State of Iowa

1996

ACTS AND JOINT RESOLUTION

(Session Laws)

Enacted At The

1996 REGULAR SESSION

Of The

Seventy-Sixth General Assembly

Of The

State Of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
IN THE SESQUICENTENNIAL YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE EIGHTH DAY OF JANUARY
AND ENDED ON THE FIRST DAY OF MAY, A.D. 1996

Published under the authority of Iowa Code section 2B.10
by the
Legislative Service Bureau
GENERAL ASSEMBLY OF IOWA
Des Moines

PREFACE

CERTIFICATION

We, Diane E. Bolender, Director, Legislative Service Bureau, and Loanne M. Dodge, Iowa Code Editor, certify that, to the best of our knowledge, the Acts and Resolution in this volume have been prepared from the original enrolled Acts and Resolution on file in the office of the Secretary of State; are correct copies of those Acts and Resolution; are published under the authority of the statutes of this state; and constitute the Acts and Resolution of the 1996 Regular Session of the Seventy-sixth 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 1997 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1997 Iowa Code.

Typographic style. The Acts and Resolution in this volume are printed as they appear on file in the office of the Secretary of State. No editorial corrections have been made. Underlined type indicates new material added to existing statutes; strike-through type indicates deleted material. Italics within an Act indicate material item vetoed by the Governor. 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, 1996, 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.

State mandates. Iowa Code section 25B.5 requires that for each enacted bill or joint resolution containing a state mandate (defined in section 25B.3), an estimate of additional local revenue expenditures required by the mandate must be filed with the Secretary of State. Section 2B.10(7) states that a notation of the filing of the estimate must be included in the session laws with the text of the bill or resolution. A dagger has been placed at the beginning of the enacting clause and a footnote included for each enrolled Act which requires the estimate.

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.

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ELECTIVE OFFICERS

Name and Office	County from which originally chosen

GOVERNOR

TERRY E. BRANSTAD	Winnebago
Robert L. Rafferty, Executive Assistant	Scott

LIEUTENANT GOVERNOR

JOY CORNING	Black Hawk
Carol Zeigler, Administrative Assistant	Black Hawk

SECRETARY OF STATE

PAUL D. PATE	Linn
Monty Bertelli, Deputy Secretary of State	Linn
John Gilliland, Deputy, Administration	Marion
Carol Olson, Deputy, Elections	Polk

AUDITOR OF STATE

RICHARD D. JOHNSON	Polk
Warren G. Jenkins, Chief Deputy Auditor of State	Polk
Richard C. Fish, Deputy, Administration Division	Polk
Kasey K. Kiplinger, Deputy, Performance Audit Division	Polk
Andrew E. Nielsen, Deputy, Financial Audit Division	Polk

TREASURER OF STATE

MICHAEL L. FITZGERALD	Polk
Bret Mills, Assistant Deputy Treasurer	Polk
Steven F. Miller, Deputy Treasurer	Polk
Stefanie G. Devin, Assistant Deputy Treasurer	Polk
Karl Koch, Chief Finance Officer	Polk

SECRETARY OF AGRICULTURE

DALE M. COCHRAN	Webster
Shirley Danskin-White, Deputy Secretary	Polk
Mary Jane Olney, Administrative Division Director	Polk
Daryl Frey, Laboratory Division Director	Polk
Ronald Rowland, Regulatory Division Director	Polk
James Gulliford, Soil Conservation Division Director	Polk
Steve Ferguson, Agricultural Development Authority Director	Polk
Steve Pedersen, Agriculture Marketing Bureau Chief	Polk

ATTORNEY GENERAL

THOMAS J. MILLER	Polk
Charles J. Krogmeier, Executive Deputy Attorney General	Story
Gordon Allen, Deputy Attorney General	Polk
Julie Pottorff, Deputy Attorney General	Polk

GENERAL ASSEMBLY

"X" means First Extraordinary Session; "XX" means Second Extraordinary Session

SENATORS

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Banks, Brad ..... Westfield	Farmer	2nd—*Plymouth*, ... Woodbury	73, 74, 74X, 74XX, 75, 76(1st)
Bartz, Merlin E. ..... Grafton	Farmer/Laborer	10th—Cerro Gordo, ... Mitchell, *Worth*	74, 74X, 74XX, 75, 76(1st)
Bennett, Wayne ..... Ida Grove	Retired Farmer	6th—Crawford, *Ida*, ... Monona, Sac, Woodbury	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Bisignano, Tony ..... Des Moines	Project Manager, ... Polk County Board of Supervisors	34th—*Polk*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Black, Dennis H. ..... Grinnell	Conservationist	29th—*Jasper*, Mahaska, ... Marshall, Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Boettger, Nancy ..... Harlan	Director of ..... Education and Human Resource Development, Myrtue Memorial Hospital/Farmer	41st—Audubon, Harrison, ... *Shelby*	76(1st)
Borlaug, Allen ..... Protivin	Farm Owner/ ..... Licensed Insurance Agent	15th—*Chickasaw*, Floyd, ... Howard, Mitchell, Winneshiek	74, 74X, 74XX, 75, 76(1st)
Boswell, Leonard L. ..... Davis City	Farmer	44th—Adams, *Decatur*, ... Page, Ringgold, Taylor, Union	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Connolly, Michael W. ..... Dubuque	Community ..... Relations and Human Resources Coordinator, Dubuque Community School District	18th—*Dubuque*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Dearden, Dick L. ..... Des Moines	Job Developer, ... 5th Judicial District	35th—*Polk*	76(1st)
Deluhery, Patrick J. ..... Davenport	Insurance Agent/ ..... College Teacher	22nd—*Scott*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Douglas, JoAnn ..... Adair	Farmer/Former ..... Teacher	39th—*Adair*, Dallas, ... Guthrie, Madison	76(1st)
Drake, Richard F. ..... Muscatine	Farmer	24th—Johnson, Louisa, ... *Muscatine*, Scott	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Dvorsky, Robert E. ..... Coralville	Job Developer, ... 6th Judicial District, Department of Correctional Services	25th—*Johnson*, Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Fink, William (Bill) ..... Carlisle	Teacher	45th—Marion, *Warren*	75, 76(1st)
Flynn, Tom ..... Epworth	Business Owner	17th—Delaware, *Dubuque*, ... Jackson	76(1st)

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Fraise, Eugene (Gene) ..... Fort Madison	Farming	50th—Des Moines, *Lee*	71(2nd), 72, 72X, 72XX, 73,74, 74X, 74XX, 75, 76(1st)
Freeman, Mary Lou ..... Storm Lake	Substitute Teacher..	5th—*Buena Vista*, ... Cherokee, Clay, O'Brien, Plymouth, Pocahontas	75(2nd), 76(1st)
Gettings, Don E. ..... Ottumwa	Retired, John Deere	47th—Jefferson, ... Van Buren, *Wapello*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Giannetto, Randal J. ..... Marshalltown	Attorney	32nd—*Marshall*, Story	75, 76(1st)
Gronstal, Michael E. ..... Council Bluffs	.....	42nd—*Pottawattamie*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Halvorson, Rod ..... Fort Dodge	Real Estate ..... Investor	7th—Boone, Calhoun, ... Hamilton, *Webster*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Hammond, Johnie ..... Ames	Legislator	31st—*Story*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Hansen, Steven D. ..... Sioux City	Property ..... Management	1st—*Woodbury*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Hedge, H. Kay ..... Fremont	Grain and ..... Livestock Farmer	48th—Keokuk, *Mahaska*, ... Marion, Wapello, Washington	73, 74, 74X, 74XX, 75, 76(1st)
Horn, Wally E. ..... Cedar Rapids	Educator	27th—*Linn*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Husak, Emil J. ..... Toledo	Farmer	30th—Benton, Black Hawk, ... Iowa, *Tama*	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Iverson, Stewart E., Jr. ..... Dows	Farmer	9th—Franklin, Hamilton, ... Hardin, *Wright*	73(2nd), 74, 74X, 74XX, 75, 76(1st)
Jensen, John W. ..... Plainfield	Farmer	11th—Black Hawk, *Bremer*, ... Butler, Grundy	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Judge, Patty ..... Albia	Farmer/Mediator	46th—Appanoose, Clarke, ... Davis, Lucas, *Monroe*, Van Buren, Wayne	75, 76(1st)
Kibbie, John P. ..... Emmetsburg	Farmer	4th—Clay, Dickinson, ... Emmet, Kossuth, *Palo Alto*	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75, 76(1st)
Kramer, Mary E. ..... West Des Moines	Insurance ..... Executive	37th—*Polk*	74, 74X, 74XX, 75, 76(1st)
Lind, Jim ..... Waterloo	Service Station ..... Owner-Operator	13th—*Black Hawk*	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Lundby, Mary A. ..... Marion	.....	26th—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX. 75, 76(1st)
Maddox, O. Gene ..... Clive	Lawyer	38th—Dallas, *Polk*	75, 76(1st)
McKean, Andy ..... Anamosa	Lawyer/Bed and ..... Breakfast Operator	28th—*Jones*, Linn	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)

Name and Residence	Occupation	Senatorial District	Former Legislative Service
McLaren, Derryl ..... Farragut	Farmer	43rd—Cass, *Fremont*, Mills, ... Montgomery, Pottawattamie	74, 74X, 74XX, 75, 76(1st)
Murphy, Larry ..... Oelwein	Adjunct College ..... Instructor, Upper Iowa University	14th—Black Hawk, ... Buchanan, Delaware, *Fayette*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Neuhauser, Mary ..... Iowa City	Attorney ..... (Currently not practicing)	23rd—*Johnson*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Palmer, William D. ..... Ankeny	Insurance	33rd—*Polk*	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Priebe, Berl E. ..... Algona	Farmer	8th—Hancock, Humboldt, ... *Kossuth*, Winnebago, Wright	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Redfern, Donald B. ..... Cedar Falls	Attorney	12th—*Black Hawk*	75(2nd), 76(1st)
Rensink, Wilmer ..... Sioux Center	Farmer	3rd—Lyon, O'Brien, ... Osceola, *Sioux*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Rife, Jack ..... Durant	Farmer	20th—*Cedar*, Clinton, ... Jones, Scott	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Rittmer, Sheldon ..... De Witt	Farmer	19th—*Clinton*, Scott	74, 74X, 74XX, 75, 76(1st)
Sorensen, Albert G. ..... Boone	Owner-Operator, ... Bed and Breakfast	40th—*Boone*, Carroll, ... Greene	74, 74X, 74XX, 75, 76(1st)
Szymoniak, Elaine ..... Des Moines	Retired	36th—*Polk*	73, 74, 74X, 74XX, 75, 76(1st)
Tinsman, Maggie ..... Davenport	Agribusiness/ ..... Social Worker	21st—*Scott*	73, 74, 74X, 74XX, 75, 76(1st)
Vilsack, Tom ..... Mount Pleasant	Lawyer	49th—Des Moines, *Henry*, ... Lee, Washington	75, 76(1st)
Zieman, Lyle E. ..... Postville	Retired Farmer	16th—*Allamakee*, Clayton, ... Fayette, Winneshiek	75, 76(1st)

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Arnold, Richard Russell	Farmer	91st—Appanoose, Clarke, *Lucas*, Wayne	76(1st)
Baker, Tom Des Moines	Self-employed	71st—*Polk*	74, 74X, 74XX, 75, 76(1st)
Bell, Paul Newton	Police Officer	57th—*Jasper*	75, 76(1st)
Bernau, Wm. (Bill) Ames	Legislator/ Consultant	62nd—*Story*	74, 74X, 74XX, 75, 76(1st)
Blodgett, Gary Clear Lake	Retired Orthodontist	19th—*Cerro Gordo*	75, 76(1st)
Boddicker, Dan Tipton	Electrical Engineering Technician	39th—*Cedar*, Clinton, Jones	75, 76(1st)
Boggess, Effie Lee Villisca	Farmer	87th—Adams, Page, *Taylor*	76(1st)
Bradley, Clyde Camanche	Retired U.S. Navy, Department of Defense	37th—*Clinton*, Scott	76(1st)
Brammer, Philip E. Cedar Rapids	Legislator/Retired	53rd—*Linn*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Brand, William J. Chelsea	Human Services Professional	60th—*Benton*, Black Hawk, Tama	73, 74, 74X, 74XX, 75, 76(1st)
Branstad, Clifford O. Thompson	Farmer	16th—Hancock, *Winnebago*, Wright	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Brauns, Barry Conesville	Manager, Muscatine County Fair	47th—Johnson, Louisa, *Muscatine*	75, 76(1st)
Brunkhorst, Bob Waverly	Computer Analyst	22nd—Black Hawk, *Bremer*	75, 76(1st)
Burnett, Cecelia Ames	Environmental Education Coordinator	61st—*Story*	76(1st)
Carroll, Danny C. Grinnell	Realtor/Farmer	58th—Jasper, Mahaska, Marshall, *Poweshiek*	76(1st)
Cataldo, Michael J. Des Moines	Vice President, Iowa EPS Products Inc.	68th—*Polk*	75, 76(1st)
Churchill, Steven W. Johnston	Fund Raising Consultant	76th—Dallas, *Polk*	75, 76(1st)
Cohoon, Dennis M. Burlington	Teacher	100th—*Des Moines*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Connors, John H. Des Moines	Labor Arbitrator & Retired Fire Captain	69th—*Polk*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Coon, Brian A. ..... Carlisle	Mechanical ..... Engineer	89th—*Warren*	76(1st)
Corbett, Ron J. ..... Cedar Rapids	Project Manager	52nd—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Cormack, Mike ..... Fort Dodge	Substitute Teacher/ Youth Baseball Coach	13th—*Webster*	76(1st)
†Cornelius, Jerry ..... Bellevue	Small Businessman	34th—Dubuque, *Jackson*	76(1st)
Daggett, Horace ..... Creston	Retired Farmer	88th—Decatur, Ringgold, ... Taylor, *Union*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Dinkla, Dwight ..... Guthrie Center	Attorney	78th—Adair, *Guthrie*, ... Madison	75, 76(1st)
Disney, Larry ..... Pleasant Hill	Realtor	66th—*Polk*	76(1st)
Doderer, Minnette ..... Iowa City	Retired	45th—*Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72,72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Drake, Jack ..... Lewis	Farmer	81st—Audubon, ... *Pottawattamie*, Shelby	75, 76(1st)
Drees, Jim ..... Manning	Farmer	80th—*Carroll*, Greene	76(1st)
Eddie, Russell J. ..... Storm Lake	Retired Farmer/ ..... Business Owner	10th—*Buena Vista*, Clay, ... Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Ertl, Joe ..... Dyersville	Chairman & Owner, Scale Models	33rd—Delaware, *Dubuque*	75, 76(1st)
Fallon, Ed ..... Des Moines	Legislator	70th—*Polk*	75, 76(1st)
Garman, Teresa ..... Ames	Farmer/Licensed ..... Realtor	63rd—Marshall, *Story*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Gipp, Chuck ..... Decorah	Dairy Farmer	31st—Allamakee, ... *Winneshiek*	74, 74X, 74XX, 75, 76(1st)
Greig, John M. ..... Estherville	Farmer	7th—Dickinson, *Emmet*, ... Palo Alto	75, 76(1st)
Greiner, Sandra H. ..... Keota	Farmer	96th—Keokuk, Mahaska, ... Wapello, *Washington*	75, 76(1st)
Gries, Don ..... Charter Oak	Retired School ..... Administrator	12th—*Crawford*, Monona, ... Woodbury	75, 76(1st)
Grubbs, Steve ..... Davenport	Business Law ..... Teacher	40th—*Scott*	74, 74X, 74XX, 75, 76(1st)
Grundberg, Betty ..... Des Moines	Business Owner	73rd—*Polk*	75, 76(1st)

† Deceased December 14, 1995

Name and Residence	Occupation	Representative District	Former Legislative Service
Hahn, James F. ..... Muscatine	.....	48th—*Muscatine*, Scott	74, 74X, 74XX, 75, 76(1st)
Halvorson, Roger A. ..... Monona	Insurance/Real ..... Estate Broker	32nd—Allamakee, *Clayton*, ... Fayette	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Hammitt Barry, Donna M. Dunlap	Farmer/Property ..... Management	82nd—*Harrison*	76(1st)
Hanson, Donald E. ..... Waterloo	Educator	24th—*Black Hawk*	74, 74X, 74XX, 75, 76(1st)
Harper, Patricia M. ..... Waterloo	Retired Educator	26th—*Black Hawk*	72, 72X, 72XX, 73, 75, 76(1st)
Harrison, Neil P. ..... Davenport	.....	44th—*Scott*	76(1st)
Heaton, David E. ..... Mount Pleasant	Restaurant Owner ...	97th—Des Moines, *Henry*, ... Washington	76(1st)
Holveck, Jack ..... Des Moines	Attorney	72nd—*Polk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Houser, Hubert ..... Carson	Farmer	85th—Fremont, Mills, ... *Pottawattamie*	75, 76(1st)
Hurley, Charles D. ..... Fayette	Attorney	28th—Buchanan, *Fayette*	74, 74X, 74XX, 75, 76(1st)
Huseman, Daniel A. ..... Aurelia	Farmer	9th—Buena Vista, *Cherokee*, O'Brien, Plymouth	76(1st)
Jacobs, Libby ..... West Des Moines	Manager, Disability Income Services, Principal Financial Group	74th—*Polk*	76(1st)
Jochum, Pam ..... Dubuque	Loras College	35th—*Dubuque*	75, 76(1st)
Klemme, Ralph ..... Le Mars	Farmer	4th—*Plymouth*, Woodbury	75, 76(1st)
Koenigs, Deo A. ..... St. Ansgar	Farmer	29th—Floyd, *Mitchell*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Kreiman, Keith A. ..... Bloomfield	Attorney	92nd—Appanoose, *Davis*, ... Monroe, Van Buren	75, 76(1st)
Kremer, Joseph M. ..... Jesup	Retired Farmer	27th—Black Hawk, ... *Buchanan*, Delaware	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 76(1st)
Lamberti, Jeffrey M. ..... Ankeny	Attorney	65th—*Polk*	76(1st)
Larkin, Rick ..... Fort Madison	Correctional ..... Counselor	99th—Des Moines, *Lee*	75, 76(1st)
Larson, Chuck ..... Cedar Rapids	Law Student	55th—*Linn*	75, 76(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Lord, David G. ..... Perry	Retired Clothier	77th—*Dallas*, Madison	76(1st)
Main, Jerry D. ..... Fairfield	Farmer	94th—*Jefferson*, Van Buren, ... Wapello	76(1st)
Martin, Mona ..... Davenport	Property ..... Management	43rd—*Scott*	75, 76(1st)
Mascher, Mary ..... Iowa City	Elementary ..... Teacher	46th—*Johnson*	76(1st)
May, Dennis ..... Kensett	Farmer	20th—Cerro Gordo, Mitchell, *Worth*	72, 72X, 72XX, 73, 75, 76(1st)
McCoy, Matt ..... Des Moines	Human Resource ..... Manager	67th—*Polk*	75, 76(1st)
Mertz, Dolores M. ..... Ottosen	Farmer/Legislator	15th—Humboldt, *Kossuth*	73, 74, 74X, 74XX, 75, 76(1st)
Metcalf, Janet ..... Des Moines	Legislator	75th—*Polk*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Meyer, Jim ..... Odebolt	Farmer	11th—Ida, *Sac*, Woodbury	75, 76(1st)
Millage, David A. ..... Bettendorf	Attorney	41st—*Scott*	74, 74X, 74XX, 75, 76(1st)
Moreland, Michael J. ..... Ottumwa	Attorney	93rd—*Wapello*	75, 76(1st)
Mundie, Norman ..... Fort Dodge	Retired Farmer	14th—Boone, Calhoun, ... Hamilton, *Webster*	75, 76(1st)
Murphy, Patrick J. ..... Dubuque	.....	36th—*Dubuque*	73(2nd), 74, 74X, 74XX, 75, 76(1st)
Myers, Richard E. ..... Iowa City	Business Owner	49th—*Johnson*	75(2nd), 76(1st)
Nelson, Beverly J. ..... Marshalltown	Executive Vice ..... President, Iowa Valley Community College District	64th—*Marshall*	76(1st)
Nelson, Linda ..... Council Bluffs	Elementary Teacher	83rd—*Pottawattamie*	75, 76(1st)
Nutt, Ronald W. ..... Sioux City	Real Estate ..... Investments	1st—*Woodbury*	76(1st)
O'Brien, Michael J. ..... Boone	Teacher	79th—*Boone*, Greene	75, 76(1st)
Ollie, C. Arthur ..... Clinton	Teacher	38th—*Clinton*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
*Osterhaus, Robert J. ..... Maquoketa	Pharmacist	34th—Dubuque, *Jackson*	None
Rants, Christopher ..... Sioux City	Metz Baking Co., ... Environmental Compliance Projects	3rd—*Woodbury*	75, 76(1st)
Renken, Bob ..... Aplington	Farmer	21st—Butler, *Grundy*	68(2nd), 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)

*Elected in Special Election January 16, 1996

Name and Residence	Occupation	Representative District	Former Legislative Service
Salton, Bill ..... Ruthven	Farmer/Cattleman ...	8th—Clay, Kossuth, ... *Palo Alto*	76(1st)
Schrader, David ..... Monroe	Small Business ..... Owner-Operator/ Legislator	90th—*Marion*, Warren	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Schulte, Lynn S. ..... Mount Vernon	Computer Consultant	50th—Johnson, *Linn*	76(1st)
Shoultz, Don ..... Waterloo	Self-employed	25th—*Black Hawk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Siegrist, Brent ..... Council Bluffs	Educator	84th—*Pottawattamie*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Sukup, Steven ..... Dougherty	Industrial Engineer	18th—*Franklin*, Hardin	76(1st)
*Taylor, Todd ..... Cedar Rapids	Staff Representative, AFSCME	54th—*Linn*	None
Teig, Russell W. ..... Jewell	Farmer	17th—Franklin, *Hamilton*, ... Hardin, Wright	76(1st)
Thomson, Rosemary ..... Marion	Educator-Prevention Specialist	51st—*Linn*	76(1st)
Tyrrell, Phil ..... North English	Independent ..... Insurance Agency Owner-Operator	59th—Benton, *Iowa*	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Vande Hoef, Richard ..... Harris	Farmer	6th—Lyon, O'Brien, ... *Osceola*, Sioux	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Van Fossen, James ..... Davenport	Service ..... Representative, Gas & Electric Utility	42nd—*Scott*	76(1st)
Van Maanen, Harold ..... Pella	Retired Farmer	95th—Mahaska, *Marion*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Veenstra, Ken ..... Orange City	Insurance Agent	5th—*Sioux*	76(1st)
Warnstadt, Steve ..... Sioux City	Optical Engineer	2nd—*Woodbury*	76(1st)
Weidman, Dick ..... Griswold	Retired State ..... Trooper/Funeral Home Employee	86th—*Cass*, Montgomery, ... Pottawattamie	74, 74X, 74XX, 75, 76(1st)
Weigel, Keith ..... New Hampton	Certified Financial... Planner	30th—*Chickasaw*, Howard, ... Winneshiek	75, 76(1st)
Welter, Jerry J. ..... Monticello	Farmer	56th—*Jones*, Linn	75, 76(1st)
Wise, Philip ..... Keokuk	Teacher	98th—Henry, *Lee*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76(1st)
Witt, William G. ..... Cedar Falls	Photojournalist	23rd—*Black Hawk*	75, 76(1st)

*Elected in Special Election June 27, 1995

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
David Harris	Jefferson	December 31, 1998
Arthur A. McGiverin, C.J.	Des Moines and Ottumwa	December 31, 1996
Jerry L. Larson	Harlan	December 31, 1996
James H. Carter	Cedar Rapids	December 31, 2000
Louis A. Lavorato	Des Moines	December 31, 1996
Linda K. Neuman	Davenport	December 31, 1996
Bruce M. Snell Jr.	Ida Grove	December 31, 1996
James H. Andreasen	Algona	December 31, 1998
Marsha K. Ternus	Des Moines	December 31, 2002

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

† Allen L. Donielson, C.J.	Des Moines	December 31, 2001
* Maynard J. V. Hayden	Indianola	December 31, 1996
Rosemary Shaw Sackett, Acting Chief Judge	Spencer	December 31, 1996
Albert L. Habhab	Fort Dodge	December 31, 1996
Mark S. Cady	Fort Dodge	December 31, 1996
Terry L. Huitink	Ireton	December 31, 1996
** Michael J. Streit	Chariton	December 31, 1998

† Deceased January 27, 1996
* Retired effective March 1, 1996
** Appointment January 29, 1996, effective March 4, 1996

CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

UNITED STATES SENATORS

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

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

Suite 370
150 First Avenue, NE
Cedar Rapids, Iowa 52401
(319) 365-4504

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

110 Federal Building
320 6th Street
Sioux City, Iowa 51101
(712) 252-1550

315 Federal Building
350 West 6th Street
Dubuque, Iowa 52001
(319) 582-2130

Senator Charles Grassley (R)
135 Hart Senate Office Building
Washington, D.C. 20510-1501
(202) 224-3744

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

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

206 Federal Building
101 First Street, SE
Cedar Rapids, Iowa 52401
(319) 363-6832

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

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

307 Federal Building
8 South 6th Street
Council Bluffs, Iowa 51501
(712) 322-7103

UNITED STATES REPRESENTATIVES

First District

Congressman James A. Leach (R)
2186 Rayburn House Office Bldg.
Washington, D.C. 20515-1501
(202) 225-6576

209 West 4th Street
Davenport, Iowa 52801-1307
(319) 326-1841

102 South Clinton, 505
Iowa City, Iowa 52240-4025
(319) 351-0789

308 10th Street, SE
Cedar Rapids, Iowa 52403-2416
(319) 363-4773

Second District

Iowa Toll-Free Hotline
(800) 927-5212

Internet Address
nussleia@hr.house.gov

Congressman Jim Nussle (R)
303 Cannon House Office Bldg.
Washington, D.C. 20515
(202) 225-2911

712 West Main Street
Manchester, Iowa 52057
(319) 927-5141

3641 Kimball Avenue
Waterloo, Iowa 50702
(319) 235-1109

2255 John F. Kennedy Road
Dubuque, Iowa 52002
(319) 557-7740

23 Third Street, NW
Mason City, Iowa 50401
(515) 423-0303

Third District

Congressman Jim Ross Lightfoot (R)
2161 Rayburn House Office Bldg.
Washington, D.C. 20515
(202) 225-3806

501½ West Lowell
Shenandoah, Iowa 51601
(712) 246-1984
1-800-432-1984 (toll-free)

413 Kellogg
Ames, Iowa 50010-6225
(515) 232-1288

311 North 3rd Street
Burlington, Iowa 52601-5311
(319) 753-6415

347 East 2nd Street
Ottumwa, Iowa 52501-3001
(515) 683-3551

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

UNITED STATES REPRESENTATIVES — Continued

Fourth District

Congressman Greg Ganske
1108 Longworth House Office Bldg.
Washington, D.C. 20515
(202) 225-4426
Fax (202) 225-3193

Federal Building
210 Walnut Street, Suite 717
Des Moines, Iowa 50309
(515) 284-4634
Fax (515) 280-1412

40 Pearl Street
Council Bluffs, Iowa 51503
(712) 323-5976
Fax (712) 323-7903

Fifth District

Congressman Tom Latham
516 Cannon House Office Bldg.
Washington, D.C. 20515
(202) 225-5476

123 Albany Avenue, SE, Suite 1
Orange City, Iowa 51041
(712) 737-8708
Fax (712) 737-3456

526 Pierce Street
Sioux City, Iowa 51101
(712) 277-2114
Fax (712) 277-0932

1411 First Avenue South, Suite A
Fort Dodge, Iowa 50501
(515) 573-2738
Fax (515) 576-7141

217 Grand Avenue
Spencer, Iowa 51301
(712) 262-6480
Fax (712) 262-6673

CONDITION OF STATE TREASURY

June 30, 1995

	Balance July 1, 1994	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 1995
General Fund	$ 126,327,509	$ 5,816,243,185	$ 5,942,570,694	$ 5,654,717,896	$ 287,852,798
Special Revenue Fund	305,423,508	1,706,665,154	2,012,088,662	1,674,506,005	337,582,657
Capitol Project Fund	4,120,263	12,122,077	16,242,340	12,900,403	3,341,937
Debt Service Fund	10,362,948	1,914,240	12,277,188	1,943,726	10,333,462
Enterprise Fund	46,113,230	262,220,503	308,333,733	258,268,344	50,065,389
Internal Service Fund	19,867,791	375,425,587	395,293,378	289,773,831	105,519,547
Expendable Trust Fund	112,439,694	186,573,261	299,012,955	260,836,599	38,176,356
Nonexpendable Trust Fund	7,755,246	2,644,441	10,399,687	0	10,399,687
Pension Fund	7,060,817,719	598,240,326	7,659,058,045	326,618,607	7,332,439,438
Trust and Agency Fund	96,745,943	2,421,069,409	2,517,815,352	2,419,520,708	98,294,644
Totals	$7,789,973,851	$11,383,118,183	$19,173,092,034	$10,899,086,119	$8,274,005,915

Balance July 1, 1994	$ 7,789,973,851
Receipts and Transfers	11,383,118,183
Total Available	19,173,092,034
Disbursements and Transfers	10,899,086,119
Balance June 30, 1995	$ 8,274,005,915

DEPARTMENT OF REVENUE AND FINANCE
April 15, 1996

ANALYSIS BY CHAPTERS

1996 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolution to chapters of the 1996 Acts, see page 816

1996 Regular Session

Of The

Seventy-Sixth General Assembly

Of The

State Of Iowa

CHAPTER 1001

SCHOOL FINANCE - STATE PERCENT OF GROWTH

S.F. 2082

AN ACT relating to the establishment of the state percent of growth for purposes of the state school foundation program and providing an effective date.

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

Section 1. Section 257.8, subsection 1, Code Supplement 1995, is amended to read as follows:

1. STATE PERCENT OF GROWTH. The state percent of growth for the budget ~~year~~ years beginning July 1, ~~1996~~ 1997, and July 1, 1998, is three and ~~three tenths~~ one-half percent. The state percent of growth for each subsequent budget year shall be established by statute which shall be enacted within thirty days of the submission in the year preceding the base year of the governor's budget under section 8.21. The establishment of the state percent of growth for a budget year shall be the only subject matter of the bill which enacts the state percent of growth for a budget year.

Sec. 2. This Act takes effect January 1, 1997, for school budget years beginning after that date.

Approved February 8, 1996

CHAPTER 1002

ASSISTED SUICIDE

S.F. 2066

AN ACT relating to assisted suicide and providing criminal penalties.

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

Section 1. NEW SECTION. 707A.1 DEFINITIONS.

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

1. "Licensed health care professional" means a physician and surgeon, podiatrist,

osteopath, osteopathic physician and surgeon, physician assistant, nurse, dentist, or pharmacist required to be licensed under chapter 147.

2. "Suicide" means the act or instance of taking a person's own life voluntarily and intentionally.

Sec. 2. NEW SECTION. 707A.2 ASSISTING SUICIDE.

A person commits a class "C" felony if the person intentionally or knowingly assists, solicits, or incites another person to commit or attempt to commit suicide, or participates in a physical act by which another person commits or attempts to commit suicide.

Sec. 3. NEW SECTION. 707A.3 ACTS OR OMISSIONS NOT CONSIDERED ASSISTING SUICIDE.

1. A licensed health care professional who administers, prescribes, or dispenses medications or who performs or prescribes procedures to relieve another person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, does not violate section 707A.2 unless the medications or procedures are intentionally or knowingly administered, prescribed, or dispensed with the primary intention of causing death.

2. A licensed health care professional who withholds or withdraws a life-sustaining procedure in compliance with chapter 144A or 144B does not violate section 707A.2.

Sec. 4. Section 901.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Any mitigating circumstances relating to the offense and the defendant's potential as a candidate for deferred judgment, deferred sentencing, a suspended sentence, or probation, if the defendant is charged with or convicted of assisting suicide pursuant to section 707A.2.

Approved March 1, 1996

CHAPTER 1003

GYPSY MOTH LITIGATION

S.F. 2130

AN ACT eliminating the requirement to commence litigation involving shipments of plants infested with gypsy moths, and providing an effective date.

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

Section 1. REPEAL. 1995 Iowa Acts, chapter 216, section 27, is repealed.

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

Approved March 1, 1996

CHAPTER 1004

OPERATION OF MOTOR VEHICLES IN BORDER CITIES

H.F. 2066

AN ACT relating to the operation of motor vehicles in border cities and providing an effective date.

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

Section 1. Section 321.457, subsection 2, paragraph f, Code 1995, is amended to read as follows:

f. A motor vehicle or combination of vehicles may be operated upon the highways of this state, irrespective of the length and weight limitations imposed by the laws of this state, if the motor vehicle or combination of vehicles is operated within the corporate limits of a city abutting a border of this state and such operations have been approved by ordinance of the city council and if the length and weight of the motor vehicle or combination of vehicles is in conformity with the laws relating to length and weight of the abutting state ~~on July 1, 1974~~. If a city council has authorized such operation upon highways within the corporate limits, then the limit of travel for such motor vehicles or combination of vehicles within the state is extended to the commercial zones as described by federal regulations concerning interstate commerce, 49 ~~code of federal regulations, paragraphs 1048.10, 1048.38, and~~ C.F.R. § 1048.101 ~~as they exist on July 1, 1974~~ and to the interstate system as provided in 23 U.S.C. § 127 and 49 U.S.C. § 31112(c), as amended by 1995 Pub. L. No. 104-59.

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

Approved March 1, 1996

CHAPTER 1005

IMPLEMENTS OF HUSBANDRY

S.F. 2072

AN ACT relating to implements of husbandry by providing for machinery towed by a motor vehicle or farm tractor, and providing an effective date.

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

Section 1. Section 321.1, subsection 32, paragraph f, Code Supplement 1995, is amended to read as follows:

f. Self-propelled machinery ~~or machinery towed by a motor vehicle or farm tractor~~ operated at speeds of less than thirty miles per hour or machinery towed by a motor vehicle or farm tractor. The machinery must be specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary off-road usage. In addition, the machinery must be used exclusively for the mixing and dispensing of nutrients to bovine animals fed at a feedlot, or the application of organic or inorganic plant food materials,

agricultural limestone, or agricultural chemicals. However, the machinery shall not be specifically designed or intended for the transportation of such nutrients, plant food materials, agricultural limestone, or agricultural chemicals.

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

Approved March 4, 1996

CHAPTER 1006

ABUSE OF A HUMAN CORPSE
S.F. 2088

AN ACT prohibiting abuse of a human corpse, and providing a penalty.

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

Section 1. NEW SECTION. 709.18 ABUSE OF A CORPSE.
A person commits abuse of a human corpse if the person knowingly and intentionally engages in a sex act, as defined in section 702.17, with a human corpse. Abuse of a human corpse is a class "D" felony.

Approved March 11, 1996

CHAPTER 1007

MINIMUM SCHOOL DAY REQUIREMENTS
S.F. 2083

AN ACT relating to minimum instructional time requirements for a school week.

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

Section 1. Section 256.7, subsection 19, paragraph b, Code 1995, is amended to read as follows:
b. If the total hours of instructional school time for grades one through twelve for any five consecutive school days equal a minimum of twenty-seven and one-half hours, even though any one day of school is less than the minimum instructional hours because of a staff development opportunity provided for the professional instructional staff or because parent-teacher conferences have been scheduled beyond the regular school day. Furthermore, if the total hours of instructional time for the first four consecutive days equal at least twenty-seven and one-half hours because parent-teacher conferences have been scheduled beyond the regular school day, a school or school district may record zero hours of instructional time on the fifth consecutive school day as a minimum school day.

Approved March 20, 1996

CHAPTER 1008

INVESTMENTS BY FIDUCIARIES

H.F. 2365

AN ACT relating to the authority of fiduciaries under the probate code to invest in open-end or closed-end management investment companies or investment trusts.

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

Section 1. Section 412.4, Code 1995, is amended to read as follows:

412.4 LEGAL RESERVE INSURANCE.

The council, board of waterworks trustees, or other board or commission, whichever is authorized by law to manage and operate any such waterworks, or other municipally owned and operated public utility, shall have the right and power to contract with any legal reserve insurance company, authorized to conduct its business in the state, or any bank located in Iowa having trust powers for the investment of funds contributed to an annuity or pension system, for the payment of the pensions or annuities provided in such pension or annuity retirement system, and may pay the premiums or make the contribution of such contract out of the fund provided in section 412.2. Funds contributed to a bank pursuant to such a contract shall be invested in the manner prescribed in section 633.123 or 633.123A, and may be commingled with and invested as a part of a common or master fund managed for the benefit of more than one public utility.

Sec. 2. Section 633.123, subsection 2, unnumbered paragraphs 3 and 4, Code 1995, are amended by striking the paragraphs.

Sec. 3. NEW SECTION. 633.123A INVESTMENTS IN INVESTMENT COMPANIES AND INVESTMENT TRUSTS.

1. Notwithstanding any other provision of law, a bank or trust company acting as a fiduciary, in addition to other investments authorized by law for the investment of funds by a fiduciary or by the instrument governing the fiduciary and in the exercise of its investment discretion or at the direction of another person authorized to direct investment of funds held by the fiduciary, may invest and reinvest such funds in the securities of an open-end or closed-end management investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq. Investment and reinvestment under this section is allowed as long as the portfolio of such investment company or investment trust consists substantially of investments not otherwise prohibited by section 633.123 or by the governing instrument.

Investment and reinvestment under this section is not precluded merely because the bank or trust company or an affiliate of the bank or trust company provides the services of an investment advisor, custodian, transfer agent, registrar, sponsor, distributor, or manager to the investment company or investment trust and receives a reasonable fee for the services.

2. This section is applicable to all fiduciaries whether the will, agreement, or other instrument under which they are acting now exists on or before the effective date of this section.

Approved March 20, 1996

CHAPTER 1009

PUBLIC ACCOUNTING FEES

H.F. 2247

AN ACT relating to permissible fees and commission to be paid to certified public accountants and accounting practitioners.

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

Section 1. Section 542C.2, Code 1995, is amended to read as follows:

542C.2 DEFINITIONS.

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

1. "Accounting practitioner" means a person licensed by the board as provided in this chapter, who does not hold a certificate as a certified public accountant under this chapter, and who offers to perform or performs for the public, and for compensation, any of the following services:

~~1.~~ a. The recording of financial transactions in books of record.

~~2.~~ b. The making of adjustments of such transactions in books of record.

~~3.~~ c. The making of trial balances from books of record.

~~4.~~ d. Internal verification and analysis of books or accounts of original entry.

~~5.~~ e. The preparation of financial statements, schedules, or reports.

~~6.~~ f. The devising and installing of systems or methods of bookkeeping, internal controls of financial data, or the recording of financial data.

Nothing contained in this definition or elsewhere in this chapter shall be construed to permit an accounting practitioner to give an opinion attesting to the reliability of any representation embracing financial information as defined in section 542C.25, subsections 8 and 9. Any transmittal letters and titles to financial statements included in reports prepared by accounting practitioners shall be labeled as unaudited.

