2324	1021	2482	1231
2115	1243	2329	1238	2485	1065
2118	1054	2338	1128	2486	1220
2119	1101	2339	1082	2488	1205
2120	1009	2341	1022	2489	1039
2131	1120	2343	1162	2495	1206
2132	1019	2355	1142	2496	1159
2142	1121	2357	1217	2498	1023
2143	1102	2364	1030	2500	1198
2153	1020	2368	1031	2502	1024
2154	1166	2369	1060	2504	1221
2156	1122	2371	1259	2508	1085
2160	1056	2372	1078	2512	1144
2165	1057	2377	1169	2516	1145
2166	1179	2381	1083	2517	1239
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CHAPTER NUMBERS OF THE 1990 IOWA ACTS, CONCURRENT AND JOINT RESOLUTIONS – Continued

HOUSE FILES – Continued

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2537	1213	2552	1235	2567	1265
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S immediately following Code chapter or section number indicates Code Supplement

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2.10(5,6)S	1223,§2
2.12	1223,§3
2.13	1223,§4
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2.40(1d)S	1122,§1
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8.6(14)S	1168,§4
8.22(1)S	1168,§5
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15.108(7c)S	1156,§3; 1262,§19; 1271,§1203
15.108(7d)S	1262,§20; 1271,§1203
15.108(7e)S	1262,§21; 1271,§1203
15.108(7f)S	1262,§22; 1271,§1203
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*Senate probably intended; ch 1273 herein

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