2. "Commission" includes brokerage or other participation fees. "Commission" does not include a contingent fee.

3. "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement under which a fee will not be charged unless a specified finding or result is attained, or under which the amount of the fee is otherwise dependent upon the finding or result of such service. "Contingent fee" does not mean a fee fixed by a court or other public authority, or a fee related to any tax matter which is based upon the results of a judicial proceeding or the findings of a governmental agency.

4. "Practice of public accounting" means the performance or the offering to perform, by a person holding oneself out to the public as a certified public accountant or accounting practitioner, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

Sec. 2. Section 542C.3, subsection 4, paragraph d, Code 1995, is amended by striking the paragraph.

Sec. 3. Section 542C.3, subsection 5, paragraph b, Code 1995, is amended by striking the paragraph.

Sec. 4. Section 542C.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A certified public accountant or accounting practitioner may accept commissions or contingent fees subject to the following:

a. (1) A certified public accountant or accounting practitioner shall not for a commission recommend or refer to a client any product or service, shall not for a commission

recommend or refer any product or service to be supplied by a client, and shall not receive a commission from a client, if the certified public accountant or accounting practitioner, or a person associated with the certified public accountant or accounting practitioner in the practice of public accounting, also performs for that client any of the following:

(a) An audit or review of a financial statement.

(b) A compilation of a financial statement if the certified public accountant or accounting practitioner expects, or reasonably might expect, that a third party will use the financial statement, and the compilation report, of which the financial statement is a part, does not disclose a lack of independence.

(c) An examination of prospective financial information.

(2) The prohibition in subparagraph (1) applies during the period in which the certified public accountant or accounting practitioner, or a person associated with the certified public accountant or accounting practitioner in the practice of public accounting, is engaged to perform any of the services listed in subparagraph (1), subparagraph subdivision (a), (b), or (c), and the period covered by any historical financial statements related to such services.

(3) A certified public accountant or accounting practitioner engaged in the practice of public accounting who is not prohibited from performing services for a commission or receiving a commission, and who is paid or expects to be paid a commission, shall disclose that fact to any person or entity to whom the certified public accountant or accounting practitioner recommends or refers a product or service to which the commission relates.

b. A certified public accountant or accounting practitioner engaged in the practice of public accounting shall not receive or agree to receive a contingent fee from a client for either of the following:

(1) Performance of any professional services for a client for whom the certified public accountant or accounting practitioner, or person associated with the public accountant or accounting practitioner in the practice of public accounting, performs any of the following:

(a) An audit or review of a financial statement.

(b) A compilation of a financial statement if the certified public accountant or accounting practitioner expects, or reasonably might expect, that a third party will use the financial statement, and the compilation report, of which the financial statement is a part, does not disclose a lack of independence.

(c) An examination of prospective financial information.

(2) Preparation of an original or amended tax return or claim for a tax refund.

The prohibition in subparagraph (1) applies during the period in which the certified public accountant or accounting practitioner is engaged to perform any of the services listed in subparagraph (1), subparagraph subdivision (a), (b), or (c), and the period covered by any historical financial statements involved related to such services.

c. A certified public accountant or accounting practitioner who accepts a referral fee for recommending or referring any service of a certified public accountant or accounting practitioner to any person or entity, or who pays a referral fee to obtain a client, shall disclose the acceptance or payment of such fee to the client.

d. A fee charged by a certified public accountant or accounting practitioner may vary depending on the complexity of the services rendered.

Sec. 5. Section 542C.3, subsection 6, Code 1995, is amended to read as follows:

6. The board shall establish rules relative to the conduct of practice as a certified public accountant and accounting practitioner in respect to the enumerated items in subsections 4, ~~and~~ 5, and 5A, but this direction is not a limitation upon the rights of the board to make and adopt any rules relating to the conduct of certified public accountants or accounting practitioners which are not specifically enumerated in this chapter.

Approved March 20, 1996

CHAPTER 1010

COOPERATIVE CORPORATIONS

S.F. 2135

AN ACT providing for the organization of cooperative corporations, providing for fees, and providing for penalties.

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

Section 1. PURPOSE. The purpose of chapter 501 is to provide an opportunity for producers of agricultural commodities to contribute a portion of their production for a single enterprise for purposes of enhancing the value of that production and to restrict control of these enterprises to agricultural producers.

Sec. 2. Section 203.1, subsection 8, Code Supplement 1995, is amended to read as follows:

8. "Grain dealer" means a person who buys during any calendar month five hundred bushels of grain or more from the producers of the grain for purposes of resale, milling, or processing. However, "grain dealer" does not include ~~a~~ any of the following:

a. A producer of grain who is buying grain for the producer's own use as seed or feed~~; a~~.

b. A person solely engaged in buying grain future contracts on the board of trade~~; a~~.

c. A person who purchases grain only for sale in a registered feed~~; a~~.

d. A person who purchases grain for sale in a nonregistered customer-formula feed regulated by chapter 198, who purchases less than a total of fifty thousand bushels of grain annually from producers, and who is also exempt as an incidental warehouse operator under chapter 203C~~; a~~.

e. A person engaged in the business of selling agricultural seeds regulated by chapter 199~~; a~~.

f. A person buying grain only as a farm manager~~; an~~.

g. An executor, administrator, trustee, guardian, or conservator of an estate~~; a~~.

h. A bargaining agent as defined in section 203A.1; or a custom livestock feeder.

i. A cooperative corporation organized under chapter 501, if the cooperative buys grain from producers who are members or a licensed grain dealer, and the cooperative does not resell that grain.

SUBCHAPTER I
GENERAL PROVISIONS

Sec. 3. NEW SECTION. 501.101 DEFINITIONS.

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

1. "Articles" means the cooperative's articles of incorporation.

2. "Authorized person" means a person who is one of the following:

a. A farming entity.

b. An individual or general partnership that owns land and receives as rent a share of the crops or the animals raised on the land if those crops or animals are a significant component of the cooperative's business operations.

c. An employee of the cooperative who performs at least one thousand hours of service for the cooperative in each calendar year.

3. "Board" means the cooperative's board of directors.

4. "Cooperative" means a cooperative corporation organized under this chapter or converted to this chapter pursuant to section 501.601.

5. "Farming" means the same as section 9H.1.

6. "Farming entity" means any one of the following:

a. A natural person or a fiduciary for a natural person who regularly participates in physical labor or operations management in a farming operation and files schedule F as

part of the person's annual form 1040 or form 1041 filing with the United States internal revenue service.

b. A family farm corporation, family farm limited liability company, family farm limited partnership, or family trust, as defined in section 9H.1.

7. "Member" means a person who owns voting stock in a cooperative.

8. "Shareholder" means a person who owns stock in a cooperative, whether or not that stock has voting rights.

9. "Voting stock" means stock in a cooperative that has voting rights.

Sec. 4. NEW SECTION. 501.102 PURPOSES AND POWERS.

1. A cooperative organized under this chapter has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles.

2. Unless its articles provide otherwise, a cooperative has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including, without limitation, all of the powers enumerated in sections 490.302 and 490.303.

Sec. 5. NEW SECTION. 501.103 LIMITED FARMING ACTIVITIES.

1. Notwithstanding section 9H.4, a cooperative may, directly or indirectly, acquire or otherwise obtain or lease agricultural land in this state, for as long as the cooperative continues to meet the following requirements:

a. Farming entities own sixty percent of the stock and are eligible to cast sixty percent of the votes at member meetings.

b. Authorized persons own at least seventy-five percent of the stock and are eligible to cast at least seventy-five percent of the votes at member meetings.

c. The cooperative does not, either directly or indirectly, acquire or otherwise obtain or lease agricultural land, if the total agricultural land either directly or indirectly owned or leased by the cooperative would then exceed six hundred forty acres.

2. A cooperative that claims that it is exempt from the restrictions of section 9H.4 pursuant to subsection 1 shall file an annual report with the secretary of state on or before March 31 of each year on forms supplied by the secretary of state. The report shall be signed by the president or the vice president of the cooperative and shall contain the following:

a. The cooperative's name and address.

b. A certification that the cooperative meets both of the requirements of subsection 1.

c. The number of acres of agricultural land owned, leased or held by the cooperative, including the following:

(1) The total number of acres in the state.

(2) The number of acres in each county identified by county name.

(3) The number of acres owned.

(4) The number of acres leased.

(5) The number of acres held other than by ownership or lease.

(6) The number of acres used for the production of row crops.

3. The president or the vice president of the cooperative who falsifies a report shall be guilty of perjury as provided in section 720.2.

4. In the event of a transfer of stock by operation of law as a result of death, divorce, bankruptcy, or pursuant to a security interest, the cooperative may disregard the transfer for purposes of determining compliance with subsection 1 for a period of two years after the transfer.

Sec. 6. NEW SECTION. 501.104 NAME.

The name of a cooperative organized under this chapter must contain the word "cooperative", "coop", or "co-op", and the name must be distinguishable from the names of cooperatives organized under this chapter or another chapter, or foreign cooperatives authorized to do business in this state.

Sec. 7. NEW SECTION. 501.105 EXECUTION AND FILING OF DOCUMENTS.

1. The secretary of state may prescribe and furnish on request forms for the proper administration of this chapter. If the secretary of state has prescribed a mandatory form for a document, then that form must be on the prescribed form.

2. Articles must be signed by all of the incorporates;* and all other documents filed with the secretary of state must be signed by one of the cooperative's officers. The printed name and capacity of each signatory must appear in proximity to the signatory's signature. The secretary of state may accept a document containing a copy of the signature. A document is not required to contain a corporate seal, an acknowledgment, or a verification.

3. The secretary of state shall collect the following fees:

a. Twenty dollars upon the filing of original or amended articles or articles of merger.

b. Five dollars upon the filing of all other required documents.

c. Five dollars per document and fifty cents per page for copying and certifying a document.

4. A document is effective at the later of the following times:

a. The time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. The delayed effective time and date specified in the document. If a delayed effective date but no time is specified in the document, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

5. 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 of state articles of correction which describe the document to be corrected, including its filing date or a copy of the document. The articles must specify and correct the incorrect statement or defective execution. Articles of correction are effective on the effective date of the document it corrects except as to persons relying on the original document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

6. The secretary of state shall forward for recording a copy of each original, amended, and restated articles, articles of merger, articles of consolidation, and articles of dissolution to the recorder of the county in which the cooperative has its principal place of business, or in the case of a merger or consolidation, to the recorders of each of the counties in which the merging or consolidating cooperatives have their principal offices.

Sec. 8. NEW SECTION. 501.106 REGISTERED OFFICE.

1. A cooperative must continuously maintain in this state a registered office that may be the same as any of its places of business, and a registered agent, who may be any of the following:

a. An individual who resides in this state and whose business office is identical with the registered office.

b. A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

2. A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the cooperative.

b. The street address of its current registered office.

c. If the street address of the current registered office is to be changed, the street address of the new registered office.

d. The name of its current registered agent.

e. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment.

* The word "incorporators" probably intended

f. That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

3. a. If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any cooperative for which the person is the registered agent by notifying the cooperative in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing, a statement that provides for a registered office and a registered agent as provided in this section, and which recites that the cooperative has been notified of the change.

b. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in paragraph "a" for each cooperative, or a single statement for all cooperatives named in the notice, except that it need be signed only by the registered agent or agents or be responsive to subsection 2, paragraph "e". The statement must recite that a copy of the statement has been mailed to each cooperative named in the notice.

4. A cooperative may also change its registered office or registered agent in its annual report.

Sec. 9. NEW SECTION. 501.107 RECORDS AND REPORTS.

The provisions of sections 490.1601 through 490.1622 shall apply to cooperatives organized under this chapter in the same manner as the provisions apply to corporations organized under chapter 490.

Sec. 10. NEW SECTION. 501.108 QUO WARRANTO.

The attorney general alone shall have the right to inquire into whether a cooperative has the right to exist or continue under this chapter. If the secretary of state is informed that a cooperative is not functioning as a cooperative, the secretary of state shall notify the attorney general. If the attorney general finds reasonable cause that the cooperative is not functioning as provided under this chapter, the attorney general shall bring action to wind up the affairs of the cooperative.

SUBCHAPTER II
ARTICLES AND BYLAWS

Sec. 11. NEW SECTION. 501.201 INCORPORATION.

Three or more individuals may organize a cooperative under this chapter by executing and delivering articles to the secretary of state.

Sec. 12. NEW SECTION. 501.202 ARTICLES OF INCORPORATION.

1. The initial articles must set forth all of the following:

a. The name, address, and occupation of each incorporator.

b. The names and addresses of the initial directors.

c. The street address of the cooperative's initial registered office and the name of its initial registered agent at that office.

2. The articles must set forth all of the following:

a. The name that satisfies the requirements of section 501.104.

b. A statement that it is organized under this chapter.

c. Its duration, which may be perpetual.

d. The classes of stock and the authorized number of shares of each class.

e. The quorum required for each member meeting.

f. The member voting rules.

3. The articles may set forth any other provision consistent with law.

Sec. 13. NEW SECTION. 501.203 AMENDED AND RESTATED ARTICLES OF INCORPORATION.

1. A cooperative may amend its articles at any time to add or change a provision that is required or permitted in the articles or to delete a provision not required in the articles.

2. A cooperative may restate its articles at any time. A restatement of the articles must contain the information required by section 501.202, subsection 2, and may set forth any other provision consistent with law.

3. If the board recommends the amendment or restatement to the members, the amendment or restatement must be adopted by the members by a vote of two-thirds of the votes cast.

4. If the board does not recommend the amendment or restatement to the members, then the amendment or restatement must be adopted by the members by a vote of two-thirds of the votes cast on a ballot in which a majority of all votes are cast.

Sec. 14. NEW SECTION. 501.204 BYLAWS.

The board may adopt or amend the cooperative's bylaws by a vote of three-fourths of the board. The members may adopt or amend the cooperative's bylaws by a vote of three-fourths of the votes cast on a ballot in which a majority of all votes are cast. A bylaw provision adopted by the members shall not be amended or repealed by the directors.

SUBCHAPTER III
MEMBERS

Sec. 15. NEW SECTION. 501.301 LIABILITY OF MEMBERS.

A member is not personally liable for the acts or debts of the cooperative.

Sec. 16. NEW SECTION. 501.302 CALLING AND NOTICE OF MEETINGS.

1. A cooperative shall hold an annual member meeting at a time and place fixed in accordance with the bylaws.

2. The board may call special member meetings, and the board shall call a special member meeting upon the written demand of twenty percent of the members.

3. A cooperative shall give each member at least ten days advanced notice of the time, place, and the issues to be considered at each member meeting. This notice may be given in person or by mail to the last known address of the member, or the notice requirement may be met by the member waiving the notice.

4. The record date for determining the members entitled to notice of and to vote at a member meeting is the close of business on the day before the first notices for the meeting are delivered or mailed.

Sec. 17. NEW SECTION. 501.303 CONDUCT OF MEETINGS.

1. Only those issues included in the notice of a member meeting may be considered at that meeting.

2. A member may vote at a member meeting in person or by signed absentee ballot that specifies the issue and the member's vote on that issue. If the board makes available an absentee ballot form, then that form must be used to cast an absentee ballot on that issue.

Sec. 18. NEW SECTION. 501.304 MEMBER INFORMATION.

1. Within ten days from receiving a demand of a member, the cooperative shall produce and furnish the member with the names and addresses of all members of the cooperative.

2. The board shall adopt a policy which permits the distribution of information to all of the members upon the request of a member when the purpose of the request concerns directly the action of the board. Upon receipt of the information and the request of a member, the board shall distribute the information to all of the members. The cooperative may charge the requesting member the costs incurred by the cooperative in distributing the information.

Sec. 19. NEW SECTION. 501.305 MULTIPLE MEMBERSHIP PROHIBITED.

A person who is a member owning fifteen percent or more of a cooperative shall not be eligible to be a member of any other cooperative organized under this chapter. A person

violating this section is subject to a civil penalty of not more than one hundred dollars. The person's membership in a cooperative shall terminate if the person's acquisition of an interest in that cooperative caused the person to be in violation of this section.

Sec. 20. NEW SECTION. 501.306 NUMBER OF VOTES.

A person who is a member or shareholder shall not own more than one membership or share of voting stock. The person shall be entitled to cast not more than one vote regarding any matter in which a vote is conducted, including any matter subject to a vote during a cooperative meeting.

Sec. 21. NEW SECTION. 501.307 FINANCIAL INFORMATION.

The cooperative shall make available financial information to its membership by doing either of the following:

1. Preparing and providing to its members a financial statement for the cooperative's last fiscal year.

a. The financial statement must be based upon an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, a qualification in an opinion is valid, if it is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited is invalid for purposes of this section.

b. The financial statement must disclose the assets, liabilities, and net worth of the cooperative. The financial statement must be prepared according to generally accepted accounting principles. Assets must be shown at original cost less depreciation, or based upon a valuation in accordance with a competent appraisal. Unpriced contracts for agricultural commodities or products must be shown as a liability and valued at the applicable current market price of the agricultural commodities or products as of the date the financial statement is prepared.

2. Honoring a demand to provide access at all reasonable hours at its offices the books, records, accounts, papers, documents, and computer programs or other recordings relating to the property, assets, business, and financial affairs of the cooperative. The demand shall be in writing and signed by at least fifty percent of all the members of the cooperative. The cooperative shall honor the demand within one day from its receipt. Upon receipt of the demand, the cooperative must provide access to one or more persons selected by the fifty percent of the members to conduct the examination.

SUBCHAPTER IV
DIRECTORS AND OFFICERS

Sec. 22. NEW SECTION. 501.401 NUMBER AND ELECTION.

1. The affairs of a cooperative shall be managed by a board of not less than three directors.
2. The members shall elect the directors as prescribed in the articles or bylaws.
3. Each director shall serve the term prescribed in the articles or bylaws. The terms may be staggered.

Sec. 23. NEW SECTION. 501.402 VACANCIES.

1. A director may resign at any time by delivering written notice to the board chairperson or the board secretary. A resignation is effective when the notice is delivered unless the notice specifies a later effective date.
2. The members may remove one or more directors with or without cause unless the articles provide that directors may be removed only for cause.
3. The articles may authorize the board to remove a director for a cause specified in the articles.
4. Unless the articles or bylaws provide otherwise, the board shall fill each vacancy until the members elect a director to fill the vacancy at the next scheduled meeting of the members. If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

Sec. 24. NEW SECTION. 501.403 BOARD ACTION.

1. The board may hold regular or special meetings in or out of this state. A quorum of the board consists of a majority of the directors.

2. Unless the articles or bylaws provide otherwise:

a. Regular board meetings may be held without notice of the date, time, place, or purpose of the meeting.

b. Special board meetings must be preceded by at least two days' notice of the date, time, and place of the meeting; but the notice need not describe the purpose of the special meeting.

c. The board may create one or more committees composed of directors, and specify the duties and authority of each committee.

d. The board may permit any number of directors to participate in a regular or special meeting by, or conduct the meeting through, the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting.

e. Action required or permitted by this chapter to be taken at a board meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

3. A director may waive any notice required by this chapter, the articles, or the bylaws before or after the date and time stated in the notice. The waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records. A director's attendance at or participation in a meeting waives any required notice to that director of the meeting unless the director at the beginning of the meeting or promptly upon the director's arrival objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Sec. 25. NEW SECTION. 501.404 DIRECTOR CONFLICT OF INTEREST.

1. A conflict of interest transaction is a transaction with the cooperative in which a director has a direct or indirect interest. A director shall be deemed to have a conflict of interest in a matter concerning a transaction between the cooperative and another entity, if the director owns a twenty-five percent or greater ownership interest in the other entity. A conflict of interest transaction is not voidable by the cooperative solely because of the director's interest in the transaction if any one of the following is true:

a. The material facts of the transaction and the director's interest were disclosed or known to the board or a board committee and the board or committee authorized, approved, or ratified the transaction. For purposes of this paragraph, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board or on the committee who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this subsection. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under this subsection, if the transaction is otherwise authorized, approved, or ratified as provided in this subsection.

b. The material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction. For purposes of this subsection, a conflict of interest transaction is authorized, approved, or ratified if it receives a majority of the votes entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct

or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in paragraph "a",* shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under this subsection. The vote of those shares, however, is counted in determining whether the transaction is approved under other sections of this chapter. A majority of the votes, whether or not the shareholders are present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this subsection.

c. The transaction was fair to the cooperative.

2. For purposes of this section, a director of the cooperative has an indirect interest in a transaction if either:

a. Another entity in which the director has a material financial interest is a party to the transaction.

b. Another entity of which the director is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board.

Sec. 26. NEW SECTION. 501.405 OFFICERS.

A cooperative shall have officers described in its bylaws or appointed by the board in accordance with the bylaws. The bylaws or the board shall delegate to one of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the cooperative. Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties prescribed by the board. The same individual may simultaneously hold more than one office.

Sec. 27. NEW SECTION. 501.406 STANDARDS OF CONDUCT.

1. A director or officer shall discharge the director's or officer's duties in conformity with all of the following:

a. In good faith.

b. With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

c. In a manner the director or officer reasonably believes to be in the best interests of the cooperative.

2. In discharging duties by a director or officer, the director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following:

a. One or more officers or employees of the cooperative whom the director or officer reasonably believes to be reliable and competent in the matters presented.

b. A person, including but not limited to a legal counsel or public accountant, regarding a matter that the director or officer reasonably believes is within the person's professional or expert competence.

c. A committee of the board of which the director or officer is not a member if the director or officer reasonably believes the committee merits confidence.

3. A director or officer is not acting in good faith if the director or officer has knowledge concerning a matter in question that makes reliance otherwise permitted by subsection 2 unwarranted.

4. A director or officer is not liable for any action taken as a director or officer, or the failure to take action, if the director or officer performs the duties of the office in compliance with this section, or if, and to the extent that, liability for the action or failure to act has been limited by the articles pursuant to section 501.407.

Sec. 28. NEW SECTION. 501.407 PERSONAL LIABILITY.

The articles may contain a provision eliminating or limiting the personal liability of a director, officer, or a shareholder of the cooperative for monetary damages for breach of a fiduciary duty as a director, officer, or shareholder, provided that the provision does not eliminate or limit liability for any of the following:

* Subsection 2, paragraph "a" probably intended

1. A breach of the duty of loyalty to the cooperative or its shareholders.
2. An act or omission not in good faith or which involves intentional misconduct or a knowing violation of law.
3. A transaction from which the director, officer, or shareholder derives an improper personal benefit.
4. An act or omission occurring prior to the date when the provision in the articles becomes effective.

Sec. 29. NEW SECTION. 501.408 INDEMNIFICATION.
A cooperative may indemnify a present or former director, officer, employee, or agent in the manner and in the instances authorized in sections 490.850 through 490.858, provided that where these sections provide for action by the shareholders these sections are applicable to actions by the members, and where these sections refer to the cooperative* these sections are applicable to a cooperative.

SUBCHAPTER V
CAPITAL STRUCTURE

Sec. 30. NEW SECTION. 501.501 ISSUANCE AND TRANSFER OF STOCK.
1. A cooperative may issue the number of shares of each class authorized by its articles. A cooperative may issue fractional shares. Stock may be represented by certificates or by entry on the cooperative's stock record books.
2. A member may sell or otherwise transfer stock, other than voting stock, to any other member or to any person who has been approved by the board for membership, subject to the limitations in the articles or bylaws on the amount of each class of stock that may be owned by one member.
3. A cooperative may acquire its own stock, and shares so acquired constitute authorized but unissued shares.

Sec. 31. NEW SECTION. 501.502 TERMINATION OF MEMBERSHIP.
1. A membership shall terminate upon the death of the member.
2. The articles or bylaws may authorize the board to terminate a membership for any of the following reasons:
a. The member has attempted to transfer stock to a person who is not a member and has not been approved for membership.
b. The member has failed to meet the member's commitment to provide products to the cooperative or to buy the cooperative's products.
c. The member is no longer an authorized person.
d. The member is no longer a farming entity.
3. A member's right to vote at member meetings shall cease upon termination of the membership.
4. The cooperative shall redeem, without interest, the voting stock of a terminated member within one year after the termination of the membership for the fair market value of the stock. If the amount originally paid by the member for the voting stock was less than ten percent of the total amount the member paid for all classes of stock, the cooperative may redeem the voting stock for its issue price if the cooperative's articles of incorporation grant the cooperative this authority.
5. The cooperative shall redeem, without interest, all of the terminated member's allocated patronage refunds and preferred stock originally issued as allocated patronage refunds for the issue price. A cooperative shall make this payment within one year after the termination of the membership. However, if a terminated member's current equity equals or exceeds two percent of the cooperative's total members' equity, the cooperative shall redeem the terminated member's equity in annual amounts of not less than fifteen percent of the total amount provided that the entire amount must be redeemed within seven years.

* The word "corporation" probably intended

Sec. 32. NEW SECTION. 501.503 DISTRIBUTION OF NET SAVINGS.

The board shall annually dispose of the cooperative's earnings in excess of its operating expenses as follows:

1. If the articles authorize the payment of dividends on a class of stock, then the directors may declare dividends pursuant to the articles. Dividends may not exceed eight percent of the value of the stock in each fiscal year. The members may control the amount that is allocated under this subsection.

2. To provide a reasonable reserve for depreciation, obsolescence, bad debts, or contingent losses or expenses. The members may control the amount that is allocated under this subsection.

3. To increase the cooperative's retained savings to the extent determined by the board to be necessary based on its evaluation of the future needs and the competitive position of the cooperative.

4. The cooperative shall have an unconditional binding obligation to distribute to the members all remaining net savings as determined under the United States Internal Revenue Code. These net savings shall be allocated to each member in proportion to the business the member did with the cooperative during the preceding fiscal year. The net savings may be separately calculated for two or more categories of business, and allocated to the members on the basis of business done within each of these categories. Net savings shall be distributed in the form of cash or stock, or a combination of cash and stock, as determined by the board.

SUBCHAPTER VI
CONVERSION, MERGER, SALE, AND DISSOLUTION

Sec. 33. NEW SECTION. 501.601 EXISTING CORPORATIONS.

1. As used in this section:

a. "Dissenting member" means a voting member who votes in opposition to the plan of conversion and who makes a demand for payment as provided in this section not later than the deadline for members to cast ballots on the vote to approve the plan of conversion.

b. "Issue price" means the amount paid for an interest in the association or the value stated in a notice of allocation of patronage refunds.

2. An association organized under chapter 497, 498, or 499 may adopt this chapter pursuant to the following procedures:

a. The board must adopt a plan of conversion that specifies the changes in the articles to comply with this chapter, the affect of the conversion on the association's outstanding members' equity, and the option or options available to the equity holders who do not want to continue their investment in the association.

b. The members must approve the plan of conversion by the vote of two-thirds of the votes cast on a ballot in which a majority of all votes are cast.

3. a. The cooperative shall redeem all of the members' equity held by dissenting members at its issue price within one year after the conversion to this chapter is effective.

b. An equity holder who is not a voting member shall have the same rights as a dissenting member if the equity holder makes a demand for payment pursuant to paragraph "a" not later than the deadline for members to cast ballots on the vote to approve the plan of conversion.

c. The association shall notify all equity holders of their rights pursuant to paragraph "a" at the same time the association notifies the members of the member meeting to vote on the plan of conversion.

Sec. 34. NEW SECTION. 501.602 MERGER AND CONSOLIDATION.

A cooperative organized under this chapter may merge or consolidate with one or more other cooperatives organized under this chapter. The provisions of sections 499.61 through 499.70 shall apply to such a merger or consolidation.

Sec. 35. NEW SECTION. 501.603 SALE OF ASSETS.

1. A cooperative may, on the terms and conditions and for the consideration determined by the board, mortgage, pledge, or otherwise encumber any or all of its property.

2. A cooperative may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, with or without the good will, on the terms and conditions and for the consideration determined by the board, which consideration may include the preferred stock of another cooperative, if the board recommends the proposed transaction to the members, and the members approve it by the vote of two-thirds of the votes cast on a ballot in which a majority of all votes are cast. The board may condition its submission of the proposed transaction on any basis.

Sec. 36. NEW SECTION. 501.604 DISSOLUTION.

The provisions of sections 490.1401 through 490.1440 shall apply to cooperatives in the same manner as they apply to corporations organized under chapter 490.

Approved March 21, 1996

CHAPTER 1011

NOTIFICATION REQUIREMENTS AND DECISION-MAKING ASSISTANCE PROGRAM REGARDING PREGNANT MINORS

S.F. 13

AN ACT relating to the establishment of a prospective minor parents decision-making assistance program, providing penalties, providing a repeal, and providing effective dates.

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

Section 1. NEW SECTION. 135L.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Abortion" means an abortion as defined in chapter 146.

2. "Adult" means a person eighteen years of age or older.

3. "Aunt or uncle" means an aunt or uncle of the pregnant minor who is twenty-five years of age or older.

4. "Child-placing agency" means any agency, public, semipublic, or private, which represents itself as placing children, receiving children for placement, or actually engaging in placement of children and includes the department of human services.

5. "Court" means the juvenile court.

6. "Grandparent" means the parent of an individual who is the parent of the pregnant minor.

7. "Medical emergency" means a condition which, based upon a physician's judgment, necessitates an abortion to avert the pregnant minor's death, or for which a delay will create a risk of serious impairment of a major bodily function.

8. "Minor" means a person under eighteen years of age who has not been and is not married.

9. "Parent" means one parent or a legal guardian or custodian of a pregnant minor.

10. "Responsible adult" means an adult, who is not associated with an abortion provider, chosen by a pregnant minor to assist the minor in the decision-making process established in this chapter.

Sec. 2. NEW SECTION. 135L.2 PROSPECTIVE MINOR PARENTS DECISION-MAKING ASSISTANCE PROGRAM ESTABLISHED.

1. A decision-making assistance program is created to provide assistance to minors in making informed decisions relating to pregnancy. The program shall offer and include all of the following:

a. (1) A video, to be developed by a person selected through a request for proposals process or other contractual agreement, which provides information regarding the various options available to a pregnant minor with regard to the pregnancy, including a decision to continue the pregnancy to term and retain parental rights following the child's birth, a decision to continue the pregnancy to term and place the child for adoption following the child's birth, and a decision to terminate the pregnancy through abortion. The video shall provide the information in a manner and language, including but not limited to, the use of closed captioning for the hearing-impaired, which could be understood by a minor.

(2) The video shall explain that public and private agencies are available to assist a pregnant minor with any alternative chosen.

(3) The video shall explain that if the pregnant minor decides to continue the pregnancy to term, and to retain parental rights to the child, the father of the child is liable for the support of the child.

(4) The video shall explain that tendering false documents is a fraudulent practice in the fourth degree pursuant to section 135L.7.

b. Written decision-making materials which include all of the following:

(1) Information regarding the options described in the video including information regarding the agencies and programs available to provide assistance to the pregnant minor in parenting a child; information relating to adoption including but not limited to information regarding child-placing agencies; and information regarding abortion including but not limited to the legal requirements relative to the performance of an abortion on a pregnant minor. The information provided shall include information explaining that if a pregnant minor decides to continue the pregnancy to term and to retain parental rights, the father of the child is liable for the support of the child and that if the pregnant minor seeks public assistance on behalf of the child, the pregnant minor shall, and if the pregnant minor is not otherwise eligible as a public assistance recipient, the pregnant minor may, seek the assistance of the child support recovery unit in establishing the paternity of the child, and in seeking support payments for a reasonable amount of the costs associated with the pregnancy, medical support, and maintenance from the father of the child, or if the father is a minor, from the parents of the minor father. The information shall include a listing of the agencies and programs and the services available from each.

(2) A workbook which is to be used in viewing the video and which includes a questionnaire and exercises to assist a pregnant minor in viewing the video and in considering the options available regarding the minor's pregnancy.

(3) A detachable certification form to be signed by the pregnant minor certifying that the pregnant minor was offered a viewing of the video and the written decision-making materials.

2. a. The video shall be available through the state and local offices of the Iowa department of public health, the department of human services, and the judicial department and through the office of each licensed physician who performs abortions.

b. The video may be available through the office of any licensed physician who does not perform abortions, upon the request of the physician; through any nonprofit agency serving minors, upon the request of the agency; and through any other person providing services to minors, upon the request of the person.

3. During the initial appointment between a licensed physician and a pregnant minor, a licensed physician, who is providing medical services to a pregnant minor, shall offer the viewing of the video and the written decision-making materials to the pregnant minor, and shall obtain the signed and dated certification form from the pregnant minor. If the pregnant minor has previously been offered the viewing of the video and the written decision-making materials by another source, the licensed physician shall obtain the completed

certification form from the other source to verify that the pregnant minor has been offered the viewing of the video and the written decision-making materials. A licensed physician shall not perform an abortion on a pregnant minor prior to obtaining the completed certification form from a pregnant minor. If the pregnant minor decides to terminate parental rights following the child's birth, a copy of the completed certification form shall be attached to the petition for termination of parental rights.

4. A pregnant minor shall be encouraged to select a responsible adult, preferably a parent of the pregnant minor, to accompany the pregnant minor in viewing the video and receiving the decision-making materials.

5. To the extent possible and at the discretion of the pregnant minor, the person responsible for impregnating the pregnant minor shall also be involved in the viewing of the video and in the receipt of written decision-making materials.

6. Following the offering of the viewing of the video and of the written decision-making materials, the pregnant minor shall sign and date the certification form attached to the materials, and shall submit the completed form to the licensed physician or provide the person making the offer with information to send the completed form to the pregnant minor's attending physician. The person offering the viewing of the video and the decision-making materials shall also provide a copy of the completed certification form to the pregnant minor.

Sec. 3. NEW SECTION. 135L.3 NOTIFICATION OF PARENT OF PREGNANT MINOR PRIOR TO THE ADOPTION OF THE CHILD.

Following compliance with the provisions of section 135L.2, a pregnant minor who chooses to place the pregnant minor's child for adoption is subject to the following conditions:

1. Notification of a parent of the pregnant minor of the pregnant minor's decision to place the child for adoption. Notification shall be made at least twenty-four hours prior to the conducting of the hearing on termination of parental rights. The pregnant minor's attorney or the child-placing agency shall provide notification in person or by mailing the notification by restricted certified mail to the parent of the pregnant minor at the usual place of abode of the parent. For the purpose of delivery by restricted certified mail, the time of delivery is deemed to occur at twelve o'clock noon on the next day on which regular mail delivery takes place, subsequent to the mailing.

2. If the pregnant minor objects to the notification of a parent, the pregnant minor may petition the court to authorize waiver of the notification requirement in accordance with the following procedures:

a. The court shall ensure that the pregnant minor is provided with assistance in preparing and filing the petition for waiver of notification and shall ensure that the pregnant minor's identity remains confidential.

b. The pregnant minor may participate in the court proceedings on the pregnant minor's own behalf. The court may appoint a guardian ad litem for the pregnant minor who may be the responsible adult and the court shall appoint a guardian ad litem for the pregnant minor if the pregnant minor is not accompanied by a responsible adult or if the pregnant minor has not viewed the video as provided pursuant to section 135L.2. In appointing a guardian ad litem for the pregnant minor, the court shall consider a person licensed to practice psychology pursuant to chapter 154B, a licensed social worker pursuant to chapter 154C, a licensed marital and family therapist pursuant to chapter 154D, or a licensed mental health counselor pursuant to chapter 154D to serve in the capacity of guardian ad litem. The court shall advise the pregnant minor of the pregnant minor's right to court-appointed legal counsel and shall, upon the pregnant minor's request, provide the pregnant minor with court-appointed legal counsel, at no cost to the pregnant minor.

c. The court proceedings shall be conducted in a manner which protects the confidentiality of the pregnant minor and all court documents pertaining to the proceedings shall remain confidential. Only the pregnant minor, the pregnant minor's guardian ad litem, the

pregnant minor's legal counsel, and persons whose presence is specifically requested by the pregnant minor or by the pregnant minor's guardian ad litem, or by the pregnant minor's legal counsel may attend the hearing on the petition.

d. Notwithstanding any law or rule to the contrary, the court proceedings under this section and section 135L.4 shall be given precedence over other pending matters to ensure that the court reaches a decision expeditiously.

e. Upon petition and following an appropriate hearing, the court shall waive the notification requirements if the court determines either of the following:

(1) That the pregnant minor is mature and capable of providing informed consent to the termination of parental rights for the purposes of adoption of the pregnant minor's child.

(2) That the pregnant minor is not mature, or does not claim to be mature, but that notification is not in the best interest of the pregnant minor.

f. The court shall issue specific factual findings and legal conclusions, in writing, to support the decision.

g. Upon conclusion of the hearing, the court shall immediately issue a written order which shall be provided immediately to the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's legal counsel, or any other person designated by the pregnant minor to receive the order.

h. An expedited, confidential appeal shall be available to a pregnant minor for whom the court denies a petition for waiver of notification. An order granting the pregnant minor's application for waiver of notification is not subject to appeal. Access to the appellate courts for the purpose of an appeal under this section shall be provided to a pregnant minor twenty-four hours a day, seven days a week.

i. A pregnant minor who chooses to utilize the waiver of notification procedures under this section shall not be required to pay a fee at any level of the proceedings. Fees charged and court costs taxed in connection with a proceeding under this section are waived.

j. If the court denies the petition for waiver of notification and the decision is not appealed or all appeals are exhausted, the court shall advise the pregnant minor that, upon the request of the pregnant minor, the court will appoint a licensed marital and family therapist to assist the pregnant minor in addressing any intrafamilial problems. All costs of services provided by a court-appointed licensed marital and family therapist shall be paid by the court through the expenditure of funds appropriated to the judicial department.

k. Venue for proceedings under this section is in any court in the state.

l. The supreme court shall prescribe rules to ensure that the proceedings under this section are performed in an expeditious and confidential manner.

m. The requirements of this section regarding notification of a parent of a pregnant minor who chooses to place the pregnant minor's child for adoption do not apply if any of the following applies:

(1) A parent of the pregnant minor authorizes the pregnant minor's decision, in writing, and a copy of the written authorization is attached to the termination of parental rights petition.

(2) (a) The pregnant minor declares, in a written statement submitted to the pregnant minor's legal counsel or to the child-placing agency providing services to the pregnant minor, a reason for not notifying a parent and a reason for notifying a grandparent or an aunt or uncle of the pregnant minor in lieu of the notification of a parent. Upon receipt of the written statement from the pregnant minor, the pregnant minor's legal counsel or the child-placing agency providing services to the pregnant minor shall provide notification to a grandparent or an aunt or uncle of the pregnant minor, specified by the pregnant minor, in the manner in which notification is provided to a parent.

(b) The notification form shall be in duplicate and shall include both of the following:

(i) A declaration which informs the grandparent or the aunt or uncle of the pregnant

minor that the grandparent or aunt or uncle of the pregnant minor may be subject to civil action if the grandparent or aunt or uncle accepts notification.

(ii) A provision that the grandparent or aunt or uncle of the pregnant minor may refuse acceptance of notification.

(3) The pregnant minor declares that the pregnant minor is a victim of child abuse pursuant to section 232.68, the person responsible for the care of the child is a parent of the child, and either the abuse has been reported pursuant to the procedures prescribed in chapter 232, division III, part 2, or a parent of the child is named in a report of founded child abuse. The department of human services shall maintain confidentiality under chapter 232 regarding the pregnant minor's pregnancy.

(4) The pregnant minor declares that the pregnant minor is a victim of sexual abuse as defined in chapter 709 and has reported the sexual abuse to law enforcement.

n. A copy of the completed certification form pursuant to section 135L.2, and a copy of the notification document mailed to a parent, grandparent, or aunt or uncle of the pregnant minor, or a copy of the order waiving notification shall be attached to the petition for termination of parental rights, unless the pregnant minor is otherwise exempt from obtaining any of these documents under this chapter.

o. Noncompliance with the provisions of this section is not grounds for any of the following:

(1) Denial, modification, vacation, or appeal of a termination of parental rights order issued pursuant to section 600A.9.

(2) Denial, modification, vacation, or appeal of an interlocutory or final adoption decree rendered under section 600.13.

Sec. 4. NEW SECTION. 135L.4 NOTIFICATION OF PARENT PRIOR TO THE PERFORMANCE OF ABORTION ON A PREGNANT MINOR - REQUIREMENTS - CRIMINAL PENALTY.

1. A person shall not perform an abortion on a pregnant minor until at least forty-eight hours' prior notification is provided to a parent of the pregnant minor.

2. The person who will perform the abortion shall provide notification in person or by mailing the notification by restricted certified mail to the parent of the pregnant minor at the usual place of abode of the parent. For the purpose of delivery by restricted certified mail, the time of delivery is deemed to occur at twelve o'clock noon on the next day on which regular mail delivery takes place, subsequent to the mailing.

3. If the pregnant minor objects to the notification of a parent prior to the performance of an abortion on the pregnant minor, the pregnant minor may petition the court to authorize waiver of the notification requirement pursuant to this section in accordance with the following procedures:

a. The court shall ensure that the pregnant minor is provided with assistance in preparing and filing the petition for waiver of notification and shall ensure that the pregnant minor's identity remains confidential.

b. The pregnant minor may participate in the court proceedings on the pregnant minor's own behalf. The court may appoint a guardian ad litem for the pregnant minor and the court shall appoint a guardian ad litem for the pregnant minor if the pregnant minor is not accompanied by a responsible adult or if the pregnant minor has not viewed the video as provided pursuant to section 135L.2. In appointing a guardian ad litem for the pregnant minor, the court shall consider a person licensed to practice psychology pursuant to chapter 154B, a licensed social worker pursuant to chapter 154C, a licensed marital and family therapist pursuant to chapter 154D, or a licensed mental health counselor pursuant to chapter 154D to serve in the capacity of guardian ad litem. The court shall advise the pregnant minor of the pregnant minor's right to court-appointed legal counsel, and shall, upon the pregnant minor's request, provide the pregnant minor with court-appointed legal counsel, at no cost to the pregnant minor.

c. The court proceedings shall be conducted in a manner which protects the confidentiality of the pregnant minor and all court documents pertaining to the proceedings shall

remain confidential. Only the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's legal counsel, and persons whose presence is specifically requested by the pregnant minor, by the pregnant minor's guardian ad litem, or by the pregnant minor's legal counsel may attend the hearing on the petition.

d. Notwithstanding any law or rule to the contrary, the court proceedings under this section and section 135L.3 shall be given precedence over other pending matters to ensure that the court reaches a decision expeditiously.

e. Upon petition and following an appropriate hearing, the court shall waive the notification requirements if the court determines either of the following:

(1) That the pregnant minor is mature and capable of providing informed consent for the performance of an abortion.

(2) That the pregnant minor is not mature, or does not claim to be mature, but that notification is not in the best interest of the pregnant minor.

f. The court shall issue specific factual findings and legal conclusions, in writing, to support the decision.

g. Upon conclusion of the hearing, the court shall immediately issue a written order which shall be provided immediately to the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's legal counsel, or to any other person designated by the pregnant minor to receive the order.

h. An expedited, confidential appeal shall be available to a pregnant minor for whom the court denies a petition for waiver of notification. An order granting the pregnant minor's application for waiver of notification is not subject to appeal. Access to the appellate courts for the purpose of an appeal under this section shall be provided to a pregnant minor twenty-four hours a day, seven days a week.

i. A pregnant minor who chooses to utilize the waiver of notification procedures under this section shall not be required to pay a fee at any level of the proceedings. Fees charged and court costs taxed in connection with a proceeding under this section are waived.

j. If the court denies the petition for waiver of notification and if the decision is not appealed or all appeals are exhausted, the court shall advise the pregnant minor that, upon the request of the pregnant minor, the court will appoint a licensed marital and family therapist to assist the pregnant minor in addressing any intrafamilial problems. All costs of services provided by a court-appointed licensed marital and family therapist shall be paid by the court through the expenditure of funds appropriated to the judicial department.

k. Venue for proceedings under this section is in any court in the state.

l. The supreme court shall prescribe rules to ensure that the proceedings under this section are performed in an expeditious and confidential manner.

m. The requirements of this section regarding notification of a parent of a pregnant minor prior to the performance of an abortion on a pregnant minor do not apply if any of the following applies:

(1) The abortion is authorized in writing by a parent entitled to notification.

(2) (a) The pregnant minor declares, in a written statement submitted to the attending physician, a reason for not notifying a parent and a reason for notifying a grandparent or an aunt or uncle of the pregnant minor in lieu of the notification of a parent. Upon receipt of the written statement from the pregnant minor, the attending physician shall provide notification to a grandparent or an aunt or uncle of the pregnant minor, specified by the pregnant minor, in the manner in which notification is provided to a parent.

(b) The notification form shall be in duplicate and shall include both of the following:

(i) A declaration which informs the grandparent or the aunt or uncle of the pregnant minor that the grandparent or aunt or uncle of the pregnant minor may be subject to civil action if the grandparent or aunt or uncle accepts notification.

(ii) A provision that the grandparent or aunt or uncle of the pregnant minor may refuse acceptance of notification.

(3) The pregnant minor's attending physician certifies in writing that a medical emergency exists which necessitates the immediate performance of an abortion in accordance with section 135L.6.

(4) The pregnant minor declares that the pregnant minor is a victim of child abuse pursuant to section 232.68, the person responsible for the care of the child is a parent of the child, and either the abuse has been reported pursuant to the procedures prescribed in chapter 232, division III, part 2, or a parent of the child is named in a report of founded child abuse. The department of human services shall maintain confidentiality under chapter 232 regarding the pregnant minor's pregnancy and abortion, if the abortion is obtained.

(5) The pregnant minor declares that the pregnant minor is a victim of sexual abuse as defined in chapter 709 and has reported the sexual abuse to law enforcement.

n. A person who performs an abortion in violation of this section is guilty of a serious misdemeanor.

Sec. 5. NEW SECTION. 135L.5 PROSPECTIVE MINOR PARENTS PROGRAM ADVISORY COMMITTEE CREATED.

1. A prospective minor parents program advisory committee is created which shall be composed of all of the following:

a. The following members appointed by the governor:

(1) A health care professional.

(2) A counselor, who has expertise in sexual abuse counseling.

(3) A representative of a child-placing agency other than a child-placing agency under the management or control of any division of the department of human services or any administrator of the department of human services.

(4) A juvenile court judge.

(5) A representative of a crisis pregnancy center.

(6) A representative of an abortion provider.

(7) A representative of an adolescent treatment program.

(8) A school nurse.

(9) A secondary school teacher.

(10) A parent.

(11) A person ordained or designated as a regular leader of a religious community.

(12) The director of public health, or the director's designee.

b. The following nonvoting members:

(1) Two members of the senate appointed by the majority leader of the senate after consultation with the minority leader of the senate.

(2) Two members of the house of representatives appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house.

(3) The director of human services, or the director's designee.

(4) The director of the department of education, or the director's designee.

(5) A minor who is at least fourteen but less than eighteen years of age at the time of the appointment, appointed by the governor.

2. Representative associations of professionals and providers who are to be appointed to the advisory committee may submit a listing of nominees to the governor. The governor may consider the listings in appointing members to the advisory committee. The governor shall appoint members who represent a variety of philosophical views.

3. Members shall serve terms beginning on the date on which all members are initially appointed. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled by the original appointing authority and in the manner of the original appointments.

4. Nonlegislative members shall receive actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6. Legislative members shall receive compensation pursuant to section 2.10.

5. The committee shall select a chairperson, annually, from its membership. A majority of the voting members of the committee constitutes a quorum.

6. The advisory committee shall do all of the following:

a. Develop criteria for the selection of a person, through a request for proposals process or other contractual agreement, to develop the video described in this chapter. Following receipt of applications, or upon agreement of a simple majority of the voting members to a contractual agreement, the advisory committee shall also select the recipient of the contract for development of the video.

b. Develop criteria for information to be included in the video. The criteria shall, at a minimum, require that the person developing the video request input from a variety of interest groups and perspectives which have an interest in pregnancy-related issues and that the video present the various perspectives in an unbiased manner.

c. Develop a process for and provide for the distribution of the video and develop confidentiality requirements relating to the persons involved in viewing the video.

d. Promote use of the video and written decision-making materials through public service announcements and other media formats.

e. Provide ongoing evaluation of the prospective minor parents decision-making assistance program including evaluation of the video and written document and of the notification and waiver system, and make recommendations for improvement.

f. Receive input from the public regarding the program through the use of public hearings, focus groups, surveys, and other formats.

7. The committee, upon the advice of the Iowa department of public health, may receive gifts, grants, or donations for the purpose of implementing and continuing the program.

8. The advisory committee and the producer of the video shall attempt to complete and distribute the video for use not later than January 1, 1997.

9. The advisory committee shall submit a report to the general assembly on or before January 8, 1997, regarding the progress of the committee in completing the committee's duties regarding the development and distribution of the video.

10. The Iowa department of public health shall provide administrative support to the advisory committee.

Sec. 6. NEW SECTION. 135L.6 MEDICAL EMERGENCY EXCEPTION - ALTERNATIVE PROCEDURE.

If a pregnant minor's attending physician certifies in writing that a medical emergency exists which necessitates the immediate performance of an abortion on the pregnant minor, and which results in the inapplicability of section 135L.2 with regard to the required offering of the viewing of the video, of section 135L.3 with regard to notification of a parent prior to the termination of parental rights of a pregnant minor for the purposes of placing the child for adoption, or of section 135L.4 with regard to notification of a parent prior to the performance of an abortion on a pregnant minor, the attending physician shall do the following:

1. Certify in writing the basis for the medical judgment that a medical emergency exists and make the written certification available to a parent of the pregnant minor prior to performance of the abortion, if possible.

2. If it is not possible to provide a parent of the pregnant minor with written certification prior to performance of the abortion under subsection 1, the physician shall provide the written certification to a parent of the pregnant minor within twelve hours following the performance of the abortion unless one of the following applies:

a. The abortion is authorized in writing by a parent entitled to notification.

b. (1) The pregnant minor declares, in a written statement submitted to the attending physician, a reason for not notifying a parent and a reason for notifying a grandparent or an aunt or uncle of the pregnant minor in lieu of the notification of a parent. Upon receipt of the written statement from the pregnant minor, the attending physician shall provide notification to a grandparent or an aunt or uncle of the pregnant minor, specified by the pregnant minor, in the manner in which notification is provided to a parent.

(2) The notification form shall be in duplicate and shall include both of the following:

(a) A declaration which informs the grandparent or the aunt or uncle of the pregnant minor that the grandparent or aunt or uncle of the pregnant minor may be subject to civil action if the grandparent or aunt or uncle accepts notification.

(b) A provision that the grandparent or aunt or uncle of the pregnant minor may refuse acceptance of notification.

c. The pregnant minor declares that the pregnant minor is a victim of child abuse pursuant to section 232.68, the person responsible for the care of the child is a parent of the child, and either the abuse has been reported pursuant to the procedures prescribed in chapter 232, division III, part 2, or a parent of the child is named in a report of founded child abuse. The department of human services shall maintain confidentiality under chapter 232 regarding the pregnant minor's pregnancy and abortion, if an abortion is obtained.

d. The pregnant minor declares that the pregnant minor is a victim of sexual abuse as defined in chapter 709 and has reported the sexual abuse to law enforcement.

e. The pregnant minor elects not to allow notification of the pregnant minor's parent and a court authorizes waiver of the notification requirement following completion of the proceedings prescribed under section 135L.3 or 135L.4.

Sec. 7. NEW SECTION. 135L.7 FRAUDULENT PRACTICE.

A person who does any of the following is guilty of a fraudulent practice in the fourth degree pursuant to section 714.12:

1. Knowingly tenders a false original or copy of the signed and dated certification form described in section 135L.2, to be retained by the licensed physician, to be sent to the pregnant minor's attending physician, or to be attached to the termination of parental rights petition pursuant to section 135L.3.

2. Knowingly tenders a false original or copy of the notification document mailed to a parent, grandparent, or aunt or uncle of the pregnant minor under this chapter, a false original or copy of the written certification to be provided to a parent of a pregnant minor pursuant to section 135L.6, or a false original or copy of the order waiving notification relative to the performance of an abortion on a pregnant minor or relative to the termination of parental rights of a pregnant minor.

Sec. 8. NEW SECTION. 135L.8 IMMUNITIES.

1. With the exception of the civil liability which may apply to a grandparent or aunt or uncle of a pregnant minor who accepts notification under this chapter, a person is immune from any liability, civil or criminal, for any act, omission, or decision made in connection with a good faith effort to comply with the provisions of this chapter.

2. This section shall not be construed to limit civil or criminal liability of a person for any act, omission, or decision made in relation to the performance of a medical procedure on a pregnant minor.

Sec. 9. NEW SECTION. 135L.9 ADOPTION OF RULES - IMPLEMENTATION AND DOCUMENTS.

The Iowa department of public health shall adopt rules to implement the notification procedures pursuant to this chapter including but not limited to rules regarding the documents necessary for notification of a parent, grandparent, or aunt or uncle of a pregnant minor who is designated to receive notification under this chapter.

Sec. 10. NEW SECTION. 232.5 ADOPTION OF CHILD BORN TO A MINOR OR ABORTION PERFORMED ON A MINOR - WAIVER OF NOTIFICATION PROCEEDINGS.

The court shall have exclusive jurisdiction over the proceedings for the granting of an order for waiver of the notification requirements relating to the adoption of a child born to a minor or to the performance of an abortion on a minor pursuant to sections 135L.3 and 135L.4.

Sec. 11. Section 600.13, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Noncompliance with the provisions of section 135L.2 or 135L.3 is not grounds for denial, modification, vacation, or appeal of an interlocutory or final adoption decree.

Sec. 12. Section 600A.4, subsection 4, Code 1995, is amended to read as follows:

4. Either a parent who has signed a release of custody, or a nonsigning parent, may, at any time prior to the entry of an order terminating parental rights, request the juvenile court designated in section 600A.5 to order the revocation of any release of custody previously executed by either parent. If such request is by a signing parent, and is within ninety-six hours of the time such parent signed a release of custody, the juvenile court shall order the release revoked. Otherwise, the juvenile court shall order the release or releases revoked only upon clear and convincing evidence that good cause exists for revocation. Good cause for revocation includes but is not limited to a showing that the release was obtained by fraud, coercion, or misrepresentation of law or fact which was material to its execution. Noncompliance by a pregnant minor with the provisions of section 135L.2 or 135L.3 does not constitute good cause for revocation. In determining whether good cause exists for revocation, the juvenile court shall give paramount consideration to the best interests of the child including avoidance of a disruption of an existing relationship between a parent and child. The juvenile court shall also give due consideration to the interests of the parents of the child and of any person standing in the place of the parents.

Sec. 13. Section 600A.9, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Noncompliance with the provisions of section 135L.2 or 135L.3 is not grounds for denial, modification, vacation, or appeal of a termination of parental rights order.

Sec. 14. EFFECTIVE DATE. The section of this Act which creates section 135L.5 relating to the establishment of the advisory committee, being deemed of immediate importance, takes effect upon enactment. The advisory committee shall be appointed within sixty days of the enactment of this Act and may begin performing committee duties prior to the beginning of the official commencement of the terms of the committee members as provided in section 135L.5 as created in this Act.

If the advisory committee created pursuant to section 135L.5 has completed its duties regarding the development and distribution of the video pursuant to section 135L.2 prior to January 1, 1997, the remainder of this Act takes effect January 1, 1997. However, even if the advisory committee has not completed its duties prior to January 1, 1997, and the video is not developed and distributed prior to January 1, 1997, the remaining sections of this Act, exclusive of the section which creates section 135L.5, and exclusive of the section and provisions which relate to development, distribution, and offering of the video and the written decision-making materials, take effect January 1, 1997.

Sec. 15. REPEAL - ADVISORY COMMITTEE. Section 135L.5 is repealed effective January 1, 1999, or two years following the distribution date of the video as determined by the advisory committee, whichever is later.

Approved March 22, 1996

CHAPTER 1012

REGULATION OF CREDIT UNIONS

S.F. 376

AN ACT relating to the regulation of credit unions by authorizing additional powers and defining certain business relationships and establishing a penalty.

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

Section 1. Section 533.4, subsections 1, 4, 5, and 19, Code 1995, are amended to read as follows:

1. Receive ~~the savings of~~ from its members ~~either~~, nonmembers as prescribed by rule where the credit union is serving predominantly low-income members, other credit unions, and federal, state, county, and city governments, as ~~payment~~ payments on shares or as deposits~~, including the right to conduct Christmas clubs, vacation clubs, and other such thrift organizations within the membership~~. Rules adopted allowing nonmember deposits in credit unions serving predominantly low-income members shall be designed solely to meet the needs of the low-income members.

4. ~~Deposit~~ Make deposits in state and national banks, state and federal savings banks or savings and loan associations, and state and federal credit unions, the accounts of which are insured by the federal deposit insurance corporation or the national credit union share insurance fund.

5. Make investments in:

a. Time deposits in state and national banks ~~and in state banks~~, state and federal savings banks or savings and loan associations, and state and federal credit unions, the deposits of which are insured by the federal deposit insurance corporation or the national credit union share insurance fund.

b. Obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by the United States government or any agency thereof; or any trust or trusts established for investing directly or collectively in the same.

c. General obligations of the state of Iowa and any subdivision ~~thereof~~ of the state.

~~d. Paid-up deposits of savings and loan associations, the deposits of which are insured by the federal savings and loan insurance corporation.~~

~~e.~~ d. Purchase of notes of liquidating credit unions with the approval of the superintendent.

~~f.~~ e. Shares and deposits in other credit unions.

~~g.~~ f. Shares, stocks, loans, and other obligations or a combination thereof of an organization, corporation, or association, provided the membership or ownership, as the case may be, of the organization, corporation, or association is primarily confined or restricted to credit unions or organizations of credit unions and provided that the purpose of the organization, corporation, or association is primarily designed to provide services to credit unions, organizations of credit unions, or credit union members. However, the aggregate amount invested pursuant to this subsection shall not exceed five percent of the assets of the credit union.

~~h.~~ g. Obligations issued by federal land banks, federal intermediate credit banks, banks for cooperatives, or any or all of the federal farm credit banks.

~~i.~~ h. Commercial paper issued by United States corporations as defined by rule.

~~j.~~ i. Corporate bonds as defined by and subject to terms and conditions imposed by the administrator, provided that the administrator shall not approve investment in corporate bonds unless the bonds are rated in the two highest grades of corporate bonds by a nationally accepted rating agency, including but not limited to a rating of AAA or AA from Standard and Poors.

19. Establish one or more offices other than its main office, subject to the approval and regulation of the superintendent, if such offices ~~shall be~~ are reasonably necessary to furnish

service to its membership. A credit union office may furnish all credit union services ordinarily furnished to the membership at the principal place of business of the credit union which operates the office. All transactions of a credit union office shall be transmitted daily to the principal place of business of the credit union which operates the office, and ~~no~~ current recordkeeping functions shall not be maintained at a credit union office except to the extent the credit union which operates the office deems it desirable to keep at the office duplicates of the records kept at the principal place of business of the credit union. The central executive and official business functions of a credit union shall be exercised only at the principal place of business.

A credit union office shall not be opened without the prior written approval of the superintendent. Upon application by a credit union in the form prescribed by the superintendent, the superintendent shall determine, after notice and hearing, if the establishment of the credit union office is reasonably necessary for service to, and is in the best interests of, the members of the credit union.

Notwithstanding the provisions of this section, data processing services and loan documentation recordkeeping functions may be performed or located at an authorized credit union office or at some other location, subject to the approval of the superintendent.

Sec. 2. Section 533.6, subsection 2, Code 1995, is amended to read as follows:

2. The superintendent may make or cause to be made an examination of each credit union whenever the superintendent believes such examination is necessary or advisable, but in no event less frequently than once during each eighteen-month period. A credit union designated as serving predominantly low-income members shall be reviewed during each examination to ensure that such credit union is continuing to meet the standards established by rule of the superintendent. Each credit union and all of its officers and agents shall give to the representatives of the superintendent free access to all books, papers, securities, records, and other sources of information under their control. A report of such examination shall be forwarded to the chairperson of each credit union within thirty days after the completion of the examination. Within thirty days of the receipt of this report, a meeting of the directors shall be called to consider matters contained in the report and the action taken shall be set forth in the minutes of the board. The superintendent may accept, in lieu of the examination of a credit union, an audit report conducted by a certified public accounting firm selected from a list of firms previously approved by the superintendent. The cost of the audit shall be paid by the credit union.

Sec. 3. Section 533.16, subsection 3, Code 1995, is amended to read as follows:

3. A director of a credit union may borrow from that credit union under the provisions of this chapter, but the rates, terms, and conditions of a loan or line of credit either made to or endorsed or guaranteed by the director shall not be ~~made on terms~~ more favorable than ~~those extended~~ the rates, terms, or conditions of comparable loans or lines of credit provided to other members. ~~A director of a credit union may borrow from that credit union to the extent and in the amount of such director's holdings in the credit union in shares and deposits. A director desiring to borrow from the credit union an amount in excess of the director's holdings in shares and deposits shall first submit application for approval by the board of directors at a regular or special meeting. The director making application for the loan shall not be in attendance at the time the board of directors considers the application and shall not take part in the consideration. Prior to consideration of such loan, the director must have submitted to the board a detailed current financial statement.~~ The aggregate amount of all director loans and lines of credit shall not exceed ~~twenty~~ twenty-five percent of the assets of the credit union.

Sec. 4. Section 533.16, subsection 4, paragraph c, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

c. A credit union which obtains a report or opinion by an attorney or from another mortgage lender relating to defects in or liens or encumbrances on the title to real property,

the unmarketability of the title to real property, or the invalidity or unenforceability of liens or encumbrances on real property, shall provide a copy of the report or opinion to the mortgagor and the mortgagor's attorney.

Sec. 5. Section 533.17, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~Immediately before the payment of a dividend~~ At the end of each dividend period, but no less than quarterly, the gross income of the credit union shall ~~determine its gross earnings~~ be determined. A legal reserve ~~for contingencies~~ against losses on loans and against such other losses as may be specified by rule shall be set aside from the gross ~~earnings~~ income in accordance with the following schedule:

Sec. 6. Section 533.17, subsection 2, Code 1995, is amended to read as follows:

2. For the purpose of establishing legal reserves, the following shall not be considered risk assets:

a. Cash on hand.

b. Deposits and shares in ~~federal or state~~ federally insured banks, savings and loan associations, and credit unions.

c. Assets which are insured by, fully guaranteed as to principal and interest by, or due from the United States government, its agencies, and instrumentalities.

d. Loans to other credit unions.

e. Student loans insured under the provisions of Title XX, United States Code, section 1071 to section 1087 or similar state programs.

f. Loans insured by the federal housing administration under Title XII, United States Code, section 1703.

g. Loans fully insured or guaranteed by the federal government, a state government, or any agency of either.

~~g.~~ h. Common trust investments which deal in investments authorized in section 533.4.

~~h.~~ i. Prepaid expenses.

~~i.~~ j. Accrued interest on nonrisk investments.

~~j.~~ k. Furniture and equipment.

~~k.~~ l. Land and buildings.

m. Loans fully secured by a pledge of shares within the credit union.

n. Deposits in the national credit union share insurance fund.

o. Real estate loans in transit to the secondary market as specified by rule.

Sec. 7. Section 533.18, Code 1995, is amended to read as follows:

533.18 DIVIDENDS.

~~1.~~ At such intervals and for such periods as the board of directors may authorize, and after ~~transfers to the~~ provision for required reserves pursuant to section 533.17, the board of directors may declare dividends at such rates and upon such classes of shares as are determined by the board. Such dividends shall be paid on all paid-up shares outstanding at the close of the period for which the dividend is declared.

~~2. Shares which become fully paid up during such dividend period and are outstanding at the close of period shall be entitled to a proportional share of such dividend.~~

~~3. Dividend credit for a month may be accrued on shares which are or become fully paid up during the first fifteen days of that month.~~

Sec. 8. NEW SECTION. 533.49 AUTHORITY TO LEASE SAFE DEPOSIT BOXES.

1. A credit union may lease safe deposit boxes for the storage of property on terms and conditions prescribed by it. Such terms and conditions shall not bind any person to whom the credit union does not give notice of the terms and conditions by delivery of a lease and agreement in writing containing the terms and conditions. A credit union may limit its liability provided such limitations are set forth in the lease and agreement in at least the same size and type as the other substantive provisions of the contract.

2. The lease and agreement of a safe deposit box may provide that evidence tending to prove that property was left in a safe deposit box upon the last entry by the member or the member's authorized agent, and that the property or any part of the property was found missing upon subsequent entry, is not sufficient to raise a presumption that the property was lost by any negligence or wrongdoing for which the credit union is responsible, or put upon the credit union the burden of proof that the alleged loss was not the fault of the credit union.

3. A credit union may lease a safe deposit box to a minor. A credit union may deal with a minor with respect to a safe deposit lease and agreement without the consent of a parent, guardian, or conservator and with the same effect as though the minor were an adult. Any action of the minor with respect to such safe deposit lease and agreement is binding on the minor with the same effect as though the minor were an adult.

4. A credit union which has on file a power of attorney of a member covering a safe deposit lease and agreement, which has not been revoked by the member, shall incur no liability as a result of continuing to honor the provisions of the power of attorney in the event of the death or incompetence of the donor of the power of attorney until the credit union receives written notice of the death, or written notice of adjudication by a court of the incompetence of the member and the appointment of a guardian or conservator.

Sec. 9. NEW SECTION. 533.49A SEARCH PROCEDURE ON DEATH.

A credit union shall permit the person named in a court order or, if no order has been served upon the credit union, the spouse, a parent, an adult descendant, or a person named as executor in a copy of a purported will produced by the person, to open and examine the contents of a safe deposit box leased by a decedent, or to examine any property delivered by a decedent for safekeeping, in the presence of an officer of the credit union. The credit union, if requested by such person, and upon the credit union's receipt of the request, shall deliver:

1. Any writing purported to be a will of the decedent to the court having jurisdiction of the decedent's estate.

2. Any writing purported to be a deed to a burial plot, or to give burial instructions, to the person making the request for a search.

3. Any document purported to be an insurance policy on the life of the decedent to the beneficiary named in the policy. A credit union shall prepare and keep a list of any contents delivered pursuant to this section describing the nature of the property and the individual to whom delivered, and place a copy of the list in the safe deposit box from which the contents were removed.

Sec. 10. NEW SECTION. 533.49B ADVERSE CLAIMS TO PROPERTY IN SAFE DEPOSIT AND SAFEKEEPING.

1. A credit union shall not be required, in the absence of a court order or indemnity required by this section, to recognize any claim to, or claim of authority to exercise control over, property held in safe deposit or property held for safekeeping pursuant to section 533.49D made by a person or persons other than the following:

a. The member in whose name the property is held by the credit union.

b. An individual or group of individuals who are authorized to have access to the safe deposit box, or to the property held for safekeeping, pursuant to a certified corporate resolution or other written arrangement with the member, currently on file with the credit union, which has not been revoked by valid corporate action in the case of a corporation, or by a valid agreement or other valid action appropriate for the form of legal organization of any other member, of which the credit union has received notice and which is not the subject of a dispute known to the credit union as to its original validity. The safe deposit and safekeeping account records of a credit union shall be presumptive evidence as to the identity of the member on whose behalf the property is held.

2. To require a credit union to recognize an adverse claim to, or adverse claim of authority to control, property held in safe deposit or for safekeeping, whoever makes the claim must do either of the following:

a. Obtain and serve on the credit union an appropriate court order or judicial process directed to the credit union, restraining any action with respect to the property until further order of the court or instructing the credit union to deliver the property, in whole or in part, as indicated in the order or process.

b. Deliver to the credit union a bond, in form and amount with sureties satisfactory to the credit union, indemnifying the credit union against any liability, loss, or expense which the credit union might incur because of its refusal to deliver the property to any person described in subsection 1, paragraph "a" or "b".

Sec. 11. NEW SECTION. 533.49C REMEDIES AND PROCEEDINGS FOR NONPAYMENT OF RENT ON SAFE DEPOSIT BOX.

1. A credit union has a lien upon the contents of a safe deposit box for past due rentals and any expense incurred in opening the safe deposit box, replacement of the locks on the safe deposit box, and of a sale made pursuant to this section. If the rental of a safe deposit box is not paid within six months from the day the rental is due, at any time after the six months and while the rental remains unpaid, the credit union shall mail a notice by restricted certified mail to the member at the member's last known address as shown upon the records of the credit union, stating that if the amount due for the rental is not paid on or before a specified day, which shall be at least thirty days after the date of mailing such notice, the credit union will remove the contents of the safe deposit box and hold the contents for the account of the member.

2. If the rental for the safe deposit box has not been paid after the expiration of the period specified in a notice mailed pursuant to subsection 1, the credit union, in the presence of two of its officers, may cause the box to be opened and the contents removed. An inventory of the contents of the safe deposit box shall be made by the two officers present and the contents held by the credit union for the account of the member.

3. If the contents are not claimed within two years after their removal from the safe deposit box, the credit union may proceed to sell so much of the contents as is necessary to pay the past due rentals and expense incurred in opening the safe deposit box, replacement of the locks on the safe deposit box, and the sale of the contents. The sale shall be held at the time and place specified in a notice published prior to the sale once each week for two successive weeks in a newspaper of general circulation published in the city or unincorporated area in which the credit union has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the credit union has its principal place of business. A copy of the published notice shall be mailed to the member at the member's last known address as shown upon the records of the credit union. The notice shall contain the name of the member and need only describe the contents of the safe deposit box in general terms. The contents of any number of safe deposit boxes may be sold under one notice of sale and the cost of the sale apportioned ratably among the several safe deposit box members involved. At the time and place designated in the notice the contents taken from each respective safe deposit box shall be sold separately to the highest bidder for cash and the proceeds of each sale applied to the rentals and expenses due to the credit union and the residue from any such sale shall be held by the credit union for the account of the member or members. An amount held as proceeds from such sale shall be credited with interest at the customary annual rate for savings accounts at the credit union, or in lieu thereof, at the customary rate of interest in the community where such proceeds are held. The crediting of interest does not activate the account to avoid an abandonment as unclaimed property under chapter 556.

4. Notwithstanding the provisions of this section, shares, bonds, or other securities which, at the time of a sale pursuant to subsection 3, are listed on an established stock exchange in the United States, shall not be sold at public sale but may be sold through an established stock exchange. Upon making a sale of any such securities, an officer of the credit union shall execute and attach to the securities so sold an affidavit reciting facts

showing that the securities were sold pursuant to this section and that the credit union has complied with the provisions of this section. The affidavit constitutes sufficient authority to any corporation whose shares are sold or to any registrar or transfer agent of such corporation to cancel the certificates representing the shares to the purchaser of the shares, and to any registrar, trustee, or transfer agent of registered bonds or other securities, to register any such bonds or other securities in the name of the purchaser of the bonds or other securities.

5. The proceeds of any sale made pursuant to this section, after the payment of any amounts with respect to which the credit union has a lien, any property which was not offered for sale and property which, although offered for sale, was not sold, shall be retained by the credit union until such time as the property is presumed abandoned according to section 556.2, and shall be handled pursuant to chapter 556.

Sec. 12. NEW SECTION. 533.49D AUTHORITY TO RECEIVE PROPERTY FOR SAFEKEEPING.

1. A credit union may accept property for safekeeping if, except in the case of night depositories, the credit union issues a receipt for the property. A credit union accepting property for safekeeping shall purchase and maintain reasonable insurance coverage to ensure against loss incurred in connection with the acceptance of property for safekeeping. Property held for safekeeping shall not be commingled with the property of the credit union or the property of others.

2. A credit union has a lien upon any property held for safekeeping and for expenses incurred in any sale made pursuant to this subsection. If the charge for safekeeping of property is not paid within six months from the day the charge is due, at any time after the six months and while the charge remains unpaid, the credit union may mail a notice to the member at the member's last known address as shown upon the records of the credit union, stating that if the amount due is not paid on or before a specified day, which shall be at least thirty days after the date of mailing the notice, the credit union will remove the property from safekeeping and hold the property for the account of the member. After the expiration of the period specified in the notice, if the charge for safekeeping has not been paid, the credit union may remove the property from safekeeping, cause the property to be inventoried, and hold the property for the account of the member. If the property is not claimed within two years after its removal from safekeeping the credit union may proceed to sell so much of the property as is necessary to pay the charge which remains unpaid and the expense incurred in making the sale in the manner provided for in section 533.49C, subsections 3 and 4. The proceeds of any sale made pursuant to this section, after payment of any amounts with respect to which the credit union has a lien, any property which was not offered for sale, and property which, although offered for sale, was not sold, shall be retained by the credit union until such time as the property is presumed abandoned according to section 556.2, and shall be handled pursuant to chapter 556.

Sec. 13. Section 533.61, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A list of credit unions which have been designated as serving predominantly low-income members pursuant to section 533.4, subsection 1.

Sec. 14. Section 533.62, subsection 4, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. A loan of money or property shall not be made directly or indirectly by a state-chartered credit union, or by its officers, directors, or employees, to the superintendent, deputy, or employee of the credit union division. The superintendent, deputy, or employee of the credit union division shall not accept from a state-chartered credit union, or its officers, directors, or employees, a loan of money or property, either directly or indirectly.

b. The superintendent, deputy, or employee of the credit union division shall not perform any services for or be an officer, director, or employee of a state-chartered credit union.

c. A person who willfully undertakes to establish a business dealing contrary to this section commits a serious misdemeanor, and shall be permanently disqualified from acting as an officer, director, or employee of a state-chartered credit union and permanently disqualified from acting as superintendent, deputy, or employee of the credit union division.

d. The superintendent, deputy, or employee of the credit union division who is convicted of theft, burglary, robbery, larceny, or embezzlement as a result of a violation of the laws of any state or of the United States while holding such position shall be immediately disqualified from employment and shall be forever disqualified from holding any position in the credit union division.

Approved March 25, 1996

CHAPTER 1013

INVESTMENTS BY LIFE INSURANCE COMPANIES

H.F. 2211

AN ACT relating to the percentage of the legal reserve of a life insurance company which may be invested in certain corporate obligations.

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

Section 1. Section 511.8, subsection 8, paragraph b, subparagraph (2), Code 1995, is amended to read as follows:

(2) ~~Fifty~~ Seventy-five percent of the legal reserve in the securities described in subsection 5 issued by other than public utility corporations. Fifty percent of the legal reserve in the securities described in subsection 5 issued by public utility corporations.

Approved March 25, 1996

CHAPTER 1014

MUTUAL INSURANCE HOLDING COMPANIES

H.F. 2363

AN ACT authorizing a foreign mutual insurance company or a foreign health service corporation to reorganize by forming an insurance holding company, and providing that a mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of a reorganized domestic or foreign insurance company.

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

Section 1. Section 521A.14, subsection 2, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A foreign mutual insurance company, or a foreign health service corporation, which if a domestic corporation would be organized under chapter 514, may reorganize upon the approval of the commissioner and in compliance with the requirements of any law or regulation which is applicable to the foreign mutual insurance

company or foreign health service corporation by merging its policyholders' or subscribers' membership interests into a mutual insurance holding company formed pursuant to subsection 1 and continuing the corporate existence of the reorganizing foreign mutual insurance company or reorganizing foreign health service corporation as a foreign stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a public hearing as provided in section 521A.3, subsection 4, paragraph "b", may approve the proposed merger. The commissioner may retain consultants as provided in section 521A.3, subsection 4, paragraph "c". A merger pursuant to this paragraph is subject to section 521A.3, subsections 1, 2, and 3. The reorganizing foreign mutual insurance company or reorganizing foreign health service corporation may remain a foreign company or foreign corporation after the merger, and may be admitted to do business in this state. A foreign mutual insurance company or foreign mutual health service corporation which is a party to the merger may at the same time redomesticate in this state by complying with the applicable requirements of this state and its state of domicile. The provisions of paragraph "b" shall apply to a merger authorized under this paragraph, except that a reference to policyholders in that paragraph is also deemed to include subscribers in the case of a health service corporation.

Sec. 2. Section 521A.14, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The majority of the voting shares of the capital stock of the reorganized insurance company, which is required by this section to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subjected to a security interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation of, in or on the majority of the voting shares of the reorganized insurance company which is required by this section to be at all times owned by a mutual insurance holding company, is in violation of this section and shall be void in inverse chronological order of the date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, or hypothecation or alienation, as to the shares necessary to constitute a majority of such voting shares. The majority of the voting shares of the capital stock of the reorganized insurance company which is required by this section to be at all times owned by a mutual insurance holding company shall not be subject to execution and levy as provided in chapter 626. The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two or more reorganized insurance companies or two or more intermediate holding companies which were subsidiaries of the same mutual insurance holding company are subject to the same requirements, restrictions, and limitations as provided in this section to which the shares of the merging or consolidating reorganized insurance companies or intermediate holding companies were subject by this section prior to the merger or consolidation.

As used in this section, "majority of the voting shares of the capital stock of the reorganized insurance company" means shares of the capital stock of the reorganized insurance company which carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of the reorganized insurance company for the election of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurance company. The ownership of a majority of the voting shares of the capital stock of the reorganized insurance company which are required by this section to be at all times owned by a parent mutual insurance holding company includes indirect ownership through one or more intermediate holding companies in a corporate structure approved by the commissioner. However, indirect ownership through one or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurance company. The commissioner shall have jurisdiction over an intermediate

holding company as if it were a mutual insurance holding company. As used in this section, "intermediate holding company" means a holding company which is a subsidiary of a mutual insurance holding company, and which either directly or through a subsidiary intermediate holding company has one or more subsidiary reorganized insurance companies of which a majority of the voting shares of the capital stock would otherwise have been required by this section to be at all times owned by the mutual insurance holding company.

Approved March 25, 1996

CHAPTER 1015

FILING OF INSTRUMENTS BY COUNTY RECORDERS

H.F. 2299

AN ACT relating to filing of instruments by county recorders.

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

Section 1. Section 331.606, subsection 1, Code 1995, is amended to read as follows:

1. In addition to other requirements specified by law, the recorder shall note in the fee book the date of filing of each instrument, the number and character of the instrument, and the name of each grantor and grantee named in the instrument. In numbering the instruments, the recorder ~~shall~~ may start with the number one immediately following the date of annual settlement with the board and continue to number them consecutively until the next annual settlement with the board or the recorder may start with number one on the first working day of the calendar year and continue to number the instruments consecutively until the last working day of the calendar year.

Approved March 25, 1996

CHAPTER 1016

HAZARDOUS MATERIALS TRANSPORTATION

H.F. 2303

AN ACT relating to hazardous materials transportation.

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

Section 1. 1991 Iowa Acts, chapter 127, section 2, as amended by 1994 Iowa Acts, chapter 1087, section 14, is repealed.

Approved March 25, 1996

CHAPTER 1017

MOTORCYCLE RIDER EDUCATION

H.F. 2225

AN ACT relating to motorcycle rider education and providing an effective date.

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

Section 1. Section 321.189, subsection 7, Code Supplement 1995, is amended by striking the subsection and inserting in lieu thereof the following:

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 or from a private or commercial driver education school licensed by the department before the class M license will be issued. 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.

Sec. 2. Section 321.189, subsection 8, paragraph a, Code Supplement 1995, is amended to read as follows:

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.

Sec. 3. Section 321.189, subsection 9, Code Supplement 1995, is amended to read as follows:

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. 4. 1994 Iowa Acts, chapter 1102, section 4, as amended by 1994 Iowa Acts, chapter 1199, section 52, and 1995 Iowa Acts, chapter 118, section 37, is repealed.

Sec. 5. The amendment to section 321.189, subsection 7, Code 1995, as contained in 1995 Iowa Acts, chapter 118, section 22, and which would take effect May 1, 1997, is void.

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

Approved March 29, 1996

CHAPTER 1018

POSTCONVICTION PROCEEDINGS - APPEALS

S.F. 2087

AN ACT providing that appeal of certain sentences be by writ of certiorari.

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

Section 1. Section 822.9, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

822.9 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 a party is seeking an appeal under section 822.2, subsection 6, the appeal shall be by writ of certiorari.

Approved March 29, 1996

CHAPTER 1019

COURT RECORDS - MISCELLANEOUS PROVISIONS

S.F. 2405

AN ACT relating to the duties of the clerk of court concerning court records.

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

Section 1. Section 236.5, subsection 5, Code Supplement 1995, is amended to read as follows:

5. A ~~certified~~ copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant and the county sheriff having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four hour dispatcher for the law enforcement agencies upon notification by the clerk. ~~The clerk shall send or deliver a written copy of any such document to the law enforcement agencies and the twenty-four hour dispatcher within twenty-four hours of filing the document.~~

Sec. 2. Section 602.8103, subsection 2, Code 1995, is amended to read as follows:

2. Reproduce original records of the court by any reasonably permanent legible means including, but not limited to, reproduction by photographing, photostating, microfilming, ~~and~~ computer cards, and electronic digital format. The reproduction shall include proper indexing. The reproduced record has the same authenticity as the original record. The supreme court shall adopt rules to provide for continued evaluation of the accessibility of records stored or reproduced in electronic digital format.

Sec. 3. Section 602.8103, subsection 4, paragraph c, Code 1995, is amended to read as follows:

c. Records, dockets, and court files of civil and criminal actions heard in the municipal court which were transferred to the clerk, other than juvenile and adoption proceedings, or heard in justice of the peace proceedings, after a period of twenty years from the date of filing of the actions.

Sec. 4. Section 602.8103, subsection 4, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Court reporters' notes and certified transcripts of those notes in mental health hearings under section 229.12 and substance abuse hearings under section 125.82, ninety days after respondent has been discharged from involuntary custody.

Approved March 29, 1996

CHAPTER 1020

VESSELS - CERTIFICATES OF TITLE

S.F. 2259

AN ACT relating to issuance of a certificate of title for a documented vessel.

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

Section 1. Section 462A.77, subsection 3, Code 1995, is amended to read as follows:

3. a. A person who, on January 1, 1988, is the owner of a vessel seventeen feet or longer in length with a valid certificate of number issued by the state is not required to file an application for a certificate of title for the vessel. A person who, on or after January 1, 1988, purchases a vessel seventeen feet or longer in length which was registered with a valid certificate of number issued by this state before January 1, 1988, shall obtain a certificate of title for the vessel.

b. A person who is the owner of a vessel that is documented with the United States coast guard is not required to file an application for a certificate of title for the vessel and the vessel is exempt from the requirements of sections 462A.82* and 462A.84.

Sec. 2. Section 462A.82, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If a vessel is documented with the United States coast guard, the owner shall mail or deliver to the county recorder proof of the documentation and the owner's certificate of title issued pursuant to this chapter is canceled upon the delivery. A title tax is not required on these transactions.

Approved March 29, 1996

*Section 462A.82, subsections 1 and 2 probably intended

CHAPTER 1021

FINANCIAL INSTITUTION ELIGIBILITY FOR STATE PUBLIC FUNDS

S.F. 2408

AN ACT relating to disclosure requirements under the federal Community Reinvestment Act with respect to the eligibility of a financial institution to receive state public funds.

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

Section 1. Section 12C.6, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Public deposits shall be deposited with reasonable promptness in a depository legally designated as depository for the funds. A committee composed of the superintendent of banking, the superintendent of credit unions, the auditor of state or a designee, and the treasurer of state shall meet on or about the first of each month or at other times as the committee may prescribe and by majority action shall establish a minimum rate to be earned on state funds placed in time deposits. State funds invested in depository time certificates of deposit shall draw interest at not less than the rate established, effective on the date of investment. An interest rate established by the committee under this section shall be in effect commencing on the eighth calendar day following the day the rate is established and until a different rate is established and takes effect. The committee shall give advisory notice of an interest rate established under this section. This notice may be given by publication in one or more newspapers, by publication in the Iowa administrative bulletin, by ordinary mail to persons directly affected, by any other method determined by the committee, or by a combination of these. In all cases, the notice shall be published in the Iowa administrative bulletin. The notice shall contain the following words:

Sec. 2. Section 12C.6A, subsections 2 and 3, Code 1995, are amended to read as follows:

2. In addition to establishing a minimum interest rate for public funds pursuant to section 12C.6, the committee composed of the superintendent of banking, the superintendent of credit unions, 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,~~ unless the financial institution has received a rating of satisfactory or higher pursuant to the federal Community Reinvestment Act, 12 U.S.C. § 2901 et seq., ~~in satisfaction of the written statement requirement under this subsection~~ and such rating is certified to the committee by the superintendent of banking. 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.

Sec. 3. Section 12C.6A, subsection 4, paragraphs d and g, Code 1995, are amended to read as follows:

d. Practices intended to discourage application for ~~types of credit set forth in the Community Reinvestment Act statement~~ home mortgages, small business loans, small farm loans, community development loans, and, if consumer lending constitutes a substantial majority of a financial institution's business, consumer loans.

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.~~

Approved March 29, 1996

CHAPTER 1022

NATURAL RESOURCE COMMISSION - REMOVAL OF POLITICAL ACTIVITY BAN

S.F. 2278

AN ACT repealing the prohibition on political activity by a member, officer, or employee of the natural resource commission.

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

Section 1. REPEAL. Section 456A.22, Code 1995, is repealed.

Approved March 29, 1996

CHAPTER 1023

HIV-RELATED TESTS

H.F. 2107

AN ACT relating to the requirements regarding human immunodeficiency virus-related tests and making existing remedies applicable.

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

Section 1. Section 141.22, subsection 5, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The performance by a health care provider or health facility of an HIV-related test when the subject of the test is deceased, a significant exposure as defined pursuant to section 141.22A, has occurred, and written consent is obtained from any of the following persons, in order of priority stated, if persons in prior classes are not available:

(1) The person designated as the attorney in fact of the deceased person pursuant to chapter 144B, who was acting as attorney in fact at the time of the deceased person's death.

(2) The legal guardian of the deceased person at the time of the deceased person's death.

(3) The spouse of the deceased person.
(4) An adult child of the deceased person.
(5) A parent of the deceased person.
(6) An adult sibling of the deceased person.
(7) Any other member of the deceased person's family who is authorized to dispose of the body.
(8) The county medical examiner.

Sec. 2. Section 141.23, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Any person who secures a written release of test results executed by a person authorized to provide consent to performance of an HIV-related test pursuant to section 141.22, subsection 5, paragraph "d".

Approved April 1, 1996

CHAPTER 1024

REGULATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS
H.F. 2152

AN ACT relating to the delay of the repeal for the exemption of certain multiple employer welfare arrangements from regulation by the insurance division and providing an effective date.

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

Section 1. 1994 Iowa Acts, chapter 1038, section 3, as amended by 1995 Iowa Acts, chapter 33, section 1, is amended to read as follows:

SEC. 3. REPEAL. This Act is repealed effective July 1, ~~1996~~ 1997.

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

Approved April 1, 1996

CHAPTER 1025

SECURITIES REGULATION
S.F. 2363

AN ACT relating to entities and subject matter under the regulatory authority of the securities bureau of the division of insurance.

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

Section 1. Section 502.102, subsection 14, Code 1995, is amended to read as follows:

14. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit sharing agreement; collateral

trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under such a lease, right, or royalty; an interest in a limited liability company or any class or series of such interest, including any fractional or other interest in such interest; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period. "Security" also does not include an interest in a limited liability company if the person claiming that such an interest is not a security proves that all of the members of the limited liability company are actively engaged in the management of the limited liability company; provided that the evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company.

Sec. 2. Section 502.202, subsection 1, Code 1995, is amended to read as follows:

1. Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; ~~but~~. However, this exemption shall not include any revenue obligation payable from payments to be made in respect of property or money used under a lease, sale or loan arrangement by or for a nongovernmental industrial or commercial enterprise, unless such payments are or will be made or unconditionally guaranteed by a person whose securities are exempt from registration under this chapter by (a) ~~this section~~, subsection 7, ~~or~~ 8, or 18, or (b) subsection 9 ~~of this section~~, provided the issuer first files with the administrator a written notice specifying the terms of the offer and the administrator does not by order disallow the exemption within fifteen days thereafter.

Sec. 3. Section 502.202, subsection 8, Code 1995, is amended to read as follows:

8. Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, ~~the Midwest Stock Exchange, the Pacific Coast Stock Exchange,~~ or any other national securities exchange registered under the Securities Exchange Act of 1934 and designated by rule of the administrator; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing.

Sec. 4. Section 502.203, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. The security was issued by an issuer which has a class of securities ~~currently registered~~ subject to registration under section 12 of the Securities Exchange Act of 1934, and has been subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 for not less than ninety days before the transaction;

Sec. 5. Section 502.203, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Any other security or transaction or class of securities or transactions exempted, by the administrator by rule, from requirements provided in section 502.201 or 502.602.

Sec. 6. Section 502.206, subsection 4, Code 1995, is amended to read as follows:

4. The registrant shall notify the administrator promptly ~~by telephone or telegram~~ in

writing, which may be by electronic, telegraphic, or facsimile transmission, of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall file a post-effective amendment promptly containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices and other matters dependent upon the offering price. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the administrator may enter a stop order, without notice or hearing, retroactively denying the effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection is effected, if the administrator promptly notifies the registrant ~~by telephone or telegram~~ of the issuance of such order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment the stop order shall be vacated as of the time of its entry. The administrator may by rule or order waive any of the conditions specified in subsection 2 or 3.

Sec. 7. Section 502.301, subsection 1, paragraph b, subparagraph (1), Code 1995, is amended to read as follows:

(1) The broker-dealer effects transactions in this state exclusively with or through the issuers of the securities involved in the transaction, other broker-dealers, banks, trust companies, insurance companies, or investment companies as defined in the Investment Company Act of 1940, pension or profit sharing trusts, or other financial institutions ~~or institutional buyers~~, whether acting for themselves or as trustees;

Sec. 8. Section 502.302, subsection 1, Code 1995, is amended to read as follows:

1. A broker-dealer or agent may obtain an initial or renewal license by filing with the administrator, or an organization which the administrator by rule designates, an application together with a consent to service of process pursuant to section 502.609 and the appropriate filing fee. The application shall contain the information the administrator requires by rule concerning the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer, the qualifications and experience of any partner, officer, director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony, and any other matters which the administrator determines are relevant to the application. If no denial order is in effect and no proceeding is pending under section 502.304, registration becomes effective at noon of the ~~thirtieth~~ sixtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The administrator may by rule or order specify an earlier effective date.

Sec. 9. Section 502.304, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. Does either of the following:

(1) Refuses to allow or otherwise impedes the securities bureau from conducting an audit, examination, inspection, or investigation as provided under section 502.303 or 502.603, including by withholding or concealing records or refusing to furnish records, if the records are required to be kept either under this chapter or under rules adopted under this chapter or by the securities bureau acting under this chapter.

(2) Refuses securities bureau access to any office or location within an office to conduct an audit, examination, inspection, or investigation.

Sec. 10. Section 502.304, subsection 2, Code 1995, is amended to read as follows:

2. The administrator may not institute a suspension or revocation proceeding under subsection 1, paragraphs "c" through "f", on the basis of a fact known to the administrator when registration became effective unless the proceeding is instituted within ~~sixty~~ ninety days after the effective date.

Sec. 11. Section 502.304, subsection 4, Code 1995, is amended to read as follows:

4. a. If the administrator finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, or agent, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after search, the administrator may by order revoke the registration or application.

b. If the administrator finds that the applicant or registrant for registration has abandoned the application or registration, the administrator may enter an order of abandonment, and limit or eliminate further consideration of the application or registration, as provided by the administrator. The administrator may enter an order under this paragraph if notice is sent to the applicant or registrant, and either the administrator does not receive a response by the applicant or registrant within forty-five days from the date that the notice was delivered, or action is not taken by the applicant or registrant within the time specified by the administrator in the notice, whichever is later.

Sec. 12. Section 502.304, subsection 5, Code 1995, is amended to read as follows:

5. Withdrawal from registration as a broker-dealer or agent becomes effective thirty days after receipt of an application to withdraw or within such shorter period of time as the administrator may by order determine, unless a ~~revocation or suspension~~ proceeding to deny, suspend, or revoke a registration is pending when the application is filed or a proceeding to ~~revoke or suspend~~ deny, suspend, or revoke a registration, or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the administrator may nevertheless institute a revocation or suspension proceeding under subsection 1, paragraph "b", within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

Sec. 13. Section 502.502, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A copy of any suit or arbitration action filed under this section shall be served upon the administrator within twenty days of the filing in the form and manner prescribed by the administrator by rule or order, provided that the failure to comply with this provision shall not invalidate the action which is the subject of the suit.

Sec. 14. Section 502.604, subsection 2, Code 1995, is amended to read as follows:

2. Bring an action in the district court to enjoin the act or practice and to enforce compliance with this chapter or a rule or order adopted or issued pursuant to this chapter. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. In addition, upon a proper showing by the administrator, the court may enter an order of rescission, restitution, or disgorgement directed at any person who has engaged in an act constituting a violation of this chapter, or a rule or order adopted or issued pursuant to this chapter, and may order the payment of prejudgment and postjudgment interest. The administrator shall not be required to post a bond.

Approved April 1, 1996

CHAPTER 1026

LETTERS OF CREDIT - UNIFORM COMMERCIAL CODE

S.F. 2270

AN ACT amending the uniform commercial code relating to letters of credit and providing an effective date.

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

Section 1. Section 554.5102, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5102 DEFINITIONS.

1. In this Article unless the context otherwise requires:

a. "Adviser" means a person who, at the request of the issuer, a confirmer, or another adviser, notifies or requests another adviser to notify the beneficiary that a letter of credit has been issued, confirmed, or amended.

b. "Applicant" means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer.

c. "Beneficiary" means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferable letter of credit.

d. "Confirmer" means a nominated person who undertakes, at the request or with the consent of the issuer, to honor a presentation under a letter of credit issued by another.

e. "Dishonor" of a letter of credit means failure timely to honor or to take an interim action, such as acceptance of a draft, that may be required by the letter of credit.

f. "Document" means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion (i) which is presented in a written or other medium permitted by the letter of credit or, unless prohibited by the letter of credit, by the standard practice referred to in section 554.5108, subsection 5, and (ii) which is capable of being examined for compliance with the terms and conditions of the letter of credit. A document may not be oral.

g. "Good faith" means honesty in fact in the conduct or transaction concerned.

h. "Honor" of a letter of credit means performance of the issuer's undertaking in the letter of credit to pay or deliver an item of value. Unless the letter of credit otherwise provides, "honor" occurs

(1) upon payment,

(2) if the letter of credit provides for acceptance, upon acceptance of a draft and, at maturity, its payment, or

(3) if the letter of credit provides for incurring a deferred obligation, upon incurring the obligation and, at maturity, its performance.

i. "Issuer" means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes.

j. "Letter of credit" means a definite undertaking that satisfies the requirements of section 554.5104 by an issuer to a beneficiary at the request or for the account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value.

k. "Nominated person" means a person whom the issuer (i) designates or authorizes to pay, accept, negotiate, or otherwise give value under a letter of credit and (ii) undertakes by agreement or custom and practice to reimburse.

l. "Presentation" means delivery of a document to an issuer or nominated person for honor or giving of value under a letter of credit.

m. "Presenter" means a person making a presentation as or on behalf of a beneficiary or nominated person.

n. "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form.

o. "Successor of a beneficiary" means a person who succeeds to substantially all of the rights of a beneficiary by operation of law, including a corporation with or into which the beneficiary has been merged or consolidated, an administrator, executor, personal representative, trustee in bankruptcy, debtor in possession, liquidator, and receiver.

2. Definitions in other Articles applying to this Article and the sections in which they appear are:

"Accept" or "Acceptance"	Section 554.3409
"Value"	Sections 554.3303, 554.4211

3. Article 1 contains certain additional general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 2. Section 554.5103, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5103 SCOPE.

1. This Article applies to letters of credit and to certain rights and obligations arising out of transactions involving letters of credit.

2. The statement of a rule in this Article does not by itself require, imply, or negate application of the same or a different rule to a situation not provided for, or to a person not specified, in this Article.

3. With the exception of this subsection, subsections 1 and 4, section 554.5102, subsection 1, paragraphs "i" and "j", section 554.5106, subsection 4, and section 554.5114, subsection 4, and except to the extent prohibited in section 554.1102, subsection 3, and section 554.5117, subsection 4, the effect of this Article may be varied by agreement or by a provision stated or incorporated by reference in an undertaking. A term in an agreement or undertaking generally excusing liability or generally limiting remedies for failure to perform obligations is not sufficient to vary obligations prescribed by this Article.

4. Rights and obligations of an issuer to a beneficiary or a nominated person under a letter of credit are independent of the existence, performance, or nonperformance of a contract or arrangement out of which the letter of credit arises or which underlies it, including contracts or arrangements between the issuer and the applicant and between the applicant and the beneficiary.

Sec. 3. Section 554.5104, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5104 FORMAL REQUIREMENTS.

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a record and is authenticated (i) by a signature or (ii) in accordance with the agreement of the parties or the standard practice referred to in section 554.5108, subsection 5.

Sec. 4. Section 554.5105, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5105 CONSIDERATION.

Consideration is not required to issue, amend, transfer, or cancel a letter of credit, advice, or confirmation.

Sec. 5. Section 554.5106, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5106 ISSUANCE, AMENDMENT, CANCELLATION, AND DURATION.

1. A letter of credit is issued and becomes enforceable according to its terms against the issuer when the issuer sends or otherwise transmits it to the person requested to advise or to the beneficiary. A letter of credit is revocable only if it so provides.

2. After a letter of credit is issued, rights and obligations of a beneficiary, applicant, confirmer, and issuer are not affected by an amendment or cancellation to which that person has not consented except to the extent the letter of credit provides that it is revocable or that the issuer may amend or cancel the letter of credit without that consent.

3. If there is no stated expiration date or other provision that determines its duration, a letter of credit expires one year after its stated date of issuance or, if none is stated, after the date on which it is issued.

4. A letter of credit that states that it is perpetual expires five years after its stated date of issuance or, if none is stated, after the date on which it is issued.

Sec. 6. Section 554.5107, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5107 CONFIRMER, NOMINATED PERSON, AND ADVISER.

1. A confirmer is directly obligated on a letter of credit and has the rights and obligations of an issuer to the extent of its confirmation. The confirmer also has rights against and obligations to the issuer as if the issuer were an applicant and the confirmer had issued the letter of credit at the request and for the account of the issuer.

2. A nominated person who is not a confirmer is not obligated to honor or otherwise give value for a presentation.

3. A person requested to advise may decline to act as an adviser. An adviser that is not a confirmer is not obligated to honor or give value for a presentation. An adviser undertakes to the issuer and to the beneficiary accurately to advise the terms of the letter of credit, confirmation, amendment, or advice received by that person and undertakes to the beneficiary to check the apparent authenticity of the request to advise. Even if the advice is inaccurate, the letter of credit, confirmation, or amendment is enforceable as issued.

4. A person who notifies a transferee beneficiary of the terms of a letter of credit, confirmation, amendment, or advice has the rights and obligations of an adviser under subsection 3. The terms in the notice to the transferee beneficiary may differ from the terms in any notice to the transferor beneficiary to the extent permitted by the letter of credit, confirmation, amendment, or advice received by the person who so notifies.

Sec. 7. Section 554.5108, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5108 ISSUER'S RIGHTS AND OBLIGATIONS.

1. Except as otherwise provided in section 554.5109, an issuer shall honor a presentation that, as determined by the standard practice referred to in subsection 5, appears on its face strictly to comply with the terms and conditions of the letter of credit. Except as otherwise provided in section 554.5113 and unless otherwise agreed with the applicant, an issuer shall dishonor a presentation that does not appear so to comply.

2. An issuer has a reasonable time after presentation, but not beyond the end of the seventh business day of the issuer after the day of its receipt of documents:

a. to honor,

b. if the letter of credit provides for honor to be completed more than seven business days after presentation, to accept a draft or incur a deferred obligation, or

c. to give notice to the presenter of discrepancies in the presentation.

3. Except as otherwise provided in subsection 4, an issuer is precluded from asserting as a basis for dishonor any discrepancy if timely notice is not given, or any discrepancy not stated in the notice if timely notice is given.

4. Failure to give the notice specified in subsection 2 or to mention fraud, forgery, or expiration in the notice does not preclude the issuer from asserting as a basis for dishonor fraud or forgery as described in section 554.5109, subsection 1, or expiration of the letter of credit before presentation.

5. An issuer shall observe standard practice of financial institutions that regularly issue letters of credit. Determination of the issuer's observance of the standard practice is a

matter of interpretation for the court. The court shall offer the parties a reasonable opportunity to present evidence of the standard practice.

6. An issuer is not responsible for:

a. the performance or nonperformance of the underlying contract, arrangement, or transaction,

b. an act or omission of others, or

c. observance or knowledge of the usage of a particular trade other than the standard practice referred to in subsection 5.

7. If an undertaking constituting a letter of credit under section 554.5102, subsection 1, paragraph "j", contains nondocumentary conditions, an issuer shall disregard the nondocumentary conditions and treat them as if they were not stated.

8. An issuer that has dishonored a presentation shall return the documents or hold them at the disposal of, and send advice to that effect to, the presenter.

9. An issuer that has honored a presentation as permitted or required by this Article:

a. is entitled to be reimbursed by the applicant in immediately available funds not later than the date of its payment of funds;

b. takes the documents free of claims of the beneficiary or presenter;

c. is precluded from asserting a right of recourse on a draft under sections 554.3414 and 554.3415;

d. except as otherwise provided in sections 554.5110 and 554.5117, is precluded from restitution of money paid or other value given by mistake to the extent the mistake concerns discrepancies in the documents or tender which are apparent on the face of the presentation; and

e. is discharged to the extent of its performance under the letter of credit unless the issuer honored a presentation in which a required signature of a beneficiary was forged.

Sec. 8. Section 554.5109, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5109 FRAUD AND FORGERY.

1. If a presentation is made that appears on its face strictly to comply with the terms and conditions of the letter of credit, but a required document is forged or materially fraudulent, or honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant:

a. the issuer shall honor the presentation, if honor is demanded by (i) a nominated person who has given value in good faith and without notice of forgery or material fraud, (ii) a confirmer who has honored its confirmation in good faith, (iii) a holder in due course of a draft drawn under the letter of credit which was taken after acceptance by the issuer or nominated person, or (iv) an assignee of the issuer's or nominated person's deferred obligation that was taken for value and without notice of forgery or material fraud after the obligation was incurred by the issuer or nominated person; and

b. the issuer, acting in good faith, may honor or dishonor the presentation in any other case.

2. If an applicant claims that a required document is forged or materially fraudulent or that honor of the presentation would facilitate a material fraud by the beneficiary on the issuer or applicant, a court of competent jurisdiction may temporarily or permanently enjoin the issuer from honoring a presentation or grant similar relief against the issuer or other persons only if the court finds that:

a. the relief is not prohibited under the law applicable to an accepted draft or deferred obligation incurred by the issuer;

b. a beneficiary, issuer, or nominated person who may be adversely affected is adequately protected against loss that it may suffer because the relief is granted;

c. all of the conditions to entitle a person to the relief under the law of this state have been met; and

d. on the basis of the information submitted to the court, the applicant is more likely

than not to succeed under its claim of forgery or material fraud and the person demanding honor does not qualify for protection under subsection 1, paragraph "a".

Sec. 9. Section 554.5110, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5110 WARRANTIES.

1. If its presentation is honored, the beneficiary warrants:

a. to the issuer, any other person to whom presentation is made, and the applicant that there is no fraud or forgery of the kind described in section 554.5109, subsection 1; and

b. to the applicant that the drawing does not violate any agreement between the applicant and beneficiary or any other agreement intended by them to be augmented by the letter of credit.

2. The warranties in subsection 1 are in addition to warranties arising under Article 3, 4, 7, and 8 because of the presentation or transfer of documents covered by any of those articles.

Sec. 10. Section 554.5111, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5111 REMEDIES.

1. If an issuer wrongfully dishonors or repudiates its obligation to pay money under a letter of credit before presentation, the beneficiary, successor, or nominated person presenting on its own behalf may recover from the issuer the amount that is the subject of the dishonor or repudiation. If the issuer's obligation under the letter of credit is not for the payment of money, the claimant may obtain specific performance or, at the claimant's election, recover an amount equal to the value of performance from the issuer. In either case, the claimant may also recover incidental but not consequential damages. The claimant is not obligated to take action to avoid damages that might be due from the issuer under this subsection. If, although not obligated to do so, the claimant avoids damages, the claimant's recovery from the issuer must be reduced by the amount of damages avoided. The issuer has the burden of proving the amount of damages avoided. In the case of repudiation the claimant need not present any document.

2. If an issuer wrongfully dishonors a draft or demand presented under a letter of credit or honors a draft or demand in breach of its obligation to the applicant, the applicant may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach.

3. If an adviser or nominated person other than a confirmer breaches an obligation under this Article or an issuer breaches an obligation not covered in subsection 1 or 2, a person to whom the obligation is owed may recover damages resulting from the breach, including incidental but not consequential damages, less any amount saved as a result of the breach. To the extent of the confirmation, a confirmer has the liability of an issuer specified in this subsection and subsections 1 and 2.

4. An issuer, nominated person, or adviser who is found liable under subsection 1, 2, or 3 shall pay interest on the amount owed thereunder from the date of wrongful dishonor or other appropriate date.

5. Reasonable attorney's fees and other expenses of litigation must be awarded to the prevailing party in an action in which a remedy is sought under this Article.

6. Damages that would otherwise be payable by a party for breach of an obligation under this Article may be liquidated by agreement or undertaking, but only in an amount or by a formula that is reasonable in light of the harm anticipated.

Sec. 11. Section 554.5112, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5112 TRANSFER OF LETTER OF CREDIT.

1. Except as otherwise provided in section 554.5113, unless a letter of credit provides

that it is transferable, the right of a beneficiary to draw or otherwise demand performance under a letter of credit may not be transferred.

2. Even if a letter of credit provides that it is transferable, the issuer may refuse to recognize or carry out a transfer if:

a. the transfer would violate applicable law; or

b. the transferor or transferee has failed to comply with any requirement stated in the letter of credit or any other requirement relating to transfer imposed by the issuer which is within the standard practice referred to in section 554.5108, subsection 5, or is otherwise reasonable under the circumstances.

Sec. 12. Section 554.5113, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5113 TRANSFER BY OPERATION OF LAW.

1. A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in the name of the beneficiary without disclosing its status as a successor.

2. A successor of a beneficiary may consent to amendments, sign and present documents, and receive payment or other items of value in its own name as the disclosed successor of the beneficiary. Except as otherwise provided in subsection 5, an issuer shall recognize a disclosed successor of a beneficiary as beneficiary in full substitution for its predecessor upon compliance with the requirements for recognition by the issuer of a transfer of drawing rights by operation of law under the standard practice referred to in section 554.5108, subsection 5, or, in the absence of such a practice, compliance with other reasonable procedures sufficient to protect the issuer.

3. An issuer is not obliged to determine whether a purported successor is a successor of a beneficiary or whether the signature of a purported successor is genuine or authorized.

4. Honor of a purported successor's apparently complying presentation under subsection 1 or 2 has the consequences specified in section 554.5108, subsection 9, even if the purported successor is not the successor of a beneficiary. Documents signed in the name of the beneficiary or of a disclosed successor by a person who is neither the beneficiary nor the successor of the beneficiary are forged documents for the purposes of section 554.5109.

5. An issuer whose rights of reimbursement are not covered by subsection 4 or substantially similar law and any confirmer or nominated person may decline to recognize a presentation under subsection 2.

6. A beneficiary whose name is changed after the issuance of a letter of credit has the same rights and obligations as a successor of a beneficiary under this section.

Sec. 13. Section 554.5114, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5114 ASSIGNMENT OF PROCEEDS.

1. In this section, "proceeds of a letter of credit" means the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

2. A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

3. An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

4. An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and presentation of the letter of credit is a condition to honor.

5. Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

6. Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a third person affect the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by Article 9 or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by Article 9 or other law.

Sec. 14. Section 554.5115, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5115 STATUTE OF LIMITATIONS.

An action to enforce a right or obligation arising under this Article must be commenced within one year after the expiration date of the relevant letter of credit or one year after the cause of action accrues, whichever occurs later. A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach.

Sec. 15. Section 554.5116, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.5116 CHOICE OF LAW AND FORUM.

1. The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in section 554.5104 or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

2. Unless subsection 1 applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one address is indicated, the person is considered to be located at the address from which the person's undertaking was issued. For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

3. Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the uniform customs and practice for documentary credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If (i) this Article would govern the liability of an issuer, nominated person, or adviser under subsection 1 or 2, (ii) the relevant undertaking incorporates rules of custom or practice, and (iii) there is conflict between this Article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in section 554.5103, subsection 3.

4. If there is conflict between this Article and Article 3, 4, or 9*, this Article governs.

5. The forum for settling disputes arising out of an undertaking within this Article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection 1.

Sec. 16. Section 554.5117, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

*Article 12 also included in Uniform Act

554.5117 SUBROGATION OF ISSUER, APPLICANT, AND NOMINATED PERSON.

1. An issuer that honors a beneficiary's presentation is subrogated to the rights of the beneficiary to the same extent as if the issuer were a secondary obligor of the underlying obligation owed to the beneficiary and of the applicant to the same extent as if the issuer were the secondary obligor of the underlying obligation owed to the applicant.

2. An applicant that reimburses an issuer is subrogated to the rights of the issuer against any beneficiary, presenter, or nominated person to the same extent as if the applicant were the secondary obligor of the obligations owed to the issuer and has the rights of subrogation of the issuer to the rights of the beneficiary stated in subsection 1.

3. A nominated person who pays or gives value against a draft or demand presented under a letter of credit is subrogated to the rights of:

a. the issuer against the applicant to the same extent as if the nominated person were a secondary obligor of the obligation owed to the issuer by the applicant;

b. the beneficiary to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the beneficiary; and

c. the applicant to the same extent as if the nominated person were a secondary obligor of the underlying obligation owed to the applicant.

4. Notwithstanding any agreement or term to the contrary, the rights of subrogation stated in subsections 1 and 2 do not arise until the issuer honors the letter of credit or otherwise pays and the rights in subsection 3 do not arise until the nominated person pays or otherwise gives value. Until then, the issuer, nominated person, and the applicant do not derive under this section present or prospective rights forming the basis of a claim, defense, or excuse.

Sec. 17. Section 539.1, Code 1995, is amended to read as follows:

539.1 ASSIGNMENT OF NONNEGOTIABLE INSTRUMENTS.

Bonds, due bills, and all instruments by which the maker promises to pay another, without words of negotiability, a sum of money, or by which the maker promises to pay a sum of money in property or labor, or to pay or deliver any property or labor, or acknowledges any money, labor, or property to be due, are assignable by endorsement on the instrument, or by other writing. The assignee, including a person who takes assignment for collection in the regular course of business, has a right of action on them in the assignee's own name, subject to any defense or counterclaim which the maker or debtor had against an assignor of the instrument before notice of the assignment. In case of conflict between this section and sections ~~554.5116~~ 554.5112, 554.5113, 554.5114, and 554.9318, sections ~~554.5116~~ 554.5112, 554.5113, 554.5114, and 554.9318 control.

Sec. 18. Section 539.2, Code 1995, is amended to read as follows:

539.2 ASSIGNMENT PROHIBITED BY INSTRUMENT.

When by the terms of an instrument its assignment is prohibited, an assignment thereof shall nevertheless be valid, but the maker may make use of any defense or counterclaim against the assignee which the maker may have against any assignor thereof before notice of such assignment is given to the maker in writing. In case of conflict between this section and sections ~~554.5116~~ 554.5112, 554.5113, 554.5114, and 554.9318, sections ~~554.5116~~ 554.5112, 554.5113, 554.5114, and 554.9318 control.

Sec. 19. Section 554.1105, subsection 2, Code 1995, is amended to read as follows:

2. Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 554.2402.

Applicability of the Article on Bank Deposits and Collections. Section 554.4102.

Applicability of the Article on Investment Securities. Section 554.8106.

Perfection provisions of the Article on Secured Transactions. Section 554.9103.

Governing law in the Article on Funds Transfers. Section 554.12507.

Letters of Credit. Section 554.5116.
Applicability of the Article on Leases. Sections 554.13105 and 554.13106.

Sec. 20. Section 554.2512, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. despite tender of the required documents the circumstances would justify injunction against honor under the provisions of this chapter (section ~~554.5114~~ 554.5109, subsection 2).

Sec. 21. Section 554.9103, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. This subsection applies to documents, ~~and~~ instruments, rights to proceeds of written letters of credit, and ~~to~~ goods other than those covered by a certificate of title described in subsection 2, mobile goods described in subsection 3, and minerals described in subsection 5.

Sec. 22. Section 554.9104, paragraph l, Code 1995, is amended to read as follows:

l. to a transfer of an interest in any deposit account (section 554.9105, subsection 1), except as provided with respect to proceeds (section 554.9306) and priorities in proceeds (section 554.9312)~~.~~; or

Sec. 23. Section 554.9104, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. to a transfer of an interest in a letter of credit other than the rights to proceeds of a written letter of credit.

Sec. 24. Section 554.9105, subsection 3, Code 1995, is amended to read as follows:

3. The following definitions in other Articles apply to this Article:

"Check"	Section 554.3104
"Contract for sale"	Section 554.2106
"Holder in due course"	Section 554.3302
"Letter of credit"	Section 554.5102
"Note"	Section 554.3104
"Proceeds of a letter of credit"	Section 554.5114(1)
"Sale"	Section 554.2106

Sec. 25. Section 554.9106, Code 1995, is amended to read as follows:

554.9106 DEFINITIONS: "ACCOUNT" – "GENERAL INTANGIBLES."

"Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, rights to proceeds of written letters of credit, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

Sec. 26. Section 554.9304, Code 1995, is amended to read as follows:

554.9304 PERFECTION OF SECURITY INTEREST IN INSTRUMENTS, DOCUMENTS, PROCEEDS OF A WRITTEN LETTER OF CREDIT, AND GOODS COVERED BY DOCUMENTS – PERFECTION BY PERMISSIVE FILING – TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION.

1. A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in the rights to proceeds of a written letter of credit can be perfected only by the secured party's taking possession of the letter of credit. A security interest in money or instruments (other than certificated securities or instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession,

except as provided in subsections 4 and 5 of this section and section 554.9306, subsections 2 and 3, on proceeds.

2. During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

3. A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

4. A security interest in instruments (other than certificated securities) or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

5. A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument (other than certificated securities), a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

a. makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to section 554.9312, subsection 3; or

b. delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer.

6. After the twenty-one day period in subsections 4 and 5 perfection depends upon compliance with applicable provisions of this Article.

Sec. 27. Section 554.9305, Code 1995, is amended to read as follows:

554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.

A security interest in letters of credit ~~and advices of credit~~ (~~subsection 2 "a" of~~ section ~~554.5116~~ 554.5114),* goods, instruments (other than certificated securities), money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. A security interest in the right to proceeds of a written letter of credit may be perfected by the secured party's taking possession of the letter of credit. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Sec. 28. APPLICABILITY. This Act applies to a letter of credit that is issued on or after the effective date of this Act. This Act does not apply to a transaction, event, obligation, or duty arising out of or associated with a letter of credit that was issued before the effective date of this Act.

Approved April 1, 1996

*The words "letters of credit" and citation also stricken in Uniform Act

CHAPTER 1027

INDIVIDUAL PROPERTY MANAGEMENT ACCOUNTS - EXAMINATION EXEMPTION

H.F. 2127

AN ACT relating to the exemption of certain individual property management accounts from certification and auditing requirements.

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

Section 1. Section 543B.46, subsection 3, Code Supplement 1995, is amended to read as follows:

3. Each broker shall authorize the real estate commission to examine each trust account and shall obtain the certification of the bank or savings and loan association attesting to each trust account and consenting to the examination and audit of each account by a duly authorized representative of the commission. The certification and consent shall be furnished on forms prescribed by the commission. This does not apply to an individual farm account maintained in the name of the owner or owners for the purpose of conducting ongoing farm business whether it is conducted by the farm owner or by an agent or farm manager when the account is part of a farm management agreement between the owner and agent or manager. This section also does not apply to an individual property management account maintained in the name of the owner or owners for the purpose of conducting ongoing property management whether it is conducted by the property owner or by an agent or manager when the account is part of a property management agreement between the owner and agent or manager.

Approved April 1, 1996

CHAPTER 1028

IOWA STATE FAIR BOARD - AUDITING PRACTICES

S.F. 2121

AN ACT providing for auditing practices by the Iowa state fair board.

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

Section 1. Section 173.2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A convention shall be held at a time and place in Iowa to be designated by the Iowa state fair board each year, ~~not to be set before a complete year audit can be presented to the convention,~~ to elect members of the state fair board and conduct other business of the board. The board shall give sixty days' notice of the location of the convention to all agricultural associations and persons eligible to attend. The convention shall be composed of:

Sec. 2. Section 173.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The Iowa state fair board shall present a financial report to the convention. The report is not required to include an audit, but shall provide an estimate of the accounts under the authority of the board.

Sec. 3. Section 173.19, Code 1995, is amended to read as follows:

173.19 AUDITING OF ACCOUNTS.

~~Prior to the annual convention, the~~ The auditor of state shall annually examine and report to the executive council ~~upon~~ all financial affairs of the board.

Approved April 1, 1996

CHAPTER 1029

AGRICULTURAL DEVELOPMENT AUTHORITY EXECUTIVE DIRECTOR

S.F. 2336

AN ACT providing for the selection and tenure of the executive director of the agricultural development authority.

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

Section 1. Section 175.3, subsection 7, Code 1995, is amended to read as follows:

7. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as they determine, but the executive director shall serve as secretary to the authority. The chairperson and vice chairperson shall serve on the selection and tenure committee as provided in section 175.7.

Sec. 2. Section 175.7, subsection 1, Code 1995, is amended to read as follows:

1. The ~~secretary of agriculture shall appoint an~~ executive director of the authority~~, who~~ shall be appointed by a selection and tenure committee which shall consist of the secretary of agriculture, and the chairperson and vice chairperson of the board established pursuant to section 175.3, or their designees. The executive director shall serve at the pleasure of the ~~secretary~~ committee. The votes of three members of the committee are necessary for any substantive action taken by the committee, except that two members may take a substantive action, if the secretary has a conflict of interest. If a member other than the secretary has a conflict of interest, the board shall appoint a substitute member of the committee from the appointed members of the board for the duration of the conflict of interest. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation.

1A. The executive director shall not, directly or indirectly, exert influence to induce any other officers or employees of the state to adopt a political view, or to favor a political candidate for office.

Approved April 1, 1996

CHAPTER 1030

REGULATION OF GRAIN DEALERS - RECEIVERSHIP

S.F. 2337

AN ACT relating to receiverships regarding the administration of the assets of grain dealers.

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

Section 1. Section 203.8, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person required to be licensed as a grain dealer shall pay the purchase price to the owner or the owner's agent for grain upon delivery or demand of the owner or agent, but not later than thirty days after delivery by the owner or agent unless in accordance with the terms of a credit-sale contract that satisfies the requirements of this chapter.

Sec. 2. NEW SECTION. 203.12B APPOINTMENT OF DEPARTMENT AS RECEIVER.

1. As used in this section:

a. "Grain dealer assets" means the same as defined in section 203.12A, including any proceeds from a deficiency bond or irrevocable letter of credit, or any insurance policy relating to those assets.

b. "Interested seller" means a person who delivers or has delivered grain to a grain dealer who has not been paid as provided in section 203.8 or according to the terms of a credit sale contract breached by the grain dealer.

c. "Issuer" means a person who issues a deficiency bond or an irrevocable letter of credit pursuant to section 203.3, or an issuer of grain assets.

2. a. The department may file a verified petition in district court requesting that the department be appointed as a receiver, and the district court shall appoint the department as receiver, in order to protect interested sellers, if any of the following apply:

(1) The grain dealer's license is revoked or suspended under section 203.10.

(2) There is evidence that the grain dealer has engaged or is engaging in business under this chapter without obtaining a license as required pursuant to section 203.3.

b. Upon being appointed as a receiver, the department shall take custody and provide for the disposition of the grain dealer assets of the grain dealer under the supervision of the court. The petition shall be filed in the county in which the grain dealer maintains its principal place of business in this state. The court may issue ex parte any temporary order as it determines necessary to preserve or protect the grain dealer assets and the rights of interested sellers. The petition shall be accompanied by the department's plan for disposition of grain dealer assets which shall provide terms as may be necessary to preserve or protect the grain dealer assets and the rights of interested sellers, less expenses incurred by the department in connection with the receivership. The plan may provide for the delivery or sale of grain as provided in section 203C.4. The plan may provide for the operation of the business of the grain dealer on a temporary basis and any other course of action or procedure which will serve the interests of interested sellers. The petition shall be filed with the clerk of the district court who shall set a date for a hearing in the same manner as provided in section 203C.3. Copies of the petition, the notice of hearing, and the department's plan of disposition shall be delivered to the following:

(1) The grain dealer and each issuer who shall receive copies delivered in the manner required for service of an original notice.

(2) Interested sellers as determined by the department who shall receive copies delivered by ordinary mail.

The failure of a person to receive the required notification shall not invalidate the proceedings on the petition or any part of the petition for the appointment of the department as the receiver. A person is not a party to the action unless admitted by the court upon application.

3. When appointed as a receiver, the department shall publish notice of the appointment in the same manner provided in section 203C.3.

4. The department may employ or appoint a person to appear on behalf of the department in any proceedings before the court as provided in section 203C.3.

5. An action of the department shall not be subject to the provisions of chapter 17A. A person employed or appointed by the department as receiver shall be deemed to be an employee of the state as defined in section 669.2. Chapter 669 is applicable to any claim as defined in section 669.2 against the person carrying out the duties of the department acting as receiver.

6. When the department is appointed as a receiver, the issuer shall be joined as a party, and may be ordered by the court to pay indemnification proceeds, and shall be discharged from further liability as provided in section 203C.4. The department shall provide notice to interested sellers within one hundred twenty days after the date of appointment. A failure of a person to file a timely claim as provided by the department shall defeat the claim, except to the extent of any excess grain dealer assets remaining after all timely claims are paid in full.

7. If the court approves the sale of grain, the department shall employ or appoint a merchandiser who shall enjoy the same status, exercise the same powers, and receive compensation to the same extent as a merchandiser employed or appointed pursuant to section 203C.4. A person employed or appointed as a merchandiser must meet the following requirements:

a. Be experienced or knowledgeable in the operation of grain dealers as provided in this chapter.

b. Be experienced or knowledgeable in the marketing of grain.

c. Not have had a license issued pursuant to section 203.3 suspended or revoked.

d. Not have any pecuniary interest in the grain dealer assets of the grain dealer and not have a business relationship with the grain dealer.

8. The sale of the grain shall proceed in the same manner as grain sold pursuant to section 203C.4. The department may, with the approval of the court, continue the operation of all or any part of the business of the grain dealer on a temporary basis and take any other course of action or procedure which will serve the interests of interested sellers. The department is entitled to reimbursement out of grain dealer assets for costs directly attributable to the receivership. The department shall be reimbursed from the grain dealer assets in the same manner as provided in section 203C.4. If the approved plan of disposition requires a distribution of cash proceeds, the department shall submit to the court a proposed plan of distribution of those proceeds. The plan shall be approved and executed and the department shall be discharged and the receivership terminated in the same manner as provided in section 203C.4.

Approved April 1, 1996

CHAPTER 1031

RURAL WATER DISTRICTS – ATTACHMENT

H.F. 2187

AN ACT relating to the attachment of property to a rural water district.

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

Section 1. Section 357A.14, subsection 1, Code 1995, is amended to read as follows:

1. An owner of real property outside a district which can be economically served by the facilities of the district, or thirty percent of the owners of all real property lying within the outside perimeter of a proposed addition, may petition to be attached to the district. The petition shall be filed with the auditor, and the auditor and supervisors shall notify the district that a petition has been received and proceed in a manner set forth in sections 357A.3 through 357A.6.

Approved April 1, 1996

CHAPTER 1032

BENEFITED RECREATIONAL LAKE DISTRICTS

H.F. 2258

AN ACT relating to the powers of a benefited recreational lake district to promote water quality.

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

Section 1. Section 357E.2, Code 1995, is amended to read as follows:

357E.2 INCORPORATION.

If an area of contiguous territory is situated so that the acquisition, construction, reconstruction, enlargement, improvement, equipping, maintenance, and operation of recreation facilities for the residents of the territory will be conducive to the public health, comfort, convenience, water quality, or welfare, the area may be incorporated as a benefited recreational lake district as set forth in this chapter. The land to be included in a district must be contiguous to the recreational lake or to other residential, agricultural, or commercial property which is contiguous to the recreational lake.

Sec. 2. Section 357E.10, Code 1995, is amended to read as follows:

357E.10 BOARD OF TRUSTEES - POWER.

The trustees are the corporate authority of the district and shall manage and control the affairs, property, and facilities of the district. The board of trustees shall elect a president, a clerk, and a treasurer from its membership. The trustees may certify for levy an annual tax as provided in section 357E.8. The trustees may construct, reconstruct, repair, maintain, or operate a dam or other recreational facilities or structures to create or maintain an artificial or natural lake or impoundment and~~, for this purpose,~~ may promote and improve water quality. For these purposes, the trustees may purchase material, employ personnel, acquire real estate and interests in real estate, and perform all other acts necessary to properly maintain and operate the district. The trustees are allowed necessary expenses in the discharge of their duties, but they shall not receive a salary.

Approved April 1, 1996

CHAPTER 1033

LEVEE AND DRAINAGE DISTRICTS - WARRANTS

H.F. 2297

AN ACT relating to payment of warrants drawn on levee and drainage district funds.

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

Section 1. REPEAL. Section 468.185, Code 1995, is repealed.

Approved April 2, 1996

CHAPTER 1034

NONSUBSTANTIVE CODE CORRECTIONS

S.F. 2080

AN ACT relating to nonsubstantive Code corrections, and providing effective and retroactive applicability dates.

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

Section 1. Section 8D.13, subsection 12, Code Supplement 1995, is amended to read as follows:

12. The commission, on its own or as recommended by an advisory committee of the commission and approved by the commission, shall permit a fee to be charged by a receiving site to the originator of the communication provided on the network. The fee charged shall be for the purpose of recovering the operating costs of a receiving site. The fee charged shall be reduced by an amount received by the receiving site pursuant to a state appropriation for such costs, or federal assistance received for such costs. Fees established under this subsection shall be paid by the ~~originating site~~ originator of the communication directly to the receiving site. For purposes of this section, "operating costs" include the costs associated with the management or coordination, operations, utilities, classroom, equipment, maintenance, and other costs directly related to providing the receiving site.

Sec. 2. Section 43.67, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Each candidate nominated pursuant to section ~~43.66~~ 43.52 or 43.65 is entitled to have the candidate's name printed on the official ballot to be voted at the general election without other certificate unless the candidate was nominated by write-in votes. Immediately after the completion of the canvass held under section 43.49, the county auditor shall notify each person who was nominated by write-in votes for a county or township office that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for that office at the general election. Immediately after the completion of the canvass held under section 43.63, the secretary of state shall notify each person who was nominated by write-in votes for a state or federal office that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for that office at the general election. If the affidavit is not filed by five p.m. on the seventh day after the completion of the canvass, that person's name shall not be placed upon the official general election ballot. The affidavit shall be signed by the candidate, notarized, and filed with the county auditor or the secretary of state, whichever is applicable.

Sec. 3. Section 97B.41, subsection 8, paragraph b, subparagraph (16), Code Supplement 1995, is amended by striking the subparagraph.

Sec. 4. Section 124.409, subsection 1, Code 1995, is amended to read as follows:

1. Whenever a person who has not previously been convicted of an offense under this chapter or an offense under a state or federal statute relating to narcotic drugs or cocaine, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 124.401, subsection 3, or is sentenced pursuant to section 124.410, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the accused on probation upon terms and conditions as it requires. When a person is placed on probation under this subsection, the person's appearance bond may be discharged at the discretion of the court. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without court adjudication of guilt and is

not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under section ~~124.410~~ 124.411. Discharge and dismissal under this section may occur only once with respect to any person.

Sec. 5. Section 139B.1, subsection 2, paragraph b, Code Supplement 1995, is amended to read as follows:

b. If an individual is diagnosed or confirmed as having a contagious or infectious disease, the hospital shall notify the designated officer of an emergency care provider service who shall notify persons involved in attending or transporting the individual. For bloodborne contagious or infectious diseases, notification shall only take place upon filing of an exposure report form with the hospital. The exposure report form may be incorporated into the Iowa prehospital care report, the Iowa prehospital advanced care report, or a similar report used by an ambulance, rescue, or first ~~responder~~ response service or law enforcement agency.

Sec. 6. Section 161A.12, Code 1995, is amended to read as follows:

161A.12 STATEMENT TO DEPARTMENT OF MANAGEMENT.

On or before ~~September~~ October 1 next preceding each annual legislative session, the division shall submit to the department of management, on official estimate blanks furnished for those purposes, statements and estimates of the expenditure requirements for each fiscal year, and a statement of the balance of funds, if any, available to the division, and the estimates of the division as to the sums needed for the administrative and other expenses of the division for the purposes of this chapter.

Sec. 7. Section 162.1, subsection 1, Code 1995, is amended to read as follows:

1. To insure that all dogs and cats handled by boarding kennels, commercial kennels, ~~hobby kennels,~~ commercial breeders, dealers, and public auctions are provided with humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling, and treatment of such animals by persons or organizations engaged in transporting, buying, or selling them and to provide that all vertebrate animals consigned to pet shops are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling, and treatment of such animals by pet shops.

Sec. 8. Section 169A.13, Code Supplement 1995, is amended to read as follows:

169A.13 FEE EACH FIFTH YEAR.

Each owner of a brand of record beginning on January 1, 1970, shall pay to the secretary a fee of five dollars and a renewal fee on January 1 of each fifth year after the payment of the five dollar fee, or on January 1 of each fifth year following the original recording of a brand recorded after June 30, 1975. The amount of the renewal fee required for January 1, 1976, and each year thereafter shall be established by rule of the secretary pursuant to chapter 17A. The amount of the fee shall be based upon the administrative costs of maintaining the brand program provided for in this chapter. The secretary shall notify every owner of a brand of record at least thirty days prior to the date of the renewal period. If the owner of a brand of record does not pay the fee by July 1 of each year in which it is due, the owner shall forfeit the brand and the brand shall no longer be recorded. A forfeited brand shall not be issued to any other person for five ~~or more~~ years following date of forfeiture.

Sec. 9. Section 229.27, subsection 1, Code 1995, is amended to read as follows:

1. Hospitalization of a person under this chapter, either voluntarily or involuntarily, does not constitute a finding of nor equate with nor raise a presumption of incompetency, nor cause the person so hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose including but not limited to any circumstances to which sections 6B.15, 447.7, 487.402, subsection 5, paragraph "b", sections 487.705, 597.6, 600B.21, 614.8, 614.19, 614.22, 614.24, 614.27, ~~622.6,~~ and 633.244 are applicable.

Sec. 10. Section 232.88, Code Supplement 1995, is amended to read as follows:

232.88 SUMMONS, NOTICE, SUBPOENAS AND SERVICES.

After a petition has been filed the court shall issue and serve summons, notice, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37. In addition to the ~~parties~~ persons required to be provided notice under section 232.37, notice for any hearing under this division shall be provided to the agency, facility, institution, or person, including a foster parent, with whom a child has been placed for the purposes of foster care.

Sec. 11. Section 232.148, subsection 2, Code Supplement 1995, is amended to read as follows:

2. Fingerprints and photographs of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal or juvenile justice agency investigating the commission of a public offense other than a simple or serious misdemeanor. The criminal or juvenile justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system and may also retain a copy of the fingerprint card for comparison with latent fingerprints and the identification of repeat offenders.

Sec. 12. Section 236.3, subsection 2, Code Supplement 1995, is amended to read as follows:

2. ~~If the petition is being filed on behalf of an unemancipated minor, the name~~ Name and address of the parent or guardian filing the petition ~~and the parent's or guardian's address~~, if the petition is being filed on behalf of an unemancipated minor. For the purposes of this chapter, "plaintiff" includes a person filing an action on behalf of an unemancipated minor.

Sec. 13. Section 236.9, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Criminal or juvenile justice agencies, as defined in section 692.1, shall collect and maintain information on incidents involving domestic abuse and shall provide the information to the department of public safety in the manner prescribed by the department of public safety.

Sec. 14. Section 238.1, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 15. Section 252I.1, subsection 2, Code 1995, is amended to read as follows:

2. "Bank" means "bank", "insured bank", ~~"private bank",~~ and "state bank" as defined in section 524.103.

Sec. 16. Section 260D.12, Code Supplement 1995, is amended to read as follows:

260D.12 PAYMENT OF APPROPRIATION.

Payment of appropriations for distribution under this chapter or chapter 260C, or of appropriations made in lieu of such appropriations, shall be made by the department of revenue and finance in monthly installments due on or about the fifteenth day of each month of a budget year, and installments shall be as nearly equal as possible, as determined by the department of revenue and finance, taking into consideration the relative budget and cash position of the state resources.

Sec. 17. Section 294A.13, Code 1995, is amended to read as follows:

294A.13 PHASE III PROGRAM.

For the school year beginning July 1, 1987, and succeeding school years, each school district and area education agency that meets the requirements of this ~~section~~ division is eligible to receive moneys for the implementation under phase III of a performance-based pay plan or supplemental pay plan, or a combination of the two.

Sec. 18. Section 303.33, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

Two years after the establishment of a district, a referendum for the termination of the district shall be held if ten percent of the eligible voters in the district so request. If the registered voters, by a majority of those voting, favor termination, ~~this Act~~ sections 303.20 through 303.32 will no longer have any effect on the property formerly included in the district.

Sec. 19. Section 321.19, subsection 2, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

~~Section 452A.3 and chapter~~ Chapter 326 ~~are~~ is not applicable to urban transit companies or systems.

Sec. 20. Section 321.213A, Code Supplement 1995, is amended to read as follows:

321.213A LICENSE SUSPENSION FOR JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL OFFENSES.

Upon the entering of an order at the conclusion of a dispositional hearing under section 232.50, where the child has been adjudicated to have committed a delinquent act, which would be a first or subsequent violation of section 123.46, section 123.47 involving the purchase or attempt to purchase alcoholic beverages, chapter 124, section 126.3, chapter 453B, or a second or subsequent violation of section 123.47 regarding the possession of alcoholic beverages, the clerk of the juvenile court in the dispositional hearing shall forward a copy of the adjudication and dispositional order to the department. The department shall suspend the license or operating privilege of the child for one year. The child may receive a temporary restricted license or permit as provided in section 321.215.

Sec. 21. Section 321.423, subsection 1, paragraph c, Code Supplement 1995, is amended to read as follows:

c. "Member" means a person who is a member in good standing of a fire department or a person who is an emergency medical care provider employed by an ambulance, rescue, or first ~~responder~~ response service.

Sec. 22. Section 321.423, subsection 4, Code Supplement 1995, 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~~ response service, or when the member has used the blue or white light beyond the scope of its authorized use. A person issued an authorization under subsection 3, paragraph "b", shall return the authorization to the fire chief upon expiration or upon a determination by the fire chief or the department that the authorization should be revoked.

Sec. 23. Section 321.423, subsection 7, paragraphs a and b, Code Supplement 1995, are amended to read as follows:

a. On a vehicle owned or exclusively operated by an ambulance, rescue, or first ~~responder~~ response 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~~ response 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~~ response service certifies that the member is in good standing and recommends that the authorization be granted.

Sec. 24. Section 321.484, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

The owner of a vehicle shall not be held responsible for a violation of a provision regulating the stopping, standing, or parking of a vehicle, whether the provision is contained in this chapter, or chapter 321L, or an ordinance or other regulation or rule, if the owner establishes that at the time of the violation the vehicle was in the custody of an identified person other than the owner pursuant to a lease as defined in chapter 321F. The furnishing to the clerk of the district court where the charge is pending of a copy of the lease prescribed by section 321F.6 that was in effect for the vehicle at the time of the alleged violation shall be prima facie evidence that the vehicle was in the custody of an identified person other than the owner within the meaning of this paragraph, and the charge against the owner shall be dismissed. The clerk of the district court then shall cause a uniform citation and complaint to be issued against the lessee of the vehicle, and the citation shall be served upon the defendant by ordinary mail directed to the defendant at the address shown in the ~~certificate of responsibility~~ lease.

Sec. 25. Section 321.492A, Code 1995, is amended to read as follows:

321.492A QUOTAS ON CITATIONS PROHIBITED.

A political subdivision or agency of the state shall not order, mandate, require, or in any other manner, directly or indirectly, suggest to a peace officer employed by the political subdivision or agency that the peace officer shall issue a certain number of traffic citations, police citations, memorandums of traffic violations, or memorandums of faulty equipment on a daily, weekly, monthly, quarterly, or yearly basis.

Sec. 26. Section 321.560, Code Supplement 1995, is amended to read as follows:

321.560 PERIOD OF REVOCATION.

A license to operate a motor vehicle in this state shall not be issued to any person declared to be a habitual offender under section 321.555, subsection 1, for a period of not less than two years nor more than six years from the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later. However, a temporary restricted ~~license~~ permit may be issued to a person declared to be a habitual offender under section 321.555, subsection 1, paragraph "c", pursuant to section 321.215, subsection 2. A license to operate a motor vehicle in this state shall not be issued to any person declared to be a habitual offender under section 321.555, subsection 2, for a period of one year from the date of the final decision of the department under section 17A.19 or the date on which the district court upholds the final decision of the department, whichever occurs later. The department shall adopt rules under chapter 17A which establish a point system which shall be used to determine the period for which a person who is declared to be a habitual offender under section 321.555, subsection 1, shall not be issued a license.

Sec. 27. Section 321.561, Code Supplement 1995, is amended to read as follows:

321.561 PUNISHMENT FOR VIOLATION.

It shall be unlawful for any person found to be a habitual offender to operate any motor vehicle in this state during the period of time specified in section 321.560 except for a habitual offender who has been granted a temporary restricted ~~license~~ permit pursuant to section 321.215, subsection 2. A person violating this section commits an aggravated misdemeanor.

Sec. 28. Section 323.1, subsection 4, Code Supplement 1995, is amended to read as follows:

4. "Distributor" means ~~a person~~ distributor as defined in ~~chapter 452A~~ section 452A.2.

Sec. 29. Section 331.602, subsection 10, Code Supplement 1995, is amended to read as follows:

10. Carry out duties relating to the issuance of hunting, fishing, and ~~trapping~~ fur harvester licenses as provided in sections 483A.10, 483A.12, 483A.13, 483A.14, 483A.15 and 483A.22.

Sec. 30. Section 331.605, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

For issuance of hunting, fishing and ~~trapping~~ fur harvester licenses:

Sec. 31. Section 331.756, subsection 69, Code Supplement 1995, is amended by striking the subsection.

Sec. 32. Section 358C.13, subsection 5, Code Supplement 1995, is amended to read as follows:

5. The board of trustees shall not require or grant a franchise ~~under section 364.2,~~ to any person pursuant to section 364.2, subsection 4.

Sec. 33. Section 358C.17, subsection 1, Code Supplement 1995, is amended to read as follows:

1. The board of trustees of a real estate improvement district may provide for payment of all or any portion of the costs of a public improvement specified in section 358C.4, by assessing all, or any portion of, the costs on adjacent property according to the benefits derived. For the purposes of this chapter, the board of trustees may define "adjacent property" as all that included within a designated benefited district to be fixed by the board, which may be all of the property located within the real estate improvement district or any lesser portion of that property. It is not a valid objection to a special assessment that the improvement for which the assessment is levied is outside the limits of the district, but a special assessment shall not be made upon property situated outside of the district. Special assessments pursuant to this section shall be in proportion to the special benefits conferred upon the property, and not in excess of the benefits. The value of a property is the present fair market value of the property with the proposed public improvements completed. Payment of installments of a special assessment against property shall be made in the same manner and under the same procedures as provided in chapter 384 for special assessments by cities. Notwithstanding the provisions of section 384.62, the combined assessments against any lot for public improvements included in the petition creating the ~~housing development~~ real estate improvement district or as authorized in section 358C.4 shall not exceed the valuation of that lot as established by section 384.46.

Sec. 34. Section 421.17A, subsection 1, paragraph b, Code Supplement 1995, is amended to read as follows:

b. "Bank" means "bank", "insured bank", ~~"private bank",~~ and "state bank" as these are defined in section 524.103.

Sec. 35. Section 421.31, subsection 9, Code Supplement 1995, is amended to read as follows:

9. INTEREST OF THE PERMANENT SCHOOL FUND. To transfer the interest of the permanent school fund to the credit of the ~~first in the nation in education foundation as provided in section 257B.1A~~ interest for Iowa schools fund.

Sec. 36. Section 422.45, subsection 47, Code Supplement 1995, is amended by striking the subsection.

Sec. 37. Section 422.69, subsection 3, Code 1995, is amended by striking the subsection.

Sec. 38. Section 426B.1, subsection 1, Code Supplement 1995, is amended to read as follows:

1. A property tax relief fund is created in the state treasury under the authority of the department of revenue and finance. The fund shall be separate from the general fund of

the state and shall not be considered part of the general fund of the state except in determining the cash position of the state for payment of state obligations. The moneys in the fund are not subject to the provisions of section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this ~~section~~ chapter. Moneys in the fund may be used for cash flow purposes, provided that any moneys so allocated are returned to the fund by the end of each fiscal year. However, the fund shall be considered a special account for the purposes of section 8.53, relating to elimination of any GAAP deficit. For the purposes of this chapter, unless the context otherwise requires, "property tax relief fund" means the property tax relief fund created in this section.

Sec. 39. Section 427.1, subsection 4, Code Supplement 1995, is amended to read as follows:

4. FIRE ~~EQUIPMENT~~ COMPANY BUILDINGS AND GROUNDS. ~~Fire engines and all implements for extinguishing fires, and the~~ The publicly owned buildings and grounds used exclusively for keeping ~~them~~ fire engines and implements for extinguishing fires and for meetings of fire companies.

Sec. 40. Section 441.21, subsection 9, paragraph b, Code Supplement 1995, is amended to read as follows:

b. Notwithstanding paragraph "a", any construction or installation of a solar energy system on property ~~so~~ classified as agricultural, residential, commercial, or industrial property shall not increase the actual, assessed and taxable values of the property for five full assessment years.

Sec. 41. Section 444.25, subsection 4, paragraph b, subparagraph (3), Code 1995, is amended to read as follows:

(3) Need for additional moneys for health care, treatment and facilities, including mental health and mental retardation care and treatment pursuant to section 331.424, subsection 1, paragraphs "a" through "h", Code 1995.

Sec. 42. Section 450.94, subsections 6 and 7, Code 1995, are amended by striking the subsections.

Sec. 43. Section 452A.3, subsection 3, Code Supplement 1995, is amended to read as follows:

3. For the privilege of operating motor vehicles or aircraft in this state, there is imposed an excise tax on the use of special fuel in a motor vehicle or aircraft. The tax rate on special fuel for diesel engines of motor vehicles is twenty-two and one-half cents per gallon. The rate of tax on special fuel for aircraft is three cents per gallon. On all other special fuel the per gallon rate is the same as the motor fuel tax. Indelible dye meeting United States environmental protection agency and internal revenue service regulations must be added to fuel before or upon withdrawal at a terminal or refinery rack for that fuel to be exempt from tax and the dyed fuel may be used only for an exempt purpose.

Sec. 44. Section 452A.57, subsections 5 and 10, Code Supplement 1995, are amended to read as follows:

5. "Fuel taxes" means the per gallon excise taxes imposed under ~~division I~~ divisions I and III of this chapter with respect to motor fuel and undyed special fuel.

10. "Public highways" shall mean and include any way or place available to the public for purposes of vehicular travel notwithstanding that it is temporarily closed.

Sec. 45. Section 452A.71, Code Supplement 1995, is amended to read as follows:

452A.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS AND COMPRESSED NATURAL GAS AND LIQUEFIED PETROLEUM GAS DEALERS AND USERS.

Except as provided in section 452A.54, any person other than a person who has paid or has had charged to the person's account with a distributor, dealer, or user fuel taxes imposed

under this chapter with respect to motor fuel or undyed special fuel in excess of one hundred gallons, which, while the person is the owner, is subsequently lost or destroyed, ~~while the person is the owner,~~ through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation, shrinkage, or unknown causes, ~~the person~~ shall be entitled to a refund of the tax so paid or charged. To qualify for the refund, the person shall notify the department of revenue and finance in writing of the loss or destruction and the gallonage lost or destroyed within ten days from the date of discovery of the loss or destruction. Within sixty days after filing the notice, the person shall file with the department of revenue and finance an affidavit sworn to by the person having immediate custody of the motor fuel or undyed special fuel at the time of the loss or destruction setting forth in full the circumstances and amount of the loss or destruction and such other information as the department of revenue and finance may require. Any refund payable under this section may be applied by the department against any tax liability outstanding on the books of the department against the claimant.

Sec. 46. Section 483A.19, Code 1995, is amended to read as follows:

483A.19 SHOWING LICENSE TO OFFICER.

Every person shall, while fishing, hunting, or ~~trapping~~ fur harvesting, show the person's license, certificate, or permit, to any peace officer or the owner or person in lawful control of the land or water upon which licensee may be hunting, fishing, or ~~trapping~~ fur harvesting when requested by ~~said~~ the persons to do so. Any failure to so carry or refusal to show or so exhibit the person's license, certificate or permit, shall be a violation of this chapter.

Sec. 47. Section 483A.20, Code 1995, is amended to read as follows:

483A.20 RECIPROCITY.

Licenses for bait dealers or for fishing, hunting, or ~~trapping~~ fur harvesting shall not be issued to residents of states that do not sell similar licenses or certificates to residents of Iowa. However, the licensing of nonresident bait dealers who sell at wholesale to licensed dealers in Iowa for resale is permitted.

Sec. 48. Section 513C.4, subsection 2, Code Supplement 1995, is amended to read as follows:

2. An affiliated carrier that is a health maintenance organization having a certificate of authority under section ~~513C.5~~ 514B.5 shall be considered to be a separate carrier for the purposes of this chapter.

Sec. 49. Section 523I.1, subsection 4, Code Supplement 1995, is amended to read as follows:

4. "Interment rights" means a right of use conveyed by contract or property ownership to inter human ~~rights~~ remains in a columbarium, grave, mausoleum, lawn crypt, or undeveloped space.

Sec. 50. Section 524.306, subsection 2, Code Supplement 1995, is amended to read as follows:

2. The secretary of state's acknowledgement of filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation, except in a proceeding instituted by the superintendent to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Sec. 51. Section 524.1415, subsection 1, Code Supplement 1995, is amended to read as follows:

1. The conversion is effective upon the filing of the articles of conversion with the secretary of state, or at any later date and time as specified in the articles of conversion. The ~~certificate of conversion~~ acknowledgement of filing is conclusive evidence of the performance of all conditions required by this chapter for conversion of a national bank into a state bank, except as against the state.

Sec. 52. Section 554.9401, subsection 6, Code Supplement 1995, is amended to read as follows:

6. Of each fee collected by the county recorder under sections ~~570A.4,~~ 554.9403, 554.9405, and 554.9406, the county recorder shall remit five dollars, if filed on a standard form or six dollars otherwise, to the department of revenue and finance for deposit in the general fund of the state.

Sec. 53. Section 561.19, Code Supplement 1995, is amended to read as follows:

561.19 EXEMPTION IN HANDS OF ISSUE.

Where the homestead descends to the issue of either spouse the ~~issue~~ homestead shall be held exempt from any antecedent debts of the issue's parents or antecedent debts of the issue, except those of the owner of the homestead contracted prior to acquisition of the homestead or those created under section 249A.5 relating to the recovery of medical assistance payments.

Sec. 54. Section 566A.15, Code Supplement 1995, is amended to read as follows:

566A.15 CEMETERY FUND.

A special revenue fund is created in the state treasury, under the control of the commissioner, to be known as the insurance division cemetery fund. Commencing July 1, 1995, ~~filing fees received pursuant to section 566A.2C and~~ one dollar from the audit fee for each deed reported on the annual report required by section 566A.2D, executed during the preceding fiscal year, shall be deposited in the insurance division cemetery fund by the commissioner. However, if the balance of the fund on July 1 of any year exceeds two hundred thousand dollars, the allocation to the fund shall not be made, and the total sum of the fees paid pursuant to section 566A.2D shall be deposited in the general fund of the state. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund but shall remain in the cemetery fund. Moneys in the cemetery fund are appropriated to the insurance division and, subject to authorization by the commissioner, may be used to pay the expenses of that office incurred in the administration of the audit, investigative, and enforcement duties and obligations imposed under this chapter, and the expenses of receiverships established pursuant to section 566A.12.

Sec. 55. Section 602.1304, subsection 2, paragraph b, Code Supplement 1995, is amended to read as follows:

b. For each fiscal year, a judicial collection estimate for that fiscal year shall be equally and proportionally divided into a quarterly amount. The judicial collection estimate shall be calculated by using the state revenue estimating conference estimate made by December 15 pursuant to section 8.22A, subsection 3, of the total amount of fines, fees, civil penalties, costs, surcharges, and other revenues collected by judicial officers and court employees for deposit into the general fund of the state. The revenue estimating conference estimate shall be reduced by the maximum amounts allocated to the Iowa prison infrastructure fund pursuant to section 602.8108A, and the court technology and modernization fund pursuant to section 602.8108, and the remainder shall be the judicial collection estimate. In each quarter of a fiscal year, after revenues collected by judicial officers and court employees equal to that quarterly amount are deposited into the general fund of the state and after the required amount is deposited during the quarter into the Iowa prison infrastructure fund pursuant to section 602.8108A and into the court technology and modernization fund pursuant to section 602.8108, the director of revenue and finance shall deposit the remaining revenues for that quarter into the enhanced court collections fund in lieu of the general fund. However, after total deposits into the collections fund for the fiscal year are equal to the maximum deposit amount established for the collections fund, remaining revenues for that fiscal year shall be deposited into the general fund. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a lesser amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of revenue and finance shall recalculate the judicial

collection estimate accordingly. If the revenue estimating conference agrees to a different estimate at a later meeting which projects a greater amount of revenue than the initial estimate amount used to calculate the judicial collection estimate, the director of revenue and finance shall recalculate the judicial collection estimate accordingly but only to the extent that the greater amount is due to an increase in the fines, fees, civil penalties, costs, surcharges, or other revenues allowed by law to be collected by judicial officers and court employees.

Sec. 56. Section 692.12, Code Supplement 1995, is amended to read as follows:

692.12 DATA PROCESSING.

Nothing in this chapter shall preclude the use of the equipment and hardware of the data processing service center for the storage and retrieval of criminal history data. Files shall be stored on the computer in such a manner ~~as~~ that the files cannot be modified, destroyed, accessed, changed, or overlaid in any fashion by ~~noncriminal or juvenile justice agency~~ terminals or personnel not belonging to a criminal or juvenile justice agency. That portion of any computer, electronic switch or manual terminal having access to criminal history data stored in the state computer must be under the management control of a criminal or juvenile justice agency.

Sec. 57. Section 692.21, Code Supplement 1995, is amended to read as follows:

692.21 DATA TO AGENCY MAKING ARREST OR TAKING JUVENILE INTO CUSTODY.

The clerk of the district court shall forward conviction and disposition data to the criminal or juvenile justice agency making the arrest or taking a juvenile into custody within thirty days of final court disposition of the case.

Sec. 58. Section 692A.1, subsection 2, Code Supplement 1995, is amended to read as follows:

2. "Criminal or juvenile justice agency" means an agency or department of any level of government or an entity wholly owned, financed, or controlled by one or more such agencies or departments which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal or juvenile offenders.

Sec. 59. Section 692A.10, subsection 4, Code Supplement 1995, is amended to read as follows:

4. Adopt rules under chapter 17A, as necessary, to ensure compliance with registration and verification requirements of this chapter, to provide guidelines for persons required to assist in obtaining registry information, and to provide a procedure for the dissemination of information contained in the registry. The procedure for the dissemination of information shall include, but not be limited to, practical guidelines for use by criminal or juvenile justice agencies in determining when public release of information contained in the registry is appropriate and a requirement that if a member of the general public requests information regarding a specific individual in the manner provided in section 692A.13, subsection 6, the information shall be released. The department, in developing the procedure, shall consult with associations which represent the interests of law enforcement officers. Rules adopted shall also include a procedure for removal of information from the registry upon the reversal or setting aside of a conviction of a person who is registered under this chapter.

Sec. 60. Section 692A.13, subsections 1, 3, and 5, Code Supplement 1995, are amended to read as follows:

1. The department or a sheriff may disclose information to criminal or juvenile justice agencies for law enforcement or prosecution purposes.

3. The department or a criminal or juvenile justice agency with case-specific authorization from the department may release relevant information from the registry regarding a

criminal offense against a minor, sexual exploitation, or a sexually violent offense, that is necessary to protect the public concerning a specific person who is required to register under this chapter.

5. Criminal history ~~information~~ data contained in the registry may be released as provided in chapter 692 or used by criminal or juvenile justice agencies as an index for purposes of locating a relevant conviction record.

Sec. 61. Section 692A.15, Code Supplement 1995, is amended to read as follows:

692A.15 IMMUNITY FOR GOOD FAITH CONDUCT.

Criminal or juvenile justice agencies, officials, and employees of criminal or juvenile justice agencies and state agencies and their employees shall be immune from liability for acts or omissions arising from a good faith effort to comply with this chapter.

Sec. 62. Section 708.3A, Code Supplement 1995, is amended to read as follows:

708.3A ASSAULTS ON PEACE OFFICERS, FIRE FIGHTERS, AND EMERGENCY CARE PROVIDERS.

1. A person who commits an assault, as defined in section 708.1, against a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter and the intent to inflict a serious injury upon the peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, and who causes bodily injury or disabling mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in section 708.1, committed against a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, is a serious misdemeanor.

Sec. 63. Section 719.1, subsection 1, Code Supplement 1995, is amended to read as follows:

1. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, ~~basic emergency medical care provider under chapter 147, an advanced~~ emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any

authorized person of any civil or criminal process or order of any court, commits a serious misdemeanor. However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor. If a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class "D" felony.

Sec. 64. Section 727.11, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. To a criminal or juvenile justice agency only pursuant to an investigation of a particular person or organization suspected of committing a known crime. The information shall be released only upon a judicial determination that a rational connection exists between the requested release of information and a legitimate end and that the need for the information is cogent and compelling.

Sec. 65. Section 805.5, Code Supplement 1995, is amended to read as follows:

805.5 FAILURE TO APPEAR.

Any person who willfully fails to appear in court as specified by the citation shall be guilty of a simple misdemeanor. Where a defendant fails to make a required court appearance, the court shall issue an arrest warrant for the offense of failure to appear, and shall forward the warrant and the original or electronically produced citation to the clerk. The clerk shall enter a transfer to the issuing agency on the docket, and shall return the warrant with the original or electronically produced citation attached to the law enforcement agency which issued the ~~original or electronically produced~~ citation for enforcement of the warrant. Upon arrest of the defendant, the warrant and the original or electronically produced citation shall be returned to the court, and the offenses shall be heard and disposed of simultaneously.

Sec. 66. Section 909.10, subsection 2, Code 1995, is amended to read as follows:

2. Notwithstanding the disposition sections of sections 602.8106 and ~~911.3~~ 602.8108, subsection 3, upon the collection of delinquent amounts, the clerks of the district court shall remit the delinquent amounts to the treasurer of state for deposit into the revolving fund established pursuant to section 602.1302, to be used for the payment of jury and witness fees and mileage.

Sec. 67. Section 910A.9A, subsection 1, Code Supplement 1995, is amended to read as follows:

1. The date on which the juvenile or sexually violent predator is expected to be temporarily released from the custody of the department of human services, and whether the juvenile or sexually violent predator is expected to return to the community where the registered victim resides.

Sec. 68. AMENDMENTS CHANGING TERMINOLOGY REGARDING PODIATRIC PHYSICIANS. Sections 135B.7, 148.2, 148A.3, 149.2, 150.3, 150A.2, 157.2, 158.2, 455B.333, 514.1, 514.5, 514.8, and 514.17, Code 1995, are amended by striking from the sections the word "podiatrists" and inserting in lieu thereof the words "podiatric physicians".

Sec. 69. 1995 Iowa Acts, chapter 215, section 34, is amended to read as follows:

SEC. 34. EFFECTIVE DATE. Sections 3 through 10, sections 17 through 25, ~~sections~~ section 27, ~~and 28,~~ section 29, subsection 2, and sections 30, 31, and 33, being deemed of immediate importance, take effect upon enactment. Sections 1 and 2, sections 11 through 14, and section 29, subsection 1, are effective July 1, 1995. Section 28 is effective January 1, 1996. Sections 15 and 26 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 70. REPEALS.

1. Sections 260C.24 and 303.18, Code Supplement 1995, are repealed.
2. Sections 422.47A, 422.47B, and 422.47C, Code 1995, are repealed.

Sec. 71. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. Section 69 of this Act, amending 1995 Iowa Acts, chapter 215, section 34, being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 24, 1995.

Approved April 2, 1996

CHAPTER 1035

LICENSURE OF SOCIAL WORKERS

S.F. 73

AN ACT requiring licensure of certain social workers, providing an effective date, imposing fees, and making penalties applicable.

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

Section 1. Section 147.2, Code 1995, is amended to read as follows:

147.2 LICENSE REQUIRED.

A person shall not engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, occupational therapy, pharmacy, cosmetology, barbering, social work, dietetics, or mortuary science or shall not practice as a physician assistant as defined in the following chapters of this subtitle, unless the person has obtained from the department a license for that purpose.

Sec. 2. Section 147.14, subsection 1, Code 1995, is amended to read as follows:

1. For podiatry, barbering, and mortuary science, ~~and social work,~~ three members each, licensed to practice the profession for which the board conducts examinations, and two members who are not licensed to practice the profession for which the board conducts examinations and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

Sec. 3. Section 147.14, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. For social work examiners, a total of seven members, five who are licensed to practice social work, with at least one from each of three levels of licensure described in section 154C.3, subsection 1, two employed by a licensee under chapter 237, and two who are not licensed social workers and who shall represent the general public.

Sec. 4. Section 147.74, subsection 12, Code Supplement 1995, is amended by striking the subsection and inserting in lieu thereof the following:

12. A bachelor social worker licensed under chapter 154C may use the words "licensed bachelor social worker" or the letters "L.B.S.W." after the person's name. A master social worker licensed under chapter 154C may use the words "licensed master social worker" or the letters "L.M.S.W." after the person's name. An independent social worker licensed under chapter 154C may use the words "licensed independent social worker", or the letters "L.I.S.W." after the person's name.

Sec. 5. Section 154C.1, Code 1995, is amended to read as follows:

154C.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Board" means the board of social work examiners established in chapter 147.

2. ~~"Licensed social worker" or "licensee"~~ "Licensee" means a person licensed to practice social work.

3. "Practice of ~~licensed~~ social work" means the professional activity of ~~licensed social workers~~ licensees which is directed at enhancing~~, protecting,~~ or restoring people's capacity for social functioning, whether impaired by environmental, emotional, or physical factors, with particular attention to the person-in-situation configuration. The social work profession represents a body of knowledge requiring progressively more sophisticated analytic and intervention skills, and includes the application of ~~social work~~ psychosocial theory methods ~~and values in evaluating personal and family problems and relationships, assisting persons and families with adjustment problems and reaching appropriate decisions about their lives, and counseling emotionally distressed individuals and families~~ to individuals, couples, families, groups, and communities. The practice of social work does not include the making of a medical diagnosis, or the treatment of conditions or disorders of biological etiology except treatment of conditions or disorders which involve psychosocial aspects and conditions. The practice of social work for each of the categories of social work licensure includes the following:

a. Bachelor social workers provide psychosocial assessment and intervention through direct contact with clients or referral of clients to other qualified resources for assistance, including but not limited to performance of social histories, problem identification, establishment of goals and monitoring of progress, interviewing techniques, counseling, social work administration, supervision, evaluation, interdisciplinary consultation and collaboration, and research of service delivery including development and implementation of organizational policies and procedures in program management.

b. Master social workers are qualified to perform the practice of bachelor social workers and provide psychosocial assessment, diagnosis, and treatment, including but not limited to performance of psychosocial histories, problem identification and evaluation of symptoms and behavior, assessment of psychosocial and behavioral strengths and weaknesses, effects of the environment on behavior, psychosocial therapy with individuals, couples, families, and groups, establishment of treatment goals and monitoring progress, differential treatment planning, and interdisciplinary consultation and collaboration.

c. Independent social workers are qualified to perform the practice of master social workers as a private practice.

4. "Private practice ~~of licensed social work~~" means ~~the autonomous professional activity of a licensed social worker which is not under the auspices of a public or private nonprofit corporation~~ social work practice conducted only by an independent social worker who is either self-employed or a member of a partnership or of a group practice providing diagnosis and treatment of mental and emotional disorders or conditions.

5. "Supervision" means the direction of social work practice in face-to-face sessions.

Sec. 6. Section 154C.2, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

154C.2 LICENSE REQUIRED – USE OF TITLE.

1. A person shall not engage in the practice of social work unless the person is licensed pursuant to this chapter. A person who is not licensed pursuant to this chapter shall not use words or titles which imply or represent that the person is a licensed bachelor social worker, licensed master social worker, or licensed independent social worker.

2. Notwithstanding subsection 1, persons trained as bachelor social workers, or employed as bachelor social workers, are not required to be licensed.

3. Section 147.83 does not apply to persons who are not licensed as bachelor social workers and who do not hold themselves out as licensed bachelor social workers.

Sec. 7. Section 154C.3, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

154C.3 REQUIREMENTS TO OBTAIN LICENSE OR RECIPROCAL LICENSE - LICENSE RENEWAL - CONTINUING EDUCATION.

1. LICENSE REQUIREMENTS. An applicant for a license as a bachelor social worker, master social worker, or independent social worker shall meet the following requirements in addition to paying all fees required by the board:

a. BACHELOR SOCIAL WORKER. An applicant for a license as a bachelor social worker shall present evidence satisfactory to the board that the applicant:

(1) Possesses a bachelor's degree in social work from an accredited college or university approved by the board.

(2) Has passed an examination given by the board.

(3) Will conduct all professional activities as a bachelor social worker in accordance with standards for professional conduct established by the board.

b. MASTER SOCIAL WORKER. An applicant for a license as a master social worker shall present evidence satisfactory to the board that the applicant:

(1) Possesses a master's or doctoral degree in social work from an accredited college or university approved by the board.

(2) Has passed an examination given by the board.

(3) Will conduct all professional activities as a master social worker in accordance with standards for professional conduct established by the board.

c. INDEPENDENT SOCIAL WORKER. An applicant for a license as an independent social worker shall present evidence satisfactory to the board that the applicant:

(1) Possesses a master's or doctoral degree from an accredited college or university approved by the board.

(2) Has passed an examination given by the board.

(3) Will conduct all professional activities as a social worker in accordance with standards for professional conduct established by the board.

(4) Has engaged in the practice of social work, under supervision, for at least two years as a full-time employee or for four thousand hours prior to taking the examination given by the board.

(5) Supervision shall be provided in any of the following manners:

(a) By a social worker licensed at least at the level of the social worker being supervised and qualified under this section to practice without supervision.

(b) By another qualified professional, if the board of social work examiners determines that supervision by a social worker as defined in subparagraph (1)* is unobtainable or in other situations considered appropriate by the board.

Additional standards for supervision shall be determined by the board of social work examiners.

2. RECIPROCAL LICENSE. The board shall issue an appropriate license to an applicant licensed to practice social work in another state which imposes licensure requirements similar or equal to those imposed under subsection 1.

3. LICENSE RENEWAL AND CONTINUING EDUCATION. Licenses shall be renewed biennially, and licensees shall pay a fee for renewal as determined by the board and shall present evidence satisfactory to the board that the licensee has satisfied continuing education requirements as determined by the board.

Sec. 8. Section 154C.4, Code 1995, is amended to read as follows:

154C.4 RULEMAKING AUTHORITY.

In addition to duties and responsibilities provided in chapters 147 and 272C, the board shall adopt rules relating to:

1. Standards required for licensees engaging in the private practice of licensed social work.

2. Standards for professional conduct of ~~persons licensed under this chapter~~ licensees.

*Subparagraph subdivision (a) probably intended

3. The administration of this chapter.

4. The status of active and inactive licensure and guidelines for inactive licensure reentry.

5. Educational activities which fulfill continuing education requirements for renewal of licenses.

6. Evaluation of its rules to refine standards of licensure and improve methods of enforcement of the standards.

Sec. 9. Section 154C.5, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A ~~licensed social worker~~ licensee or a person working under supervision of a licensee shall not disclose or be compelled to disclose information acquired from persons consulting that person in a professional capacity except:

Sec. 10. NEW SECTION. 154C.6 TRANSITION PROVISIONS – EXEMPTION FROM CERTAIN LICENSE REQUIREMENTS.

Notwithstanding section 154C.3, the board shall issue a license as a bachelor social worker, master social worker, or independent social worker to an applicant applying for a license prior to July 1, 1998, who meets the following requirements in addition to paying all fees required by the board:

1. BACHELOR SOCIAL WORKER. An applicant for a license as a bachelor social worker shall present evidence satisfactory to the board of either of the following:

a. That the applicant possesses a bachelor's degree in social work from an accredited college or university approved by the board.

b. That the applicant possesses an undergraduate degree from an accredited college or university and has four thousand hours of employment experience in the practice of social work.

2. MASTER SOCIAL WORKER. An applicant for a license as a master social worker shall present evidence satisfactory to the board of any of the following:

a. That the applicant possesses a master's degree in social work from an accredited college or university approved by the board.

b. That the applicant possesses a graduate degree from an accredited college or university and has four thousand hours of employment experience in the practice of social work.

c. That the applicant is employed performing master level social work duties as defined in section 154C.1, subsection 3, paragraph "b", as of July 1, 1996, and has four thousand hours of employment experience in the practice of social work as of July 1, 1998.

3. INDEPENDENT SOCIAL WORKER. An applicant for a license as an independent social worker shall present evidence satisfactory to the board of either of the following:

a. That the applicant possesses a valid license to practice social work pursuant to chapter 154C issued prior to July 1, 1996.

b. That the applicant possesses a master's or doctoral degree in social work from an accredited college or university approved by the board and has two years or four thousand hours of postgraduate degree employment experience in the practice of social work.

Sec. 11. NEW SECTION. 154C.7 GENERAL EXEMPTIONS.

This chapter and chapter 147 do not prevent qualified members of other professions including, but not limited to, nurses, psychologists, marital and family therapists, mental health counselors, physicians, physician assistants, attorneys-at-law, or members of the clergy, from providing or advertising that they provide services of a social work nature consistent with the accepted standards of their respective professions, provided that these persons do not use a title or description indicating or implying that they are licensed to practice social work under this chapter or that they are practicing social work as defined in this chapter.

This chapter does not apply to students of social work whose activities are conducted within a course of professional education in social work.

Sec. 12. Section 229.1, subsection 11, paragraph c, Code Supplement 1995, is amended to read as follows:

c. A social worker ~~who holds a master's degree in social work awarded by an accredited college or university~~ licensed under chapter 154C.

Sec. 13. EFFECTIVE DATE. Sections 2 and 3 of this Act take effect July 1, 1998.

Approved April 2, 1996

CHAPTER 1036

LICENSURE OF RESPIRATORY CARE PRACTITIONERS

S.F. 2013

AN ACT requiring the licensure of respiratory care therapists and creating a board for respiratory care practitioners.

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

Section 1. Section 135.1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

For the purposes of ~~chapters 152B and~~ chapter 155 and title IV, subtitle 2, excluding chapters 142B, 145B, and 146, unless otherwise defined:

Sec. 2. Section 135.11, subsections 11 and 13, Code 1995, are amended to read as follows:

11. Enforce the law relative to chapter 146 and "Health-related Professions," title IV, subtitle 3, excluding chapters ~~152B,~~ 152D~~,~~ and 155.

13. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125, ~~152B,~~ 152D, and 155 and title IV, subtitle 2, excluding chapters 142B, 145B, and 146 and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

Sec. 3. Section 147.1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

For the purpose of this and the following chapters of this subtitle, excluding chapters ~~152B,~~ 152C~~,~~ and 152D:

Sec. 4. Section 147.1, subsections 3 and 6, Code Supplement 1995, are amended to read as follows:

3. "Licensed" or "certified" when applied to a physician and surgeon, podiatric physician, osteopath, osteopathic physician and surgeon, physician assistant, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, or social worker means a person licensed under this subtitle, excluding chapters 152B,* 152C, and 152D.

6. "Profession" means medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, respiratory care, cosmetology arts and sciences, barbering, mortuary

*See chapter 1219, §20 herein

science, marital and family therapy, mental health counseling, social work, or dietetics.

Sec. 5. Section 147.2, Code 1995, is amended to read as follows:

147.2 LICENSE REQUIRED.

A person shall not engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, occupational therapy, respiratory care, pharmacy, cosmetology, barbering, dietetics, or mortuary science or shall not practice as a physician assistant as defined in the following chapters of this subtitle, unless the person has obtained from the department a license for that purpose.

Sec. 6. Section 147.3, Code 1995, is amended to read as follows:

147.3 QUALIFICATIONS.

An applicant for a license to practice a profession under this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, is not ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. A board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of the profession for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

Sec. 7. Section 147.6, Code 1995, is amended to read as follows:

147.6 CERTIFICATE PRESUMPTIVE EVIDENCE.

Every license issued under this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, shall be presumptive evidence of the right of the holder to practice in this state the profession therein specified.

Sec. 8. Section 147.7, Code 1995, is amended to read as follows:

147.7 DISPLAY OF LICENSE.

Every person licensed under this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, to practice a profession shall keep the license publicly displayed in the primary place in which the person practices.

Sec. 9. Section 147.9, Code 1995, is amended to read as follows:

147.9 CHANGE OF RESIDENCE.

When any person licensed to practice a profession under this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, changes a residence or place of practice the person shall notify the department.

Sec. 10. Section 147.12, unnumbered paragraph 1, Code 1995, is amended to read as follows:

For the purpose of giving examinations to applicants for licenses to practice the professions for which licenses are required by this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, the governor shall appoint, subject to confirmation by the senate, a board of examiners for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

Sec. 11. Section 147.13, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 18. For respiratory care therapists, respiratory care examiners.

Sec. 12. Section 147.14, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. For respiratory care, one licensed physician with training in respiratory care, three respiratory care practitioners who have practiced respiratory care for a minimum of six years immediately preceding their appointment to the board and

who are recommended by the society for respiratory care, and one member not licensed to practice medicine or respiratory care who shall represent the general public. A majority of members of the board constitute a quorum.

Sec. 13. Section 147.30, Code 1995, is amended to read as follows:

147.30 TIME AND PLACE OF EXAMINATIONS.

The department shall give public notice of the time and place of all examinations to be held under this subtitle, excluding chapters ~~152B,~~ 152C, and 152D. Such notice shall be given in such manner as the department may deem expedient and in ample time to allow all candidates to comply with the provisions of this subtitle, excluding chapters ~~152B,~~ 152C, and 152D.

Sec. 14. Section 147.34, Code 1995, is amended to read as follows:

147.34 EXAMINATIONS.

Examinations for each profession licensed under this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, shall be conducted at least one time per year at such time as the department may fix in cooperation with each examining board. Examinations may be given at the state university of Iowa at the close of each school year for professions regulated by this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, and examinations may be given at other schools located in the state at which any of the professions regulated by this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, are taught. At least one session of each examining board shall be held annually at the seat of government and the locations of other sessions shall be determined by the examining board, unless otherwise ordered by the department. Applicants who fail to pass the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, applicants shall be allowed to take the examination at the discretion of the board. Examinations may be given by an examining board which are prepared and scored by persons outside the state, and examining boards may contract for such services. An examining board may make an agreement with examining boards in other states for administering a uniform examination. An applicant who has failed an examination may request in writing information from the examining board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the examining board administers a uniform, standardized examination, the examining board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the examining board.

Sec. 15. Section 147.41, subsection 2, Code 1995, is amended to read as follows:

2. The subjects to be covered by such examination and the subjects to be covered by the final examination to be taken by such applicant after the completion of the professional course and prior to the issuance of the license, but the subjects covered in the partial and final examinations shall be the same as those specified in this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, for the regular examination.

Sec. 16. Section 147.44, Code 1995, is amended to read as follows:

147.44 AGREEMENTS.

For the purpose of recognizing licenses which have been issued in other states to practice any profession for which a license is required by this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, the department shall enter into a reciprocal agreement with every state which is certified to it by the proper examining board under the provisions of section 147.45 and with which this state does not have an existing agreement at the time of such certification.

Sec. 17. Section 147.46, subsection 1, Code 1995, is amended to read as follows:

1. PROTECTION TO LICENSEES OF THIS STATE. When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person

licensed in this state to practice any profession regulated by this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, which affects the right of said person to be licensed or to practice the person's profession in said state, then the same requirement or disability shall be placed upon any person licensed in said state when applying for a license to practice in this state.

Sec. 18. Section 147.52, Code 1995, is amended to read as follows:

147.52 RECIPROCITY.

When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person holding a diploma or certificate from any college in this state in which one of the professions regulated by this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, is taught, which affects the right of said person to be licensed in said state, the same requirement or disability shall be placed upon any person holding a diploma from a similar college situated therein, when applying for a license to practice in this state.

Sec. 19. Section 147.72, Code 1995, is amended to read as follows:

147.72 PROFESSIONAL TITLES AND ABBREVIATIONS.

Any person licensed to practice a profession under this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, may append to the person's name any recognized title or abbreviation, which the person is entitled to use, to designate the person's particular profession, but no other person shall assume or use such title or abbreviation, and no licensee shall advertise in such a manner as to lead the public to believe that the licensee is engaged in the practice of any other profession than the one which the licensee is licensed to practice.

Sec. 20. Section 147.73, subsection 1, Code 1995, is amended to read as follows:

1. As authorizing any person licensed to practice a profession under this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, to use or assume any degree or abbreviation of the same unless such degree has been conferred upon said person by an institution of learning accredited by the appropriate board herein created, together with the director of public health, or by some recognized state or national accredited agency.

Sec. 21. Section 147.74, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 18A. A respiratory care practitioner licensed under chapter 152B and this chapter may use the title "respiratory care practitioner" or the letters R.C.P. after the person's name.

Sec. 22. Section 147.80, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 24A. License to practice respiratory care, license to practice respiratory care under a reciprocal license, or renewal of a license to practice respiratory care.

Sec. 23. Section 147.83, Code 1995, is amended to read as follows:

147.83 INJUNCTION.

Any person engaging in any business or in the practice of any profession for which a license is required by this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, without such license may be restrained by permanent injunction.

Sec. 24. Section 147.86, Code 1995, is amended to read as follows:

147.86 PENALTIES.

Any person violating any provision of this or the following chapters of this subtitle, excluding chapters ~~152B,~~ 152C, and 152D, except insofar as the provisions apply or relate to or affect the practice of pharmacy, or where a specific penalty is otherwise provided, shall be guilty of a serious misdemeanor.

Sec. 25. Section 147.87, Code 1995, is amended to read as follows:

147.87 ENFORCEMENT.

The department shall enforce the provisions of this and the following chapters of this subtitle, excluding chapters ~~152B,~~ 152C~~,~~ and 152D, and for that purpose may request the department of inspections and appeals to make necessary investigations. 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. 26. Section 147.88, Code 1995, is amended to read as follows:

147.88 INSPECTIONS.

The department of inspections and appeals may perform inspections as required by this subtitle, excluding chapters ~~152B,~~ 152C~~,~~ and 152D, 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. 27. Section 147.90, Code 1995, 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 this subtitle, excluding chapters ~~152B,~~ 152C~~,~~ and 152D.

Sec. 28. Section 147.92, Code 1995, is amended to read as follows:

147.92 ATTORNEY GENERAL.

Upon request of the department the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this or the following chapters of this subtitle, excluding chapters ~~152B,~~ 152C~~,~~ and 152D.

Sec. 29. Section 147.93, Code 1995, is amended to read as follows:

147.93 PRIMA FACIE EVIDENCE.

The opening of an office or place of business for the practice of any profession for which a license is required by this subtitle, excluding chapters ~~152B,~~ 152C~~,~~ and 152D, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, or advertisement, as a practitioner of any such profession, or as a person skilled in the same, shall be prima facie evidence of engaging in the practice of such profession.

Sec. 30. Section 147.111, Code 1995, is amended to read as follows:

147.111 REPORT OF TREATMENT OF WOUNDS AND OTHER INJURIES.

Any person licensed under the provisions of this subtitle, excluding chapters ~~152B,~~ 152C~~,~~ and 152D, who shall administer any treatment to any person suffering a gunshot or stab wound or other serious bodily injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or an application therefor was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious bodily injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious bodily injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

Sec. 31. Section 152B.1, Code 1995, is amended to read as follows:

152B.1 DEFINITIONS.

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

1. "Board" means the state board for respiratory care.

~~1.~~ 1A. "Department" means the Iowa department of public health.

1B. "Formal training" means a supervised, structured educational activity that includes preclinical didactic and laboratory activities and clinical activities approved by an accrediting agency recognized by the board, and including an evaluation of competence through a standardized testing mechanism that is determined by the board to be both valid and reliable.

2. "~~Medical~~ Qualified medical director" means a licensed physician or surgeon who is a member of a hospital's or health care facility's active medical staff and who ~~should be certified or eligible for certification by the American board of internal medicine or the American board of anesthesiology~~ has special interest and knowledge in the diagnosis and treatment of respiratory problems, is qualified by special training or experience in the management of acute and chronic respiratory disorders, is responsible for the quality, safety, and appropriateness of the respiratory care services provided, and is readily accessible to the respiratory care practitioners to assure their competency.

3. "Respiratory care" includes "respiratory therapy" or "inhalation therapy".

3A. "Respiratory care education program" means a course of study leading to eligibility for registration or certification in respiratory care which is recognized or approved by the board.

4. "Respiratory care practitioner" or "practitioner" means a person who ~~qualifies as a respiratory therapist or respiratory therapy technician.~~ meets all of the following:

a. Is qualified in the practice of cardiorespiratory care and has the knowledge and skill necessary to administer respiratory care as defined in section 152B.3.

b. Is capable of serving as a resource to the physician in relation to the technical aspects of cardiorespiratory care and to safe and effective methods for administering respiratory care modalities.

c. Is able to function in situations of unsupervised patient contact requiring individual judgment.

d. Is capable of supervising, directing, or teaching less skilled personnel in the provision of respiratory care services.

5. "Respiratory therapist" means a person who has successfully completed a respiratory ~~therapy training~~ care education program ~~and~~ for training respiratory therapists and has passed the registry examination for respiratory therapists administered by the national board for respiratory care or a respiratory therapy licensure examination approved by the ~~department~~ board. ~~Two years of supervised clinical experience in an acceptable location for the practice of respiratory care, as described in section 152B.4, may be substituted for the completion of a respiratory therapy training program.~~

6. "Respiratory therapy technician" means a person who has successfully completed a respiratory ~~therapy training~~ care education program ~~and~~ for training therapists and has passed the certification examination for respiratory therapy technicians administered by the national board for respiratory care or a respiratory ~~therapy~~ therapist technicians' licensure examination approved by the ~~department~~ board. ~~Two years of supervised clinical experience in an acceptable location for the practice of respiratory care, as described in section 152B.4, may be substituted for the completion of a respiratory therapy training program.~~

~~7. "Respiratory therapy training program" means a program accredited by the American medical association's committee on allied health education and accreditation in cooperation with the joint review committee for respiratory therapy education and approved by the committee.~~

Sec. 32. Section 152B.6, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The ~~department~~ board shall administer and implement this chapter. The ~~department's~~ board's duties in these areas shall include, but are not limited to, the following:

Sec. 33. Section 152B.7, Code 1995, is amended to read as follows:

152B.7 REPRESENTATION.

A person who is qualified as a respiratory care practitioner and is licensed by the ~~department~~ board 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 licensed by the ~~department~~ board. 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 licensed respiratory care practitioner.

Sec. 34. NEW SECTION. 152B.7A EXCEPTIONS.

1. A person shall not practice respiratory care or represent oneself to be a respiratory care practitioner unless the person is licensed under this chapter.

2. This chapter does not prohibit any of the following:

a. The practice of respiratory care which is an integral part of the program of study by students enrolled in an accredited respiratory therapy training program approved by the board in those situations where that care is provided under the direct supervision of an appropriate clinical instructor recognized by the educational program.

b. Respiratory care services rendered in the course of an emergency.

c. Care administered in the course of assigned duties of persons in the military services.

3. This section is not intended to limit, preclude, or otherwise interfere with the practice of other health providers formally trained and licensed by this state who administer respiratory care procedures.

4. An individual who passes an examination that includes the content of one or more of the functions included in sections 152B.2 and 152B.3 shall not be prohibited from performing such procedures for which they were tested, as long as the testing body offering the examination is approved by the board.

Sec. 35. Section 152B.9, Code 1995, is amended to read as follows:

152B.9 INJUNCTION.

The ~~department~~ board may apply to a court for the issuance of an injunction or other appropriate restraining order against a person who is engaging in a violation of this chapter.

Sec. 36. Section 152B.11, Code Supplement 1995, is amended to read as follows:

152B.11 CONTINUING EDUCATION.

After July 1, 1991, a respiratory care practitioner shall submit evidence satisfactory to the ~~department~~ board that during the year preceding renewal of licensure the practitioner has completed continuing education courses as prescribed by the ~~department~~ board. In lieu of the continuing education, a person may successfully complete the most current version of the licensure examination.

Persons who are not licensed under this chapter but who perform respiratory care as defined by sections 152B.2 and 152B.3 shall comply with the continuing education requirements of this section. The ~~department~~ board 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 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. 37. Section 152B.12, Code 1995, is amended to read as follows:

152B.12 SUSPENSION AND REVOCATION OF LICENSES.

The ~~department~~ board may suspend, revoke or impose probationary conditions upon a license issued pursuant to rules adopted in accordance with section 152B.6.

Sec. 38. Section 152B.13, Code 1995, is amended to read as follows:

152B.13 ~~ADVISORY COMMITTEE~~ STATE BOARD FOR RESPIRATORY CARE.

1. A state board for respiratory care ~~advisory committee~~ is established to ~~provide advice to the department regarding approval of continuing education programs and drafting of rules pursuant to section 152B.6~~ administer this chapter. Membership of the board shall be established pursuant to section 147.14, subsection 15.

~~The members of the advisory committee shall include two licensed physicians with recognized training and experience in respiratory care, two respiratory care practitioners, and one public member.~~ Not more than a simple majority of the ~~advisory committee~~ board shall be of one gender. Members shall be appointed by the governor, subject to confirmation by the senate, and shall serve three-year terms beginning and ending in accordance with section 69.19. A member may not serve more than three consecutive terms. Members shall be compensated for their actual and necessary expenses incurred in the performance of their duties. Expense moneys paid to the members shall be paid from funds appropriated to the ~~department~~ board. Each member of the ~~committee~~ board may also be eligible to receive compensation as provided in section 7E.6.

3. The board shall:

a. Examine, license, and renew the licenses of qualified applicants.

b. Maintain an up-to-date list of every person licensed to practice respiratory care under this chapter. The list shall show a licensee's last known place of employment, last known place of residence, and the date and number of the licensee's license.

c. Cause the prosecution of all persons violating this chapter and incur necessary expenses for the prosecution.

Sec. 39. NEW SECTION. 152B.14 LICENSURE THROUGH PRIOR EXAMINATION OR PRACTICE.

1. The board shall issue a license to practice respiratory care to an applicant who, on July 1, 1996, has passed an examination administered by the state or a national agency approved by the board.

2. Other applicants who have not passed these examinations or their equivalent on July 1, 1996, and who, through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this chapter, shall be given a temporary license to practice respiratory care for a period of thirty-six months from the effective date of this Act. Such applicants must pass a licensure examination administered or approved by the board within thirty-six months after the effective date of this Act in order to continue to practice respiratory care.

Sec. 40. Section 272C.1, subsection 6, paragraph aa, Code 1995, is amended to read as follows:

aa. The ~~Iowa department of public health~~ state board of respiratory care in licensing respiratory care practitioners pursuant to chapter 152B.

Approved April 2, 1996

CHAPTER 1037

CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS - OWNERS OF UNCLAIMED PROPERTY

S.F. 2127

AN ACT relating to the confidentiality of social security numbers of the owners of unclaimed property.

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

Section 1. Section 22.7, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 33. Social security numbers of the owners of unclaimed property reported to the treasurer of state pursuant to section 556.11, subsection 2, included on claim forms filed with the treasurer of state pursuant to section 556.19, included in outdated warrant reports received by the treasurer of state pursuant to section 25.2, or stored in record systems maintained by the treasurer of state for purposes of administering chapter 556, or social security numbers of payees included on state warrants included in records systems maintained by the department of revenue and finance for the purpose of documenting and tracking outdated warrants pursuant to section 25.2.

Approved April 2, 1996

CHAPTER 1038

UNCLAIMED PROPERTY - OUTDATED WARRANT RECOVERY - FRAUDULENT PRACTICES

S.F. 2122

AN ACT relating to unclaimed property held by the state, fraudulent practices to obtain the property, and establishing a penalty.

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

Section 1. Section 25.2, Code Supplement 1995, is amended to read as follows:

25.2 EXAMINATION OF REPORT - APPROVAL OR REJECTION - PAYMENT.

The state appeal board with the recommendation of the special assistant attorney general for claims may approve or reject claims against the state of less than ten years covering the following: outdated warrants; outdated sales and use tax refunds; license refunds; additional agricultural land tax credits; outdated invoices; fuel and gas tax refunds; outdated homestead and veterans' exemptions; outdated funeral service claims; tractor fees; registration permits; outdated bills for merchandise; services furnished to the state; claims by any county or county official relating to the personal property tax credit; and refunds of fees collected by the state. Payments authorized by the state appeal board shall be paid from the appropriation or fund of original certification of the claim. However, if that appropriation or fund has since reverted under section 8.33 then such payment authorized by the state appeal board shall be out of any money in the state treasury not otherwise appropriated. Notwithstanding the provisions of this section, the director of revenue and finance may reissue outdated warrants. On or before November 1 of each year, the director of revenue and finance shall provide the treasurer of state with a report of all unpaid warrants which have been outdated for two years or more. The treasurer shall include

information regarding outdated warrants in the notice published pursuant to section 556.12. ~~The provisions of section 556.11 regarding agreements to pay compensation for recovery or assistance in recovery of unclaimed property are applicable to agreements to pay compensation to recover or assist in the recovery of outdated warrants.~~ An agreement to pay compensation to recover or assist in the recovery of an outdated warrant made within twenty-four months after the date the warrant becomes outdated is unenforceable. However, an agreement made after twenty-four months from the date the warrant becomes outdated is valid if the fee or compensation agreed upon is not more than fifteen percent of the recoverable property, the agreement is in writing and signed by the payee, and the writing discloses the nature and value of the property and the name and address of the person in possession. This section does not apply to a payee who has a bona fide fee contract with a practicing attorney regulated under chapter 602, article 10.

Sec. 2. Section 714.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 16. Knowingly provides false information to the treasurer of state when claiming, pursuant to section 556.19, an interest in unclaimed property held by the state, or knowingly provides false information to a person or fails to disclose the nature, value, and location of unclaimed property prior to entering into a contract to receive compensation to recover or assist in the recovery of property reported as unclaimed pursuant to section 556.11.

Approved April 2, 1996

CHAPTER 1039

FALSE ACADEMIC RECORDS

S.F. 2331

AN ACT prohibiting certain uses and false representations relating to academic degrees, grades, or honors, and providing a penalty.

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

Section 1. NEW SECTION. 715A.6A PROHIBITIONS RELATING TO FALSE ACADEMIC DEGREES, GRADES, OR HONORS.

1. As used in this section, "academic degree" means a diploma, certificate, license, transcript, or other document which signifies or purports to signify completion of the academic requirements of a secondary, postsecondary, professional, or governmental program of study.

2. A person commits a serious misdemeanor if the person, knowingly and willingly, does any of the following:

a. Falsely makes or alters, procures to be falsely made or altered, or assists in falsely making or altering, an academic degree.

b. Uses, offers, or presents as genuine, a falsely made or altered academic degree.

c. Sells, gives, purchases, or obtains, procures to be sold, given, purchased, or obtained, or assists in selling, giving, buying, or obtaining, a false academic degree.

d. Makes a false written representation relating to the person's academic grades, honors, or awards, or makes a false written representation that the person has received an academic degree from a specific secondary, postsecondary, professional institution, or governmental program of study, in an application for any of the following:

(1) Employment.
(2) Admission to an educational program.
(3) An award or other recognition.
(4) The issuance of an academic degree to the person.

Approved April 2, 1996

CHAPTER 1040

INDIGENT DEFENSE - DUTIES OF PUBLIC DEFENDERS
H.F. 2429

AN ACT relating to the representation of indigents and other court appointments in criminal and juvenile proceedings and providing effective and retroactive applicability dates.

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

Section 1. Section 13B.1, subsection 1, Code Supplement 1995, is amended to read as follows:

1. "Appointed attorney" means an attorney appointed by the court and compensated by the state to represent an indigent defendant.

Sec. 2. Section 13B.4, Code Supplement 1995, is amended to read as follows:

13B.4 DUTIES AND POWERS OF STATE PUBLIC DEFENDER.

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and may provide for the representation of indigents in proceedings instituted pursuant to chapter 908~~, and~~. The state public defender shall not engage in the private practice of law. ~~The state public defender may represent an indigent under arrest or charged with a crime at the discretion of the state public defender or upon the request of a local public defender.~~

2. The state public defender shall file with the clerk of the district court in each county served by a public defender a designation of which local public defender office shall receive notice of appointment of cases. Except as otherwise provided, in each county in which the state public defender files such designation, the state public defender or its designee shall be appointed by the court to represent all eligible indigents, whether the case is criminal or juvenile in nature. The appointment shall not be made if the state public defender notifies the court that the local public defender will not provide legal representation in cases involving offenses as identified in the designation by the state public defender.

~~2.~~ 3. The state public defender may contract with persons admitted to practice law in this state for the provision of legal services to ~~indigents where there is no local public defender office in the area~~ indigent or partially indigent persons.

4. The state public defender is authorized to review any claim made for payment of indigent defense costs and to take the following action if the state public defender believes a claim is excessive.

a. If the claim is from a noncontract attorney, the state public defender shall request a review by the court granting the claim as to the reasonableness of the claim within thirty days of receipt of the claim.

b. If the claim is from a contract attorney, the state public defender shall request a review by the appointing court as to the reasonableness of the claim within thirty days of receipt of the claim.

5. The state public defender is authorized to contract with county attorneys to provide collection services related to court-ordered indigent defense restitution of court-appointed attorney fees or the expense of a public defender.

6. The state public defender shall report in writing to the general assembly by January 20 of each year regarding any funds recouped or collected for court-appointed attorney fees or expenses of a public defender pursuant to section 331.756, subsection 5, or section 602.8107 during the previous calendar year.

7. The state public defender shall adopt rules, as necessary, pursuant to chapter 17A to administer this chapter and section 815.9.

Sec. 3. Section 13B.9, subsection 1, paragraphs a and b, Code Supplement 1995, are amended to read as follows:

a. Represent without fee an indigent person who is under arrest or charged with a crime if the indigent person requests ~~it~~ representation or the court orders ~~it~~ representation. The local public defender shall counsel and defend an indigent defendant at every stage of the criminal proceedings and prosecute before or after conviction any appeals or other remedies which the local public defender considers to be in the interest of justice unless ~~the court appoints~~ other counsel is appointed to the case.

b. Represent an indigent party, without fee and upon an order of the court, in child in need of assistance, family in need of assistance, delinquency, and termination of parental rights proceedings pursuant to chapter 232 in a county served by a public defender. The local public defender shall counsel and represent an indigent party in all proceedings pursuant to chapter 232 in a county served by a public defender and prosecute before or after judgment any appeals or other remedies which the local public defender considers to be in the interest of justice unless ~~the court appoints~~ other counsel is appointed to the case. The state public defender shall be reimbursed by the counties for services rendered by employees of the local public defenders' offices under this subsection, pursuant to section 232.141.

Sec. 4. Section 13B.9, Code Supplement 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 4. The local public defender shall handle every case to which the local public defender is appointed if the local public defender can reasonably handle the case.

NEW SUBSECTION. 5. If a conflict of interest arises or if the local public defender is unable to handle a case because of a temporary overload of cases, the local public defender shall return the case to the court. The court shall first appoint a contract attorney. Appointments by the court shall be on a rotational or equalization basis considering the experience of the attorney and the difficulty of the case.

NEW SUBSECTION. 6. If a contract attorney is not available, or if a conflict of interest or overload of cases prevents a contract attorney from handling a case, the court shall appoint a private noncontract attorney who has agreed to take the case. The appointment shall be on a rotational or equalization basis, considering the experience of the attorney and the difficulty of the case.

Sec. 5. Section 815.10, Code Supplement 1995, is amended to read as follows:

815.10 APPOINTMENT OF COUNSEL BY COURT.

1. The court, for cause and upon its own motion or upon application by an indigent person or a public defender, ~~may~~ shall appoint ~~a~~ the state public defender, the state public defender's designee pursuant to section 13B.4, or ~~any~~ an attorney ~~who is admitted to the practice of law in this state~~ pursuant to section 13B.9 to represent an indigent person at

any ~~state~~ stage of the criminal or juvenile proceedings or on appeal of any criminal or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases, the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles. An appointment shall not be made unless the person is determined to be indigent under section 815.9.

~~2. If a court finds that a person desires legal assistance and is not indigent, but refuses to employ an attorney, the court shall appoint a public defender or another attorney to represent the person at public expense. If an attorney other than a public defender is appointed, the fee paid to the attorney shall be taxed as a court cost against the person.~~

~~3.~~ 2. An attorney other than a public defender or a contract attorney who is appointed by the court under ~~subsection 1 or 2~~ this section shall apply to the district court for compensation and for reimbursement of costs incurred. The amount of compensation due shall be determined in accordance with section 815.7.

3. A contract attorney appointed by the court pursuant to this section and section 13B.4 shall apply to the state public defender for compensation and for reimbursement of costs incurred in accordance with the contract. The amount of compensation due shall be determined in accordance with the contract.

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

Sec. 7. RETROACTIVE APPLICABILITY. This Act is retroactively applicable to July 1, 1995, and is applicable on or after that date.

Approved April 2, 1996

CHAPTER 1041

GRANDPARENT VISITATION RIGHTS

H.F. 2150

AN ACT relating to grandparent visitation rights.

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

Section 1. Section 598.35, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A parent of the child unreasonably refuses to allow visitation by the grandparent or unreasonably restricts visitation.

Approved April 2, 1996

CHAPTER 1042

EURASIAN WATER MILFOIL

S.F. 2035

AN ACT relating to the control and eradication of Eurasian milfoil and establishing a penalty.

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

Section 1. NEW SECTION. 456A.37 EURASIAN WATER MILFOIL.

1. DEFINITIONS. As used in this section:

a. "Infestation of Eurasian water milfoil" means an infestation of Eurasian water milfoil that occupies more than twenty percent of the littoral area of a body of water.

b. "Watercraft" means any vessel which through the buoyance of water floats upon the water and is capable of carrying one or more persons.

2. EURASIAN WATER MILFOIL MANAGEMENT PLAN. Before January 1, 1998, the commission shall prepare a long-term statewide Eurasian water milfoil management plan. The plan shall address all of the following:

a. The detection and prevention of accidental introductions into the state of Eurasian water milfoil.

b. A public awareness campaign regarding Eurasian water milfoil.

c. The control and eradication of Eurasian water milfoil in public waters.

d. The development of a plan of containment strategies that at a minimum shall include all of the following:

(1) The participation by lake associations, local citizens groups, and local units of government in the development and implementation of lake management plans where Eurasian water milfoil exists.

(2) Notice to travelers of the penalties for violation of laws relating to Eurasian water milfoil.

3. GRANTS. The director of the department of natural resources shall accept gifts, donations, and grants to aid in accomplishing the control and eradication of Eurasian water milfoil.

4. RULEMAKING. The commission shall adopt rules pursuant to chapter 17A. The rules shall:

a. Restrict the introduction, propagation, use, possession, and spread of Eurasian water milfoil.

b. Identify bodies of water with infestation of Eurasian water milfoil. The department shall require that bodies of water be posted as infested. The department may prohibit boating, fishing, swimming, and trapping in infested bodies of water.

5. PROHIBITIONS.

a. A person shall not do any of the following:

(1) Transport Eurasian water milfoil on a public road.

(2) Place a trailer or launch a watercraft with Eurasian water milfoil attached in public waters.

(3) Operate a watercraft in a marked Eurasian water milfoil infestation area.

b. The penalty for violating this subsection is contained in section 805.8, subsection 5B.

Sec. 2. Section 805.8, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5B. EURASIAN WATER MILFOIL. For violations of section 456A.37, subsection 5, the scheduled fine is one hundred dollars.

Approved April 2, 1996

CHAPTER 1043

MINING

H.F. 2408

† **AN ACT** concerning mining by applying the criterion for the reclamation of mine sites, by redefining operator and mining operations, by amending the hearing procedures, by providing for administrative actions and assessments of penalties by the division of soil conservation for noncompliance, and establishing additional penalties.

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

Section 1. Section 208.1, Code 1995, is amended to read as follows:

208.1 POLICY.

It is the policy of this state to provide for the reclamation and conservation of land affected by ~~surface~~ the mining of gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal, and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the people of this state.

Sec. 2. Section 208.2, Code 1995, is amended to read as follows:

208.2 DEFINITIONS.

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

1. "Administrator" means the ~~division~~ administrator of the division of soil conservation or a designee.

2. "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited or ~~both~~ land which has otherwise been disturbed, changed, influenced, or altered in any way in the course of mining, including ~~crushing areas~~ processing and stockpile areas but not including roads.

3. "Committee" means the state soil conservation committee.

4. "Division" means the division of soil conservation within the department of agriculture and land stewardship.

5. ~~"Mine" means any underground or surface mine developed and operated for the purpose of extracting any ores or mineral solids except coal.~~ "Exploration" means the mining of limited amounts of any mineral to determine the location, quantity, or quality of the mineral deposit.

5A. "Highwall" means the unexcavated face of exposed overburden and mineral in a surface mine.

6. "Mine ~~site~~" or "mine site" means a site where ~~surface~~ mining is being conducted or has been conducted in the past ~~and the operator anticipates further surface mining operations, or the surface operation related to an underground mine~~.

7. "Mineral" means gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal.

8. "Mining" means the excavation of gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal, for sale or for processing or consumption in the regular operation of a business and shall include surface mining and underground mining.

9. "Mining operation" means activities conducted by an operator on a mine site relative to the excavation of minerals and shall include disturbing overburden, excavation, and processing of minerals, stockpiling and removal of minerals from a site, and all reclamation activities conducted on a mine site.

~~7.~~ 10. "Operator" means any person, firm, partnership, ~~or~~ corporation, or political subdivision engaged in and controlling a mining operation ~~but shall not include a political subdivision of the state of Iowa~~.

~~8.~~ 11. "Overburden" means all of the earth and other materials which lie above natural

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

mineral deposits ~~of gypsum, clay, stone, sand, gravel or other minerals,~~ and includes all earth and other materials disturbed from their natural state in the process of ~~surface~~ mining.

~~9. "Peak" means a projecting point of overburden removed from its natural position and deposited elsewhere in the process of surface mining.~~

~~10. "Pit" means a tract of land from which overburden has been or is being removed for the purpose of surface mining.~~

12. "Pit floor" or "quarry floor" means the lower limit of a surface excavation to extract minerals.

13. "Political subdivision" means any county, district, city, or other public agency within the state of Iowa.

14. "Reclamation" means the process of restoring disturbed lands to the premined uses of the lands or other productive uses.

~~11. "Ridge" means a lengthened elevation of overburden removed from its natural position and deposited elsewhere in the process of surface mining.~~

~~12.~~ 15. "Surface mining" means ~~the~~ mining ~~of gypsum, clay, stone, sand, gravel or other ores or mineral solids for sale or for processing or consumption in the regular operation of a business~~ by removing the overburden lying above the natural deposits and ~~mining~~ excavating directly from the natural deposits exposed, or by ~~mining~~ excavating directly from deposits lying exposed in their natural state and shall include dredge operations conducted in or on natural waterways or artificially created waterways within the state. ~~Removal of overburden and mining of limited amounts of any ores or mineral solids shall not be considered surface mining when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of the natural deposit, if the ores or mineral solids removed during exploratory excavation or mining are not sold, processed for sale, or consumed in the regular operation of a business.~~

~~13.~~ 16. "Topsoil" means the natural medium located at the land surface with favorable characteristics for the growth of vegetation.

17. "Underground mining" means mining by digging or constructing access tunnels, adits, ramps, or shafts and excavating directly from the natural mineral deposits exposed.

Sec. 3. Section 208.7, Code 1995, is amended to read as follows:

208.7 MINING LICENSE.

~~No person, firm, partnership, or corporation~~ An operator shall not engage in ~~surface~~ mining ~~or operation of an underground mine or mines,~~ as defined by section 208.2, without first obtaining a license from the division. Licenses shall be issued upon approval by the division following application by the operator. Applications shall be submitted on a form provided by the division and shall be accompanied by a fee of fifty dollars. Each applicant shall be required to furnish on the form information necessary to identify the applicant. Licenses shall expire on December 31 of each year and shall be renewed by the division upon application submitted within thirty days prior to the expiration date and accompanied by a fee of ten dollars. However, a political subdivision shall not be required to pay a license application or renewal fee.

Sec. 4. Section 208.8, Code 1995, is amended to read as follows:

208.8 SUSPENSION OR REVOCATION OF LICENSE~~— REFUSAL TO RENEW~~.

1. The division may, ~~with approval of the committee, commence proceedings to suspend, revoke, or refuse to renew a license of any licensee~~ for repeated or willful violation of any of the provisions of this chapter, initiate an action to suspend, revoke, or refuse to issue a mining license.

2. The division shall, by certified mail or personal service, serve on the ~~licensee~~ operator notice in writing of the charges and grounds upon which the license is to be suspended, revoked, or will not be ~~renewed~~ issued. The notice shall include the time and the place at which a hearing shall be held before the committee, a subcommittee appointed by the

committee, or the committee's designee, to determine whether to suspend, revoke, or refuse to ~~renew~~ issue the license. The hearing shall be not less than fifteen nor more than thirty days after the mailing or service of the notice.

3. An operator whose license the division proposes to suspend, revoke, or refuse to issue has the right to counsel and may produce witnesses and present statements, documents, and other information in the operator's behalf at the hearing.

4. If after full investigation and hearing the operator is found to have willfully or repeatedly violated any of the provisions of this chapter, the committee or subcommittee may affirm or modify the proposed suspension, revocation, or refusal to issue the license.

5. When the committee or subcommittee finds that a license should be suspended or revoked or should not be issued, the division shall so notify the operator in writing by certified mail or by personal service.

a. The suspension or revocation of a license shall become effective thirty days after notice to the operator.

b. If the license or renewal fee has been paid and the committee or subcommittee finds that the license should not be issued, then the license shall expire thirty days after notice to the operator.

6. An action by the committee or subcommittee to affirm or modify the proposed suspension, revocation, or refusal to issue a license constitutes a final agency action for purposes of judicial review pursuant to section 208.11 and chapter 17A.

Sec. 5. Section 208.9, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

208.9 REGISTERING MINE SITE.

1. At least seven days before beginning mining or removal of overburden at a mine site not previously registered, an operator engaging, or preparing to engage, in mining in this state shall register the mine site with the division. Application for registration shall be made upon a form provided by the division and shall be accompanied by a bond or security as provided by section 208.14. A registration renewal shall be filed annually. Application for renewal of registration shall be on a form provided by the division. The registration and registration cancellation fees shall be established by the division in an amount not to exceed the cost of administering the provisions of this chapter. The application shall include a description of the tract or tracts of land where the site is located and the estimated number of acres at the site to be affected by the mine. The description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands. The application shall include a statement explaining the authority of the applicant's legal right to operate a mine on the land.

2. A mine site registered pursuant to this chapter shall have a clearly visible sign which identifies the mining operation. Failure to post and maintain a sign as required by this subsection, within thirty days after notice from the division, invalidates the registration.

3. The division shall automatically invalidate all registrations of an operator who fails to renew the operator's mining license within a time period set by the division, who has been denied license renewal by the committee or subcommittee, or whose license has been suspended or revoked by the committee or subcommittee.

Sec. 6. Section 208.10, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

208.10 VIOLATION – ENFORCEMENT.

1. The administrator may issue an order directing the operator to desist in an activity or practice which constitutes a violation of any provision of this chapter or any rules adopted by the division, or to take such corrective action as may be necessary to ensure that the violation will cease. If corrective measures sought by the division are not commenced within the time period designated in the order, the division may refer the violation to the attorney general for further action.

2. The operator may contest an order issued under this section through contested case proceedings pursuant to chapter 17A by filing with the administrator a notice of appeal within thirty days of receipt of the order for review by the division.

3. At the request of the division, the attorney general shall institute any legal proceedings, including an action for a civil penalty, injunction, or temporary injunction, necessary to enforce the provisions of this chapter or to obtain compliance with this chapter. Action by the attorney general may be taken in lieu of or in conjunction with any administrative action by the division.

4. Falsification of information required to be submitted under this chapter is a violation of this chapter.

Sec. 7. NEW SECTION. 208.10A PENALTIES.

1. Any person who violates an order issued pursuant to section 208.10 shall be subject to an administrative penalty determined by the division not to exceed five thousand dollars per violation.

a. The division shall establish, by rule, a schedule or range of administrative penalties. The schedule shall provide procedures and criteria for the assessment of these penalties.

b. Administrative penalties may be assessed in lieu of or in conjunction with any action initiated by the attorney general on behalf of the division.

c. All penalties shall be paid within thirty days of the date that the order assessing the penalty becomes final. An operator who fails to pay an administrative penalty assessed by a final order of the division shall pay, in addition, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

d. The attorney general shall, at the request of the division, institute proceedings to recover all penalties assessed.

2. If any person violates a provision of this chapter, or any rule or order adopted by the division pursuant to this chapter, the division may notify the attorney general who shall institute a civil action in district court for injunctive relief and for the assessment of a civil penalty not to exceed ten thousand dollars per violation.

3. Penalties, bond reversions, and bond forfeitures collected under the provisions of this chapter or any rule adopted by the division pursuant to this chapter shall be deposited in an interest bearing account and may be used for the cost and administrative expenses of reclamation or rehabilitation activities for any mine site as deemed necessary and appropriate by the division.

Sec. 8. Section 208.15, Code 1995, is amended to read as follows:

208.15 AMENDMENT OR CANCELLATION.

An operator may at any time apply for amendment or cancellation of registration of any site. The application for amendment or cancellation of registration shall be submitted by the operator on a form provided by the division and shall identify as required under section ~~208.13~~ 208.9 the tract or tracts of land to be added to or removed from registration. If the application is for an increase in the area of a registered site, the application shall be processed in the same manner as an application for original registration. If the application is to cancel registration of any or all of the unmined part of a site, the division shall after ascertaining that no overburden has been disturbed or deposited on the land order release of the bond or the security posted on the land being removed from registration and cancel or amend the operator's written authorization to conduct ~~surface~~ mining on the site. Fees for amendment or cancellation of registration shall be determined as provided in section ~~208.13~~ 208.9. No land where overburden has been disturbed or deposited shall be removed from registration or released from bond or security under this section.

Sec. 9. Section 208.16, Code 1995, is amended to read as follows:

208.16 TRANSFER TO NEW OPERATOR.

1. If control of ~~an active~~ a mine site ~~or the right to conduct any future mining at an inactive site~~ registered pursuant to section 208.9 is acquired by an operator other than the operator holding authorization to conduct ~~surface~~ mining on the site, the new operator shall within ~~fifteen~~ thirty days apply for registration of the site ~~in the new operator's name~~. The application shall be made and processed as provided under sections ~~208.13~~ 208.9 and 208.14. The former operator's bond or security shall not be released until the new operator's bond or security has been accepted by the division.

2. The division may establish procedures for transferring the responsibility for reclamation of a mine site to a state agency or political subdivision which intends to use the site for other purposes. The division, with agreement from the receiving agency or subdivision to complete adequate reclamation, may approve the transfer of responsibility, release the bond or security, and terminate or amend the operator's authorization to conduct ~~surface~~ mining on the site.

Sec. 10. Section 208.17, Code 1995, is amended to read as follows:

208.17 RECLAMATION REQUIREMENTS.

1. An operator authorized under this chapter to operate a mine, after completion of mining operations and within the time specified in section 208.19, shall:

a. Grade affected lands ~~except for impoundments, pit floors, and highwalls,~~ to slopes having a maximum of one foot vertical rise for each four feet of horizontal distance. Where the original topography of the affected land was steeper than one foot of vertical rise for each four feet of horizontal distance, the affected lands may be graded to blend with the surrounding terrain. However, water impoundments, pit or quarry floors, and highwalls are not subject to the requirements of this paragraph.

b. ~~Provide for the vegetation of the~~ Stabilize and revegetate affected lands, except for water impoundments~~,~~ and pit or quarry floors~~, and highwalls,~~ as approved by the ~~department~~ division before the release of the bond as provided in section 208.19.

c. Properly dispose of all mine-related debris, junk, waste materials, old equipment, and other materials of similar or like nature, within the registration boundaries of the site.

2. Notwithstanding subsection 1, overburden piles where deposition has not occurred for a period of twelve months shall be stabilized and revegetated.

~~3. Crushing areas and stockpile areas in place on July 1, 1985 are not subject to this section unless those areas continue to function as a part of the mine site after July 1, 1988.~~

~~4.~~ 3. Topsoil that is a part of overburden shall not be destroyed or buried in the process of mining.

~~5.~~ 4. The ~~department, with concurrence of the advisory board,~~ division may grant a variance from the requirements of subsections 1 and 2.

~~6.~~ 5. A bond or security posted under this chapter to assure reclamation of affected lands shall not be released until all of the reclamation work required by this section has been performed in accordance with this chapter and ~~departmental~~ division rules, except when a replacement bond or security is posted by a new operator or responsibility is transferred under section 208.16.

Sec. 11. Section 208.18, Code 1995, is amended to read as follows:

208.18 PERIODIC REPORTS.

An operator shall file with the division a periodic report for each mine site under registration.

1. The report shall make reference to the most recent registration of the mine site and shall show:

~~1.~~ a. The location and extent of all surface land area on the mine site affected by mining during the period covered by the report.

~~2.~~ b. The extent to which removal of mineral products from all or any part of the affected lands has been completed.

2. The report shall be filed not later than twelve months after original registration of

the site and prior to the expiration of each subsequent twelve-month period. A report shall also be filed within thirty days after completion of all ~~surface~~ mining operations at the site regardless of the date of the last preceding report. Forms for the filing of periodic reports required by this section shall be provided by the division.

Sec. 12. Section 208.19, unnumbered paragraph 3, Code 1995, is amended to read as follows:

An operator, upon completion of any reclamation work required by section 208.17, shall apply to the division in writing for approval of the work. The division shall within a reasonable time determined by divisional rule inspect the completed reclamation work. Upon determination by the division that the operator has satisfactorily completed all required reclamation work on the land included in the application, the division shall release the bond or security on the reclaimed land, shall remove the land from registration, and shall terminate or amend as necessary the operator's authorization to conduct ~~surface~~ mining on the site.

Sec. 13. Section 208.20, Code 1995, is amended to read as follows:

208.20 EXTENSION OF TIME.

The time for completion of reclamation work may be extended upon presentation by the operator of evidence satisfactory to the division that reclamation of affected land cannot be completed within the time specified by section 208.19 ~~without unreasonably impeding removal of mineral products from other parts of an active site or future removal of mineral products from an initiative site~~.

Sec. 14. Section 208.21, Code 1995, is amended to read as follows:

208.21 POLITICAL SUBDIVISION ENGAGED IN MINING.

Any political subdivision of the state of Iowa which engages or intends to engage in ~~surface~~ mining shall meet all requirements of ~~sections 208.13 to 208.20~~ this chapter except the subdivision shall not be required to post bond or security on registered land and shall not be required to pay licensing fees. ~~When a political subdivision engaging in surface mining violates any provision of this chapter or any rule adopted by the division pursuant to this chapter, the division shall notify the chief administrative officer or governing body of the subdivision. If after a reasonable time determined by the division, the subdivision has not commenced corrective measures approved by the division, the violation shall be referred to the committee. The chief administrative officer or governing body of the subdivision shall be notified in writing of the referral.~~

Sec. 15. Section 208.23, Code 1995, is amended to read as follows:

208.23 FORM OF BOND.

1. A bond filed with the division by an operator pursuant to this chapter shall be in a form prescribed by the division, payable to the state of Iowa, and conditioned upon faithful performance by the operator of all requirements of this chapter and all rules adopted by the division pursuant to this chapter. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash~~,~~ or certificates of deposit ~~or government securities~~ with the division on the same conditions as prescribed by this section for filing of bonds. The amount of the bond ~~or other security~~ required to be filed with an application for registration of a ~~surface~~ mining site, or to increase the area of a site previously registered, shall be equal to the ~~estimated~~ cost of reclaiming the site as required under section 208.17 and estimated by the division.

2. The estimated cost of reclamation of each individual site shall be determined by the division on the basis of the requirements of this chapter and other relevant factors including, but not limited to, topography of the site, mining methods being employed, depth and composition of overburden, ~~and~~ depth of the mineral deposit being mined, and cost of administration. The division may require an ~~applicant for registration or amendment of~~

~~registration of a site~~ operator to furnish information necessary to estimate the cost of reclaiming the site. The ~~penalty~~ amount of the bond ~~or the amount of cash or securities on deposit~~ may be increased or reduced from time to time as determined necessary and appropriate by the division or in accordance with section 208.15.

Sec. 16. Section 208.24, Code 1995, is amended to read as follows:

208.24 SINGLE BOND FOR MULTIPLE SITES.

An operator who registers with the division two or more ~~surface mining~~ mine sites may elect, at the time the second or a subsequent site is registered, to post a single bond in lieu of separate bonds on each site. A single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has registered, determined as provided in section 208.23. The penalty of a single bond on two or more ~~surface mining~~ mine sites may be increased or decreased from time to time in accordance with sections 208.14, 208.15, and 208.19. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the division.

Sec. 17. Section 208.25, Code 1995, is amended to read as follows:

208.25 CANCELLATION OF BOND.

No bond filed with the division by an operator pursuant to this chapter may be canceled by the surety without at least ninety days' notice to the division. If the license to do business in Iowa of any surety of a bond filed with the division is suspended or revoked, the operator, within thirty days after receiving notice thereof from the division, shall substitute for the surety a corporate surety licensed to do business in Iowa. Upon failure of the operator to make substitution of surety as herein provided, the division shall have the right to suspend the operator's authorization to conduct ~~surface~~ mining on the site covered by the bond until substitution has been made. The commissioner of insurance shall notify the division whenever the license of any surety to do business in Iowa is suspended or revoked.

Sec. 18. Section 208.26, Code 1995, is amended to read as follows:

208.26 RULES – INSPECTION OF SITE.

The division may adopt rules to implement the provisions of this chapter. The administrator or the administrator's designee may enter at all times upon ~~any lands on which any operator is authorized to operate a mine~~ any mine site or suspected mine site for the purpose of determining whether the operator is or has been complying with the provisions of this chapter. ~~The division shall give written notice to any operator who violates any of the provisions of this chapter or any rules adopted by the division pursuant to this chapter. If corrective measures approved by the division are not commenced within ninety days, the violation shall be referred to the committee. The operator shall be notified in writing of the referral.~~ All operators shall ~~co-operate~~ cooperate with the division in seeking methods of operation which will cause minimum disruption to the land and property adjoining a mining operation.

Sec. 19. Section 208.28, Code 1995, is amended to read as follows:

208.28 FORFEITURE OF BOND – LICENSURE RESTRICTIONS.

1. The attorney general, upon request of the ~~committee~~ division, shall institute proceedings for forfeiture of the bond posted by an operator to guarantee reclamation of a site where the operator is in violation of any of the provisions of this chapter or any rule adopted by the division pursuant to this chapter. ~~Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to reclaim affected land covered by the bond.~~ The division shall have the power to reclaim as required by section 208.17 any ~~surface~~ mined land with respect to which a bond has been forfeited, using the proceeds of the forfeiture to pay for the necessary reclamation work and associated administrative costs.

2. If the proceeds from bond forfeiture proceedings are insufficient to fully satisfy the estimated cost of reclaiming disturbed lands as required under section 208.17 and division rules, the operator shall be liable for remaining costs. The division may complete, or authorize completion of, the necessary reclamation and may authorize the attorney general to bring a civil action to recover from the operator all actual or estimated costs of reclamation in excess of the amount forfeited or require the operator to complete reclamation.

3. If the amount of bond forfeited exceeds the amount necessary to complete reclamation, the unused funds shall be returned to the operator or the surety, as appropriate.

Sec. 20. REPEALS. Sections 208.13, 208.22, 208.27, 208.29, and 208.30, Code 1995, are repealed.

Sec. 21. IMPLEMENTATION. Section 25B.2, subsection 3, shall not apply to this Act.

Approved April 2, 1996

CHAPTER 1044

REORGANIZATION OF TELEPHONE COMPANIES AS COOPERATIVE ASSOCIATIONS

H.F. 2036

AN ACT relating to certain telephone companies and permitting their reorganization as cooperative associations.

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

Section 1. Section 499.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A telephone company organized as a corporation under chapter 491 and qualifying pursuant to an internal revenue service letter ruling under I.R.C. § 501(c)(12) as a nonprofit corporation entitled to distribute profits in a manner similar to an association under this chapter may reorganize as an association under this chapter upon the affirmative vote of two-thirds of the votes cast by the shares entitled to vote in an election at a meeting at which a majority of all shares entitled to vote cast a vote.

Approved April 2, 1996

CHAPTER 1045

INSURANCE REGULATION - MISCELLANEOUS PROVISIONS

H.F. 2310

AN ACT relating to the regulation of insurance and amending provisions providing for setoff of premium, fraudulent submissions to insurers, availability of certain information to insurers, length of term of the board of directors of an insurer, notice of cancellation, delivery of certain policies in this state, and making a penalty applicable.

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

Section 1. Section 507C.30, subsection 2, Code 1995, is amended to read as follows:

2. a. A setoff ~~or counterclaim~~ shall not be allowed in favor of a person where any of the following are found:

~~a.~~ (1) At the date of the filing of a petition for liquidation, the obligation of the insurer to the person would not entitle the person to share as a claimant in the assets of the insurer.

~~b.~~ (2) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff.

~~c.~~ (3) The obligation of the insurer is owed to the affiliate of such person, or any other entity or association other than the person.

~~d.~~ (4) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution.

~~e.~~ (5) The obligation of the person is to pay earned premiums ~~whether earned or unearned~~ to the insurer.

b. Nothing in paragraph "a", however, restricts the right of a person to set off premium due to or from the insurer pursuant to a reinsurance contract.

Sec. 2. Section 507E.3, subsection 2, Code Supplement 1995, is amended to read as follows:

2. A person commits a class "D" felony if the person, with the intent to defraud an insurer, does ~~either~~ any of the following:

a. Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

b. Assists, abets, solicits, or conspires with another to present or cause to be presented to an insurer, any written document or oral statement, including a computer-generated document, that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

c. Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in, an application for insurance coverage, knowing that such document or statement contains false information concerning a material fact.

Sec. 3. Section 507E.7, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. An authorized representative of an insurer.

Sec. 4. Section 515.29, Code 1995, is amended to read as follows:

515.29 CLASSIFICATION OF DIRECTORS.

A company may in its articles of incorporation provide that the board of directors be divided into classes holding for a term of not to exceed ~~three~~ five years and providing for the election of the members of one class at each annual meeting.

Sec. 5. Section 515.51, Code 1995, is amended to read as follows:

515.51 EXECUTION OF POLICIES.

All policies or contracts of insurance made or entered into by the company may be made either with or without the seal of ~~said~~ the company, but shall be subscribed by the president, or such other officer as may be designated by the directors for that purpose, and be attested to by the secretary ~~thereof~~ of the company. A policy or contract authorized by this chapter shall not be delivered in this state unless it is an individual policy or contract form.

Sec. 6. Section 515D.4, Code 1995, is amended to read as follows:

515D.4 NOTICE OF CANCELLATION - REASONS.

1. ~~No~~ A policy ~~may~~ shall not be canceled except by notice to the insured as provided in this chapter. ~~No notice~~ Notice of cancellation of a policy ~~shall be~~ is not effective unless it is based on one or more of the following reasons:

~~1.~~ a. Nonpayment of premium.

~~2.~~ b. Nonpayment of dues to an association or organization other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing insurance in force and the dues payment requirement was in effect prior to January 1, 1969.

~~3.~~ c. Fraud or material misrepresentation affecting the policy or the presentation of a claim.

~~4.~~ d. Violation of terms or conditions of the policy.

~~5. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has that person's driver's license suspended or revoked during the policy term or, if the policy is a renewal, during its term or the one hundred eighty days immediately preceding its effective date.~~

1A. Coverage under a policy shall not be cancelled except by notice to the insured as provided in this chapter. Notice of cancellation of coverage under a policy is not effective unless it is based on one or more of the following reasons:

a. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has that person's driver's license suspended or revoked during the policy term or, if the policy is a renewal, during its term or the one hundred eighty days immediately preceding its effective date.

b. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has during the term of the policy engaged in a competitive speed contest while operating an automobile insured under the policy.

c. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy, during the thirty-six months immediately preceding the notice of cancellation or nonrenewal, has been convicted of or forfeited bail for any of the following:

(1) Criminal negligence resulting in death, homicide, or assault and arising out of the operation of a motor vehicle.

(2) Operating a motor vehicle while intoxicated or while under the influence of a drug.

(3) A violation of section 321.261.

2. This section shall not apply to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. This section shall not apply to the nonrenewal of a policy.

3. During the policy period ~~no~~, a modification of automobile physical damage coverage, ~~except~~ other than coverage for loss caused by collision, ~~whereby~~ where provision is made for the application of a deductible amount not exceeding one hundred dollars, shall not be deemed a cancellation of the coverage or of the policy.

Approved April 2, 1996

CHAPTER 1046

INSURANCE REGULATION - RISK-BASED CAPITAL REQUIREMENTS

S.F. 2395

AN ACT relating to the regulation of insurance companies for purposes of solvency and establishing a measure for the risk-based capital of an insurer, and providing penalties.

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

Section 1. Section 508.5, Code Supplement 1995, is amended to read as follows:

508.5 CAPITAL AND SURPLUS REQUIRED.

1. A stock life insurance company shall not be authorized to transact business under this chapter with less than two million five hundred thousand dollars capital stock fully paid for in cash and two million five hundred thousand dollars of surplus paid 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. A stock life insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum capital and surplus requirements mandated by this section.

2. Notwithstanding subsection 1, a stock life insurance company, or any other life insurance company authorized to transact business under this chapter shall comply with the minimum capital and surplus requirements of this chapter or chapter 521E, whichever is greater.

Sec. 2. Section 508.9, Code Supplement 1995, is amended to read as follows:

508.9 MUTUAL COMPANIES - CONDITIONS.

1. 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 five million dollars shall be made with the commissioner, which shall constitute a security fund for the protection of policyholders. The contribution to the security 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 security fund may be repaid to the contributors to the security fund with interest at six percent from the date of contribution, at any time, in whole or in part, if the repayment does not reduce the surplus of the company below the amount of five million dollars and then only if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter. A mutual insurance company authorized to do business in Iowa that undergoes a change of control as defined in chapter 521A shall maintain the minimum surplus requirement mandated by this section.

2. Notwithstanding subsection 1, a mutual insurance company authorized to transact business under this chapter shall comply with the minimum surplus requirements of this section or chapter 521E, whichever is greater.

Sec. 3. Section 515.8, Code Supplement 1995, is amended to read as follows:

515.8 PAID-UP CAPITAL REQUIRED.

1. An insurance company other than a life insurance company shall not be incorporated to transact business upon the stock plan with less than 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. An insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum capital requirements mandated by this section.

2. Notwithstanding subsection 1, an insurance company, other than a life insurance company, authorized to transact business under this chapter shall comply with the minimum capital requirements of this section or chapter 521E, whichever is greater.

Sec. 4. Section 515.10, Code Supplement 1995, is amended to read as follows:

515.10 SURPLUS REQUIRED.

1. 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 two million five hundred thousand dollars. An insurance company authorized to do business in Iowa that undergoes a change of control as defined under chapter 521A shall maintain the minimum surplus requirements mandated by this section.

2. Notwithstanding subsection 1, an insurance company, other than a life insurance company, authorized to transact business under this chapter shall comply with the minimum surplus requirements of this section or chapter 521E, whichever is greater.

Sec. 5. Section 515.69, Code 1995, is amended to read as follows:

515.69 FOREIGN COMPANIES - CAPITAL REQUIRED.

1. A stock insurance company organized under or by the laws of any other state or foreign government for the purpose specified in this chapter, shall not, directly or indirectly, take risks or transact business of insurance in this state unless the company has two and one-half million dollars of actual paid-up capital, and a surplus in cash or invested in securities authorized by law of not less than two and one-half million dollars, exclusive of assets deposited in a state, territory, district, or country for the special benefit or security of those insured in that state, territory, district, or country.

2. Notwithstanding subsection 1, a stock insurance company authorized to transact business under this section shall comply with the minimum capital and surplus requirements of this section or chapter 521E, whichever is greater.

Sec. 6. Section 515.76, Code 1995, is amended to read as follows:

515.76 FOREIGN MUTUAL COMPANIES - SURPLUS.

1. Any mutual insurance company organized outside of this state and authorized to transact the business of insurance on the mutual plan in any other state of the United States or in the District of Columbia, may be admitted to this state and authorized to transact herein any of the kinds of insurance authorized by its charter or articles of incorporation, when so permitted by the provisions of this chapter, with the powers and privileges and subject to the conditions and limitations specified in said chapter; provided, however, such company has complied with all the statutory provisions which require stock companies to file papers and to furnish information and to submit to examination, and is also solvent according to the requirements of this chapter and is possessed of a surplus safely invested as follows:

~~1.~~ a. In case of a mutual company issuing policies for a cash premium without an additional contingent liability equal to or greater than the cash premium, the surplus shall be at least two million dollars.

~~2.~~ b. In case of any other such mutual company issuing policies for a cash premium or payment with an additional contingent liability equal to or greater than the cash premium or payment, the surplus shall be such an amount as the commissioner of insurance of Iowa may require, but in no case less than three hundred thousand dollars, provided that the provisions of this section fixing a minimum surplus of three hundred thousand dollars

shall not apply to companies now admitted to do business in Iowa; provided, further, that no such mutual company shall be authorized to transact compensation insurance without a surplus of at least three hundred thousand dollars unless all liability for each adjusted claim in this state, the payment of any part of which is deferred for more than one year, shall be provided for by a special deposit, in a trust company or a bank having fiduciary powers, located in this state, which shall be a trust fund applicable solely and exclusively to the payment of the compensation benefits for which such deposit is made, or shall be reinsured in an authorized stock company, or in an authorized mutual company with a surplus of at least three hundred thousand dollars.

2. Notwithstanding subsection 1, a mutual insurance company authorized to transact business under this section shall comply with the minimum surplus requirements of this section or chapter 521E, whichever is greater.

Sec. 7. NEW SECTION. 515.12A ALTERNATIVE MINIMUM SURPLUS LEVELS.

A mutual company authorized to transact business under this chapter shall comply with the minimum surplus requirements of section 515.12 or chapter 521E, whichever is greater.

Sec. 8. Section 520.9, Code 1995, is amended to read as follows:

520.9 STANDARD OF SOLVENCY.

1. There shall at all times be maintained as assets a sum in cash, or in securities of the kind designated by the laws of the state where the principal office is located for the investment of funds of insurance companies, equal to one hundred percent of the net unearned premiums or deposits collected and credited to the account of subscribers, or assets equal to fifty percent of the net annual deposits collected and credited to the account of subscribers on policies having one year or less to run and pro rata on those for longer periods; in addition to which there shall be maintained in cash, or in such securities, assets sufficient to discharge all liabilities on all outstanding losses arising under policies issued, the same to be calculated in accordance with the laws of the state relating to similar reserves for companies insuring similar risks; provided that where the assets on hand available for the payment of losses other than determined losses, do not equal two million dollars, all liability for each determined loss or claim deferred for more than one year, shall be provided for by a special deposit in a trust company or bank having fiduciary powers of the state in which the principal office is located, to be used in payment of compensation benefits for disability; such deposit to be a trust fund and applicable only to the purposes stated, or such liability may be reinsured in authorized companies with a surplus of at least two million dollars. For the purpose of such reserves, net deposits shall be construed to mean the advance payments of subscribers after deducting the amount specifically provided in the subscribers' agreements for expenses. If at any time the assets so held in cash or such securities shall be less than required above, or less than two million dollars, the subscribers or their attorney for them shall make up the deficiency within thirty days after notice from the commissioner of insurance to do so. In computing the assets required by this section, the amount specified in section 520.4, subsection 7, shall be included.

2. Notwithstanding subsection 1, a person issuing reciprocal contracts and authorized to transact business under this chapter shall comply with the minimum surplus requirements of this section or chapter 521E, whichever is greater.

Sec. 9. NEW SECTION. 521E.1 DEFINITIONS.

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

1. "Adjusted risk-based capital report" means a risk-based capital report adjusted by the commissioner pursuant to section 521E.2, subsection 5.

2. "Commissioner" means the commissioner of insurance.

3. "Corrective order" means an order issued by the commissioner of insurance specifying corrective actions which the commissioner has determined are required.

4. "Domestic insurer" means an insurance company domiciled in this state and licensed to transact the business of insurance under chapter 508, 515, or 520, except that it shall not include any of the following:

a. An agency, authority, or instrumentality of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

b. A fraternal benefit society organized under chapter 512B.

c. A nonprofit medical, hospital, or dental service corporation organized under chapter 514.

d. A county mutual insurance association organized under chapter 518.

e. A mutual casualty assessment insurance association organized under chapter 518A.

f. A health maintenance organization organized under chapter 514B.

5. "Filing date" means March 1 of each year.

6. "Foreign insurer" means an insurance company not domiciled in this state which is licensed to transact the business of insurance in this state under chapter 508, 515, or 520.

7. "Life and health insurer" means an insurance company licensed under chapter 508 or a licensed property and casualty insurer writing only accident and health insurance under chapter 515.

8. "Negative trend" means a negative trend over a period of time as determined in accordance with the trend test calculation included in the risk-based capital instructions.

9. "Property and casualty insurer" means an insurance company licensed under chapter 515 but does not include monoline mortgage guaranty insurers, financial guaranty insurers, or title insurers.

10. "Revised risk-based capital plan" is a risk-based capital plan which has been rejected by the commissioner and has been revised by the insurer, with or without the commissioner's recommendation.

11. "Risk-based capital instructions" means the instructions included in the risk-based capital report as adopted by the national association of insurance commissioners, as such risk-based capital instructions may be amended by the national association of insurance commissioners from time to time in accordance with the procedures adopted by the national association of insurance commissioners.

12. "Risk-based capital level" means an insurer's company-action-level risk-based capital, regulatory-action-level risk-based capital, authorized-control-level risk-based capital, or mandatory-control-level risk-based capital as follows:

a. "Company-action-level risk-based capital" means, with respect to any insurer, the product of two and the insurer's authorized-control-level risk-based capital.

b. "Regulatory-action-level risk-based capital" means the product of one and one-half and the insurer's authorized-control-level risk-based capital.

c. "Authorized-control-level risk-based capital" means the number determined under the risk-based capital formula in accordance with the risk-based capital instructions.

d. "Mandatory-control-level risk-based capital" means the product of seven-tenths and the insurer's authorized-control-level risk-based capital.

13. "Risk-based capital plan" means a comprehensive financial plan containing the elements identified in section 521E.3, subsection 2.

14. "Risk-based capital report" means the report required to be prepared and submitted to the commissioner pursuant to section 521E.2.

15. "Total adjusted capital" means the sum of the following:

a. An insurer's statutory capital and surplus.

b. Such other items, if any, as identified in the risk-based capital instructions.

Sec. 10. NEW SECTION. 521E.2 RISK-BASED CAPITAL REPORTS.

1. A domestic insurer, on or prior to the filing date, shall prepare and submit to the commissioner a report of the insurer's risk-based capital level as of the end of the calendar year immediately preceding the filing date, in a form and containing the information required by the risk-based capital instructions. A domestic insurer shall also file its risk-based capital report with both of the following:

a. The national association of insurance commissioners.

b. The insurance commissioner in each state in which the insurer is authorized to do business, if such insurance commissioner has notified the insurer of its request in writing. Upon receipt of the written request, the insurer shall file its risk-based capital report with the requesting commissioner by no later than the later of the following:

(1) Fifteen days from the receipt of the written request.

(2) The filing date.

2. A life and health insurer's risk-based capital shall be determined pursuant to the formula set forth in the risk-based capital instructions. The formula shall take into account all of the following, and may be adjusted, as deemed appropriate by the commissioner, for the covariance between the following:

a. The risk with respect to the insurer's assets.

b. The risk of adverse insurance experience with respect to the insurer's liabilities and obligations.

c. The interest rate risk with respect to the insurer's business.

d. All other business risks and other relevant risks as identified in the risk-based capital instructions, determined in each case by applying the factors in the manner provided for in the risk-based capital instructions.

3. A property and casualty insurer's risk-based capital shall be determined pursuant to the formula set forth in the risk-based capital instructions. The formula shall take into account all of the following, and may be adjusted, as deemed appropriate by the commissioner, for the covariance between the following:

a. Asset risk.

b. Credit risk.

c. Underwriting risk.

d. All other business risks and other relevant risks as identified in the risk-based capital instructions, determined in each case by applying the factors in the manner provided for in the risk-based capital instructions.

4. An insurer shall seek to maintain capital above the risk-based capital levels required by this chapter.

5. A risk-based capital report filed by a domestic insurer which in the judgment of the commissioner is inaccurate, shall be adjusted by the commissioner to correct the inaccuracy. The commissioner shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment.

Sec. 11. NEW SECTION. 521E.3 COMPANY-ACTION-LEVEL EVENT.

1. "Company-action-level event" means any of the following:

a. The filing of a risk-based capital report by an insurer which indicates either of the following:

(1) For an insurer other than a life and health insurer, the insurer's total adjusted capital is greater than or equal to its regulatory-action-level risk-based capital but less than its company-action-level risk-based capital.

(2) For a life and health insurer, the insurer's total adjusted capital is greater than or equal to its company-action-level risk-based capital but less than the product of its authorized-control-level risk-based capital and two and one-half, and has a negative trend.

b. Notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates an event in paragraph "a", provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. If a hearing is requested pursuant to section 521E.7, notification by the commissioner to the insurer after the hearing that the commissioner has rejected the insurer's challenge of the adjusted risk-based capital report indicating an event in paragraph "a".

2. Upon the occurrence of a company-action-level event, the insurer shall prepare and submit to the commissioner a risk-based capital plan which shall include all of the following:

a. Identification of the conditions which contributed to the company-action-level event.

b. Proposed corrective actions which the insurer intends to implement and which are expected to result in the elimination of the company-action-level event.

c. Projections of the insurer's financial results for the current year and at least the four succeeding years, including projections of statutory operating income, net income, capital, and surplus. Projections shall be provided assuming the absence of the proposed corrective actions and assuming the implementation of the proposed corrective actions. The projections for both new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense, and benefit component.

d. Identification of the primary assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions.

e. Identification of the quality of, and problems associated with, the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

3. The risk-based capital plan shall be submitted within forty-five days of the company-action-level event, or, if the insurer requests a hearing pursuant to section 521E.7 for the purpose of challenging the adjusted risk-based capital report, within forty-five days after notification to the insurer that the commissioner, after hearing, has rejected the insurer's challenge.

4. Within sixty days after the submission by an insurer of a risk-based capital plan to the commissioner, the commissioner shall notify the insurer whether the risk-based capital plan shall be implemented or, in the judgment of the commissioner, is unsatisfactory. If the commissioner determines the risk-based capital plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which in the judgment of the commissioner will render the risk-based capital plan satisfactory. Upon the receipt of notification from the commissioner pursuant to this subsection, the insurer shall prepare a revised risk-based capital plan, which may incorporate by reference any revisions proposed by the commissioner, and submit the revised risk-based capital plan to the commissioner within forty-five days of the receipt of notification from the commissioner of the commissioner's determination that the risk-based capital plan is unsatisfactory, or, if the insurer requests a hearing pursuant to section 521E.7 for the purpose of challenging the commissioner's determination, within forty-five days after notification to the insurer that the commissioner, after hearing, has rejected the insurer's challenge.

5. After notification of the insurer by the commissioner that the insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the commissioner, at the commissioner's discretion and subject to the insurer's right to a hearing pursuant to section 521E.7, may specify in the notification that the notification constitutes a regulatory-action-level event.

6. A domestic insurer that files a risk-based capital plan or revised risk-based capital plan with the commissioner shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance commissioner in a state in which the insurer is authorized to do business if both of the following apply:

a. The other state has a provision substantially similar to section 521E.8, subsection 1, with respect to the confidentiality and availability of such plans.

b. The insurance commissioner of that state has notified the insurer in writing of its request to receive a copy of the risk-based capital plan or revised risk-based capital plan. Upon receipt of the written request, the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan with the requesting commissioner by no later than the later of the following:

(1) Fifteen days from the receipt of the written request.

(2) The date on which the risk-based capital plan or revised risk-based capital plan is filed pursuant to subsection 3 or 4, as applicable.

Sec. 12. NEW SECTION. 521E.4 REGULATORY-ACTION-LEVEL EVENT.

1. "Regulatory-action-level event" means any of the following:

a. The filing of a risk-based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized-control-level risk-based capital but less than its regulatory-action-level risk-based capital.

b. Notification by the commissioner to an insurer of an adjusted risk-based capital report that indicates the event in paragraph "a", provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the adjusted risk-based capital report indicating the event in paragraph "a".

d. Failure of the insurer to file a risk-based capital report by the filing date, unless the insurer has provided an explanation for the failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date.

e. Failure of the insurer to submit a risk-based capital plan to the commissioner within the time period set forth in section 521E.3, subsection 3.

f. Notification by the commissioner to the insurer of both of the following:

(1) The risk-based capital plan or revised risk-based capital plan submitted by the insurer, in the judgment of the commissioner, is unsatisfactory.

(2) Notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the insurer, provided the insurer has not challenged the determination pursuant to section 521E.7.

g. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the determination made by the commissioner pursuant to paragraph "f".

h. Notification by the commissioner to the insurer that the insurer has failed to adhere to the insurer's risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the insurer to eliminate the company-action-level event pursuant to the insurer's risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification. However, notification by the commissioner pursuant to this paragraph does not constitute a company-action-level event if the insurer has challenged the determination of the commissioner pursuant to section 521E.7.

i. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the commissioner's determination pursuant to paragraph "h".

2. In the event of a regulatory-action-level event the commissioner shall do all of the following:

a. Require the insurer to prepare and submit a risk-based capital plan or a revised risk-based capital plan, as applicable.

b. Perform an examination or analysis of the assets, liabilities, and operations of the insurer, including a review of its risk-based capital plan or revised risk-based capital plan, as deemed necessary by the commissioner.

c. Subsequent to the examination or analysis pursuant to paragraph "b", issue a corrective order.

3. In determining the corrective actions to be specified, the commissioner shall take into account factors the commissioner deems to be relevant with respect to the insurer based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-based capital plan or revised risk-based capital plan shall be submitted within forty-five days after the occurrence of the regulatory-action-level event, except as follows:

a. If the insurer challenges an adjusted risk-based capital report pursuant to section 521E.7, and in the judgment of the commissioner the challenge is not frivolous, within

forty-five days after the notification to the insurer that the commissioner, after a hearing pursuant to section 521E.7, has rejected the insurer's challenge.

b. If the insurer challenges a revised risk-based capital plan pursuant to section 521E.7, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the insurer that the commissioner, after a hearing pursuant to section 521E.7, has rejected the insurer's challenge.

4. The commissioner may retain actuaries, investment experts, and other consultants as deemed necessary by the commissioner to review the insurer's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the insurer; and assist in the formulation of the corrective order with respect to the insurer. Fees of the actuaries, investment experts, or other consultants retained by the commissioner shall be paid by the insurer subject to the review or examination.

Sec. 13. NEW SECTION. 521E.5 AUTHORIZED-CONTROL-LEVEL EVENT.

1. "Authorized-control-level event" means any of the following:

a. The filing of a risk-based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory-control-level risk-based capital but less than its authorized-control-level risk-based capital.

b. Notification by the commissioner to an insurer of an adjusted risk-based capital report that indicates the event in paragraph "a", provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the adjusted risk-based capital report indicating the event in paragraph "a".

d. Failure of the insurer to respond to a corrective order in a manner satisfactory to the commissioner, unless the insurer has challenged the corrective order pursuant to section 521E.7.

e. Failure of the insurer to respond to the corrective order in a manner satisfactory to the commissioner after the insurer has challenged the corrective order pursuant to section 521E.7, and the commissioner, after a hearing pursuant to section 521E.7, has rejected the challenge or modified the corrective order.

2. In the event of an authorized-control-level event the commissioner shall do either of the following:

a. Take action as required pursuant to section 521E.4 in the same manner as if a regulatory-action-level event has occurred.

b. Take action as necessary to cause the insurer to be placed under supervision or other regulatory control under chapter 507C, if the commissioner deems such action to be in the best interests of the policyholders and creditors of the insurer and of the public. If the commissioner takes action pursuant to this paragraph, the authorized-control-level event is deemed sufficient grounds for the commissioner to take action pursuant to chapter 507C, and the commissioner has the rights, powers, and duties with respect to the insurer as set forth in chapter 507C. If the commissioner takes action under this paragraph pursuant to an adjusted risk-based capital report, the insurer is entitled to the protections afforded to insurers under the provisions of chapter 17A relating to summary proceedings.

Sec. 14. NEW SECTION. 521E.6 MANDATORY-CONTROL-LEVEL EVENT.

1. "Mandatory-control-level event" means any of the following events:

a. The filing of a risk-based capital report which indicates that an insurer's total adjusted capital is less than its mandatory-control-level risk-based capital.

b. Notification by the commissioner to an insurer of an adjusted risk-based capital report that indicates the event in paragraph "a", provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer's challenge of the adjusted risk-based capital report indicating the event in paragraph "a".

2. In the event of a mandatory-control-level event the commissioner shall do the following:

a. With respect to a life insurer, take action as necessary to place the insurer under supervision or other regulatory control under chapter 507C. If the commissioner takes action pursuant to this paragraph, the mandatory-control-level event is deemed sufficient grounds for the commissioner to take action pursuant to chapter 507C, and the commissioner shall have the rights, powers, and duties with respect to the insurer as set forth in chapter 507C. If the commissioner takes action pursuant to an adjusted risk-based capital report, the insurer is entitled to the protections of chapter 17A pertaining to summary proceedings. Notwithstanding the provisions of this paragraph, the commissioner may forego any action pursuant to this paragraph for up to ninety days after the mandatory-control-level event if the commissioner finds a reasonable expectation exists that the mandatory-control-level event may be eliminated within the ninety-day period.

b. With respect to a property and casualty insurer, take action as necessary to place the insurer under supervision or other regulatory control under chapter 507C, or, in the case of an insurer which is no longer writing business and which is running off its existing business, the commissioner may allow the insurer to continue its run-off under the supervision of the commissioner. In either event, the mandatory-control-level event is deemed sufficient grounds for the commissioner to take action under chapter 507C and the commissioner shall have the rights, powers, and duties with respect to the insurer as set forth in chapter 507C. If the commissioner takes action pursuant to an adjusted risk-based capital report, the insurer is entitled to the protections of chapter 17A pertaining to summary proceedings. Notwithstanding the provisions of this paragraph, the commissioner may forego action for up to ninety days after the mandatory-control-level event if the commissioner finds a reasonable expectation exists that the mandatory-control-level event may be eliminated within the ninety-day period.

Sec. 15. NEW SECTION. 521E.7 CONFIDENTIAL HEARINGS.

1. An insurer shall notify the commissioner of the insurer's request for a confidential hearing within five days after the occurrence of any of the following:

a. Notification to an insurer by the commissioner of an adjusted risk-based capital report.

b. Notification to an insurer by the commissioner of both of the following:

(1) The insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory.

(2) That the notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the insurer.

c. Notification to an insurer by the commissioner that the insurer has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that the failure has a substantial adverse effect on the ability of the insurer to eliminate the company-action-level event in accordance with its risk-based capital plan or revised risk-based capital plan.

d. Notification to an insurer by the commissioner of a corrective order with respect to the insurer.

2. An insurer receiving a notification pursuant to subsection 1 is entitled to a confidential hearing before the insurance division, at which the insurer may challenge a determination or action by the commissioner. Upon receipt of the insurer's request for a hearing, the commissioner shall set a date for the hearing, which shall be no less than ten or more than thirty days after the date of the insurer's request.

Sec. 16. NEW SECTION. 521E.8 CONFIDENTIALITY - USE OF REPORTS AND INFORMATION - PROHIBITION ON ANNOUNCEMENTS - PROHIBITION ON USE IN RATEMAKING.

1. A risk-based capital report, to the extent the information in the report is not required to be set forth in a publicly available annual statement schedule, or a risk-based capital

plan, including the results or report of any examination or analysis of an insurer performed pursuant to this chapter, and any corrective order issued by the commissioner pursuant to an examination or analysis, with respect to a domestic insurer or foreign insurer, which are filed with the commissioner, are deemed not to be public records under chapter 22 and are privileged and confidential. This information shall not be made public and is not subject to subpoena, other than by the commissioner, and then only for the purpose of enforcement actions taken by the commissioner pursuant to this chapter or any other provision of the insurance laws of this state.

2. The comparison of an insurer's total adjusted capital to any of its risk-based capital levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not to be used as a means to rank insurers generally.

3. Except as otherwise required under this chapter or as required of a publicly held company by the United States securities and exchange commission or other regulatory agency, the publication or dissemination in any manner of an announcement or statement which contains an assertion, representation, or statement with regard to the risk-based capital levels of an insurer, or of a component derived in the calculation, by an insurer, agent, broker, or other person engaged in any manner in the business of insurance which would be misleading, is prohibited. However, if a materially false statement comparing an insurer's total adjusted capital to its risk-based capital levels or a misleading comparison of any other amount to the insurer's risk-based capital levels is published or disseminated in any manner and if the insurer is able to demonstrate to the commissioner with substantial proof that the statement is false, misleading, or inappropriate, as the case may be, the insurer may publish an announcement in a written publication for the sole purpose of rebutting the materially false, misleading, or inappropriate statement.

4. The risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised risk-based capital plans shall be solely used by the commissioner in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers. The risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised risk-based capital plans shall not be used by the commissioner for ratemaking and shall not be considered or introduced as evidence in any rate proceeding or used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or any affiliate is authorized to write.

5. A violation of this section by an insurer, agent, broker, or other person engaged in any manner in the business of insurance constitutes an unfair trade practice under chapter 507B.

Sec. 17. NEW SECTION. 521E.9 SUPPLEMENTAL PROVISIONS - RULES - EXEMPTION.

1. The provisions of this chapter are supplemental to any other provisions of the laws of this state, and shall not preclude or limit any other powers or duties of the commissioner under such laws, including, but not limited to, chapter 507C.

2. The commissioner may adopt rules pursuant to chapter 17A necessary for the administration of this chapter.

3. The commissioner may exempt from the application of this chapter any domestic property and casualty insurer which satisfies all of the following:

a. Writes direct business only in this state.

b. Writes direct annual premiums of one million dollars or less.

c. Does not assume reinsurance in excess of five percent of direct premiums written.

Sec. 18. NEW SECTION. 521E.10 FOREIGN INSURERS.

1. A foreign insurer, upon the written request of the commissioner, shall submit to the commissioner a risk-based capital report as of the end of the calendar year just ended by the later of the following:

a. The filing date.

b. Fifteen days after the request is received by the foreign insurer.

A foreign insurer, upon the written request of the commissioner, shall promptly submit to the commissioner a copy of any risk-based capital plan that is filed with the insurance commissioner of any other state.

2. In the event of a company-action-level event, regulatory-action-level event, or authorized-control-level event with respect to a foreign insurer as determined under the risk-based capital statute applicable in the state of domicile of the insurer, or, if no risk-based capital statute is in force in that state, under the provisions of this chapter, and if the insurance commissioner of the state of domicile of the foreign insurer fails to require the foreign insurer to file a risk-based capital plan in the manner specified under that state's risk-based capital statute, or, if no risk-based capital statute is in force in that state, pursuant to section 521E.2, the commissioner may require the foreign insurer to file a risk-based capital plan with the commissioner. The failure of the foreign insurer to file a risk-based capital plan with the commissioner shall be sufficient grounds for the commissioner to order the insurer to cease and desist from writing new insurance business in this state.

3. In the event of a mandatory-control-level event with respect to a foreign insurer, if a domiciliary receiver has not been appointed with respect to the foreign insurer under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign insurer, the commissioner may make application to the district court as permitted under chapter 507C with respect to the liquidation of property of foreign insurers found in this state, and the occurrence of the mandatory-control-level event shall be considered adequate grounds for the application.

Sec. 19. NEW SECTION. 521E.11 IMMUNITY.

No liability shall arise on the part of, and no cause of action shall arise against, the commissioner or the insurance division or its employees or agents for an action taken in the exercise of powers or performance of duties under this chapter.

Sec. 20. NEW SECTION. 521E.12 EFFECT OF NOTICES.

Notice by the commissioner to an insurer which may result in regulatory action under this chapter is effective upon being sent if transmitted by certified mail, or in the case of any other transmission is effective upon the insurer's receipt of the notice.

Sec. 21. APPLICABILITY.

1. Notwithstanding the provisions of this Act, for risk-based capital reports to be filed in 1997 by a life insurance company, the following shall apply:

a. The commissioner shall take no regulatory action pursuant to this chapter as the result of a risk-based capital report which indicates a company-action-level event.

b. The commissioner shall take the regulatory action provided for under section 521E.3 upon the submission of a risk-based capital report which indicates a regulatory-action-level event under section 521E.4, subsection 1, paragraph "a", "b", or "c".

c. The commissioner shall take the regulatory action provided for under section 521E.4 upon the submission of a risk-based capital report which indicates a regulatory-action-level event under section 521E.4, subsection 1, paragraphs "d" through "i".

d. The commissioner shall take the regulatory action provided for under section 521E.5 upon the submission of a risk-based capital report which indicates a mandatory-control-level event under section 521E.6.

2. Notwithstanding the provisions of this Act, for risk-based capital reports to be filed in 1997 by a property and casualty insurance company, the following shall apply:

a. The commissioner shall take no regulatory action pursuant to this chapter as the result of a risk-based capital report which indicates a company-action-level event.

b. The commissioner shall take the regulatory action provided for under section 521E.3 upon the submission of a risk-based capital report which indicates a regulatory-action-level event under section 521E.4, subsection 1, paragraph "a", "b", or "c".

c. The commissioner shall take the regulatory action provided for under section 521E.4 upon the submission of a risk-based capital report which indicates a regulatory-action-level event under section 521E.4, subsection 1, paragraphs "d" through "i".

d. The commissioner shall take the regulatory action provided for under section 521E.5 upon the submission of a risk-based capital report which indicates a mandatory-control-level event under section 521E.6.

Approved April 2, 1996

CHAPTER 1047

TAX INCREMENT FINANCING CERTIFICATION REQUIREMENTS

H.F. 2426

AN ACT relating to certain certification requirements of a city or county urban renewal area.

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

Section 1. Section 403.19, subsection 5, Code 1995, is amended to read as follows:

5. A municipality shall certify to the county auditor on or before December ~~31~~ 1 the amount of loans, advances, indebtedness, or bonds which qualify for payment from the special fund referred to in subsection 2, and the filing of the certificate shall make it a duty of the auditor to provide for the division of taxes in each subsequent year until the amount of the loans, advances, indebtedness, or bonds is paid to the special fund. In any year, the county auditor shall, upon receipt of a certified request from a municipality filed ~~prior to January~~ on or before December 1, increase the amount to be allocated under subsection 1 in order to reduce the amount to be allocated in the following fiscal year to the special fund, to the extent that the municipality does not request allocation to the special fund of the full portion of taxes which could be collected. Upon receipt of a certificate from a municipality, the auditor shall mail a copy of the certificate to each affected taxing district.

Approved April 2, 1996

CHAPTER 1048

ANATOMICAL GIFTS – AUTHORITY OF MEDICAL EXAMINER

H.F. 2400

AN ACT relating to anatomical gifts including the use of confidential information and the authority of a medical examiner to release and permit the removal of a body part in certain instances for the purposes of making an anatomical gift.

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

Section 1. NEW SECTION. 142C.4A AUTHORITY OF MEDICAL EXAMINER – RELEASE AND REMOVAL OF PART FOR MAKING OF ANATOMICAL GIFT.

1. A medical examiner may permit the removal of a part from a body in the custody of the medical examiner and may release the part for any purpose authorized pursuant to section 142C.5 if the body of the decedent cannot be identified or if the next of kin of the decedent cannot be located, and if all of the following conditions are met:

a. The medical examiner has received a request for the part from a hospital, physician, organ procurement organization, or bank or storage organization.

b. Given the useful life of the specific part, the medical examiner is satisfied that a reasonable effort has been made by the organ procurement organization or bank or storage organization to locate and examine the decedent's medical records and to inform a person specified in section 142C.4 of the option to make or object to the making of an anatomical gift.

c. The medical examiner does not know of a refusal or contrary indication by the decedent or of an objection by a person having priority to act pursuant to section 142C.4 regarding the making of an anatomical gift.

d. The medical examiner does not know that the decedent, at the time of death, was a member of a religion, church, sect, or denomination which relies solely upon prayer for the healing of disease or which has religious tenets that would be violated by the disposition of the decedent's body or part for any of the purposes provided pursuant to section 142C.5.

e. Removal of a part will be performed by a physician, technician, or enucleator.

f. Removal of a part will not significantly alter or compromise the results of any autopsy or investigation.

g. Removal of a part will be in accordance with accepted medical standards.

h. Cosmetic restoration will be performed, if appropriate.

i. The person's death is not a death which affects the public interest as defined in section 331.802, or if the death is a death which affects the public interest, any investigation relating to the decedent's death has been completed.

2. The medical examiner releasing and permitting the removal of a part shall maintain a permanent record of all of the following:

a. The name of the decedent, if available.

b. The date and time of the release of the body or part and the name of the person to whom the body or part was released.

Sec. 2. Section 142C.7, Code Supplement 1995, is amended to read as follows:

142C.7 CONFIDENTIAL INFORMATION.

A hospital, licensed or certified health care professional, pursuant to chapter 148, 148C, 150A, or 152, or medical examiner may release patient information to an organ procurement organization, or bank or storage organization as part of a referral or ~~evaluation~~ retrospective review of the patient as a potential donor. Any information regarding a patient, including the patient's identity, however, constitutes confidential medical information and under any other circumstances is prohibited from disclosure without the written consent of the patient or the patient's legal representative.

Approved April 2, 1996

CHAPTER 1049

TAXATION OF INDUSTRIAL MACHINERY, EQUIPMENT, AND COMPUTERS

H.F. 2165

AN ACT relating to industrial machinery, computers and equipment for purposes of sales taxation and property taxation and providing an effective date and applicability date.

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

Section 1. Section 422.45, subsection 27, Code Supplement 1995, is amended to read as follows:

27. The gross receipts from the sale or rental~~, on or after July 1, 1987 or on or after July 1, 1985, in the case of an industry which has entered into an agreement under chapter 260E prior to the sale or lease~~, of industrial machinery, equipment and computers, including replacement parts which are depreciable for state and federal income tax purposes, if the following conditions are met:

a. The industrial machinery, equipment and computers shall be directly and primarily used in the manner described in section 428.20 in processing tangible personal property or in research and development of new products or processes of manufacturing, refining, purifying, combining of different materials or packing of meats to be used for the purpose of adding value to products, or in processing or storage of data or information by an insurance company, financial institution or commercial enterprise, or in the recycling or reprocessing of waste products. As used in this paragraph:

(1) "Insurance company" means an insurer organized or operating under chapters 508, 514, 515, 518, 518A, 519, 520 or authorized to do business in Iowa as an insurer ~~and having fifty or more persons employed in this state excluding licensed insurance agents~~ or a licensed insurance agent under chapter 522.

(2) "Financial institutions" means as defined in section 527.2, subsection 9.

(3) "Commercial enterprise" includes businesses and manufacturers conducted for profit and includes centers for data processing services to insurance companies, financial institutions, businesses and manufacturers but excludes professions and occupations and nonprofit organizations.

b. The industrial machinery, equipment and computers must be real property within the scope of section 427A.1, subsection 1, ~~paragraphs~~ paragraph "e" or "j"~~, and must~~. For sales occurring after January 1, 1994, the property is not required to be subject to taxation as real property. ~~This paragraph does not apply to machinery and equipment used in the recycling or reprocessing of waste products qualifying for an exemption under paragraph "a".~~

~~However, the provisions of chapters 404 and 427B which result in the exemption from taxation of property for property tax purposes do not preclude the property from receiving this exemption if the property otherwise qualifies.~~

The gross receipts from the sale or rental of hand tools are not exempt. The gross receipts from the sale or rental of pollution control equipment qualifying under paragraph "a" shall be exempt.

The gross receipts from the sale or rental of industrial machinery, equipment, and computers, including pollution control equipment, within the scope of section 427A.1, subsection 1, paragraphs "h" and "i", shall not be exempt.

Sec. 2. Section 427B.17, subsection 6, Code Supplement 1995, is amended by striking the subsection.

Sec. 3. Section 427B.17, subsection 7, Code Supplement 1995, is amended to read as follows:

7. For the purpose of dividing taxes under section 260E.4 or 260F.4, the employer's or business's valuation of property defined in section 427A.1, subsection 1, paragraphs "e"

and "j", and used to fund a new jobs training project which project's first written agreement providing for a division of taxes as provided in section 403.19 is approved on or before June 30, 1995, shall be limited to thirty percent of the net acquisition cost of the property. The community college shall notify the assessor by February 15 of each assessment year if taxes levied against such property of an employer or business will be used to finance a project in the following fiscal year. In any fiscal year in which the community college does rely on taxes levied against an employer's or business's property defined in section 427A.1, subsection 1, paragraph "e" or "j", to finance a project, such property shall not be valued pursuant to subsection 2 or 3, whichever is applicable, for that fiscal year. An employer's or business's taxable property used to fund a new jobs training project shall not be valued pursuant to subsection 2 or 3, whichever is applicable, until the assessment year following the calendar year in which the certificates or other funding obligations have been retired or escrowed. ~~The taxpayer's valuation for such property shall then be the valuation specified in subsection 1 for the applicable assessment year.~~ If the certificates issued, or other funding obligations incurred, between January 1, 1982, and June 30, 1995, are refinanced or refunded after June 30, 1995, the valuation of such property shall then be the valuation specified in subsection 2 or 3, whichever is applicable, for the applicable assessment year beginning with the assessment year following the calendar year in which those certificates or other funding obligations are refinanced or refunded after June 30, 1995.

Sec. 4. Section 427B.19, Code Supplement 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 5. For purposes of this section, "assessed value of the property assessed under section 427B.17" does not include the value of property defined in section 427A.1, subsection 1, paragraphs "e" and "j", which is obligated to secure payment of certificates or other indebtedness incurred pursuant to chapter 260E or 260F.

NEW SUBSECTION. 6. For purposes of computing replacement amounts under this section, that portion of an urban renewal area defined as the sum of the assessed valuations defined in section 403.19, subsections 1 and 2, shall be considered a taxing district.

Sec. 5. Section 427B.19A, subsection 3, Code Supplement 1995, is amended to read as follows:

3. The replacement claims shall be paid to each county treasurer in equal installments in September and March of each year. The county treasurer shall apportion the replacement claim payments among the eligible taxing districts in the county. If the taxing district is an urban renewal area, the amount of the replacement claim shall be apportioned as provided in subsection 4 unless the municipality elects to proceed under subsection 5.

Sec. 6. Section 427B.19A, Code Supplement 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 4. a. If the total assessed value of property located in an urban renewal area taxing district is equal to or more than that portion of such valuation defined in section 403.19, subsection 1, the total tax replacement amount computed pursuant to section 427B.19 shall be credited to that portion of the assessed value defined in section 403.19, subsection 2.

b. If the total assessed value of the property is less than that portion of such valuation defined in section 403.19, subsection 1, the replacement amount shall be credited to those portions of the assessed value defined in section 403.19, subsections 1 and 2, as follows:

(1) To that portion defined in section 403.19, subsection 1, an amount equal to the amount that would be produced by multiplying the applicable consolidated levy times the difference between the assessed value of the taxable property defined in section 403.19, subsection 1, and the total assessed value in the budget year for which the replacement claim is computed.

(2) To that portion defined in section 403.19, subsection 2, the remaining amount, if any.

c. Notwithstanding the allocation provisions of paragraphs "a" and "b", the amount of the tax replacement amount that shall be allocated to that portion of the assessed value defined in section 403.19, subsection 2, shall not exceed the amount equal to the amount certified to the county auditor under section 403.19 for the budget year in which the claim is paid, after deduction of the amount of other revenues committed for payment on that amount for the budget year. The amount not allocated to that portion of the assessed value defined in section 403.19, subsection 2, as a result of the operation of this paragraph, shall be allocated to that portion of assessed value defined in section 403.19, subsection 1.

NEW SUBSECTION. 5. A municipality may elect to reduce the amount of assessed value of property defined in section 403.19, subsection 1, by an amount equal to that portion of the amount of such assessed value which was phased out for the fiscal year by operation of section 427B.17, subsection 3. The applicable assessment roll and ordinance providing for the division of taxes under section 403.19 in the urban renewal taxing district shall be deemed to be modified for that fiscal year only to the extent of such adjustment without further action on the part of the city or county implementing the urban renewal taxing district.

Sec. 7. NEW SECTION. 427B.19C ADJUSTMENT OF CERTAIN ASSESSMENTS REQUIRED.

In the assessment year beginning January 1, 2005, the amount of assessed value of property defined in section 403.19, subsection 1, for an urban renewal taxing district which received replacement moneys under section 427B.19A, subsection 4, shall be reduced by an amount equal to that portion of the amount of assessed value of such property which was assessed pursuant to section 427B.17, subsection 3.

Sec. 8. NEW SECTION. 427B.19D APPEAL FOR STATE ASSISTANCE.

For fiscal years beginning on or after July 1, 1996, a municipality in which is located an urban renewal district for which debt was incurred prior to June 30, 1996, may appeal to the state appeal board for state assistance to meet such debt obligations for the fiscal year if such debt is not secured by an assessment agreement pursuant to section 403.6, subsection 19, and if the urban renewal area contains property assessed pursuant to section 427B.17. The appeal shall be made by May 15 preceding the fiscal year on forms approved by the department of management.

Sec. 9. RETROACTIVE APPLICABILITY DATE. Section 2 of this Act, striking section 427B.17, subsection 6, applies retroactively to assessment years beginning on or after January 1, 1995.

Sec. 10. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 4, 1996

CHAPTER 1050

URBAN RENEWAL - CENTURY FARM EXCLUSION

H.F. 2177

AN ACT relating to the exclusion of century farms from economic development areas for purposes of urban renewal and providing for the Act's applicability.

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

Section 1. Section 403.17, subsection 9, Code 1995, is amended to read as follows:

9. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises or housing and residential development for low and moderate income families, including single or multifamily housing. If an urban renewal plan for an urban renewal area is based upon a finding that the area is an economic development area and that no part contains slum or blighted conditions, then the division of revenue provided in section 403.19 and stated in the plan shall be limited to twenty years from the calendar year following the calendar year in which the city first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in section 403.19. Such designated area ~~designated before July 1, 1994,~~ shall not include land which is part of a century farm, unless the owner of the century farm agrees to include the century farm in the urban renewal area. For the purposes of this subsection, "century farm" means a farm in which at least forty acres of such farm has been held in continuous ownership by the same family for one hundred years or more.

Sec. 2. APPLICABILITY. Notwithstanding 1994 Iowa Acts, chapter 1182, section 15, this Act applies to economic development areas designated before, on, or after the effective date of this Act.

Approved April 4, 1996

CHAPTER 1051

MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

S.F. 2219

AN ACT relating to the midwest interstate compact on low-level radioactive waste and establishing a penalty.

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

Section 1. Section 457B.1, Code 1995, is amended to read as follows:

457B.1 LOW-LEVEL RADIOACTIVE WASTE COMPACT.

The midwest interstate low-level radioactive waste compact is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I - POLICY AND PURPOSE

There is created the "Midwest Interstate Low-Level Radioactive Waste Compact".

The states party to this compact recognize that the congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act ~~(42 U.S.C. § 2021)~~, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. § 2021b-j, has

provided for and encouraged the development of low-level radioactive waste compacts as a tool for ~~managing~~ disposing of such waste. The party states acknowledge that the congress declared that each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of certain defense activities of the federal government or federal research and development activities. The party states also recognize that the ~~management~~ disposal of low-level radioactive waste is handled most efficiently on a regional basis; and that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to ~~manage~~ dispose of such waste be properly provided.

a. It is the policy of the party states to enter into a regional low-level radioactive waste ~~management~~ disposal compact for the purpose of:

1. Providing the instrument and framework for a cooperative effort;

2. Providing sufficient facilities for the proper ~~management~~ disposal of low-level radioactive waste generated in the region;

3. Protecting the health and safety of the citizens of the region;

4. Limiting the number of facilities required to effectively and efficiently ~~manage~~ dispose of low-level radioactive waste generated in the region;

5. Encouraging ~~the~~ source reduction ~~of the amounts of low-level radioactive waste generated in the region~~ and the environmentally sound treatment of waste that is generated to minimize the amount of waste to be disposed of;

6. ~~Distributing~~ Ensuring that the costs, ~~benefits~~ expenses, liabilities, and obligations of ~~successful~~ low-level radioactive waste ~~management equitably among the party states and among~~ disposal are paid by generators and other persons who use ~~regional~~ compact facilities to ~~manage~~ dispose of their waste; ~~and~~

7. Ensuring that the obligations of low-level radioactive waste disposal that are the responsibility of the party states are shared equitably among them;

8. Ensuring that the party states that comply with the terms of this compact and fulfill their obligations under it share equitably in the benefits of the successful disposal of low-level radioactive waste; and

~~7.~~ 9. Ensuring the ~~ecological and~~ environmentally sound, economical ~~management~~, and secure disposal of low-level radioactive wastes.

b. Implicit in the congressional consent to this compact is the expectation by the congress and the party states that the appropriate federal agencies will actively assist the compact commission and the individual party states to this compact by:

1. Expeditious enforcement of federal rules, regulations, and laws;

2. Imposition of sanctions against those found to be in violation of federal rules, regulations, and laws; and

3. Timely inspection of their licensees to determine their compliance with these rules, regulations, and laws.

ARTICLE II – DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "Care" means the continued observation of a facility after ~~closure~~ closing for the purposes of detecting a need for maintenance, ensuring environmental safety, and determining compliance with applicable licensure and regulatory requirements and including the correction of problems which are detected as a result of that observation.

b. "Close", "closed", or "closing" means that the compact facility with respect to which any of those terms are used has ceased to accept low-level radioactive waste for disposal. "Permanently closed" means that the compact facility with respect to which the term is used has ceased to accept low-level radioactive waste because a compact facility has operated for twenty years or a longer period of time as authorized by article VI, section i, its

capacity has been reached, the commission has authorized it to close pursuant to article III, section h, subsection 7, the host state of such facility has withdrawn from the compact or had its membership revoked, or this compact has been dissolved.

~~b.~~ c. "Commission" means the midwest interstate low-level radioactive waste commission.

~~c. "Decommissioning" means the measures taken at the end of a facility's operating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at a facility.~~

d. "Compact facility" means a waste disposal facility that is located within the region and that is established by a party state pursuant to the designation of that state as a host state by the commission.

e. "Development" includes the characterization of potential sites for a waste disposal facility, siting of such a facility, licensing of such a facility, and other actions taken by a host state prior to the commencement of construction of a facility to fulfill its obligations as a host state.

~~d.~~ f. "Disposal" ~~means the isolation of waste from the biosphere in a permanent facility designed for that purpose~~ with regard to low-level radioactive waste, means the permanent isolation of that waste in accordance with the requirements established by the United States nuclear regulatory commission or the licensing agreement state.

~~e. "Eligible state" means a state qualified to be a party state to this compact as provided in article VIII.~~

g. "Disposal plan" means the plan adopted by the commission for the disposal of low-level radioactive waste within the region.

~~f.~~ h. "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is or has been used ~~or is being developed~~ for the ~~treatment, storage, or~~ disposal of low-level radioactive waste, which is being developed for that purpose, or upon which the construction of improvements or installation of equipment is occurring for that purpose.

i. "Final decision" means a final action of the commission determining the legal rights, duties, or privileges of any person. "Final decision" does not include preliminary, procedural, or intermediate actions by the commission, actions regulating the internal administration of the commission, or actions of the commission to enter into or refrain from entering into contracts or agreements with vendors to provide goods or services to the commission.

~~g.~~ j. "Generator" means a person who first produces ~~or possesses~~ low-level radioactive waste, including, without limitation, any person who does so in the course of or incident to manufacturing, power generation, processing, waste treatment, waste storage, medical diagnosis and treatment, research, or other industrial or commercial activity ~~and who, to the extent required by law, is licensed by the United States nuclear regulatory commission or a party state, to produce or possess such waste. "Generator" does not include a person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of wastes generated outside the region.~~ If the person who first produced an item or quantity of low-level radioactive waste cannot be identified, "generator" means the person first possessing the low-level radioactive waste who can be identified.

~~h.~~ k. "Host state" means any state which is designated by the commission to host a ~~regional~~ compact facility or has hosted a compact facility.

l. "Long-term care" means those activities taken by a host state after a compact facility is permanently closed to ensure the protection of air, land, and water resources and the health and safety of all people who may be affected by the compact facility.

~~i.~~ m. "Low-level radioactive waste" or "waste" means radioactive waste that is not classified as high-level radioactive waste~~, transuranic waste, spent nuclear fuel, or by-product material as defined in section 11(e)(2) of the Atomic Energy Act of 1954~~ and that is Class A, B, or C low-level radioactive waste as defined in 10 C.F.R. § 61.55, as that section existed

on January 26, 1983. "Low-level radioactive waste" or "waste" does not include any such radioactive waste that is owned or generated by the United States department of energy; by the United States navy as a result of the decommissioning of its vessels; or as a result of research, development, testing, or production of an atomic weapon.

~~j. "Management plan" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region.~~

n. "Operates", "operational", or "operating" means that the compact facility with respect to which any of those terms is used accepts low-level radioactive waste for dispoal.*

~~k.~~ o. "Party state" means ~~any~~ an eligible state ~~which~~ that enacts ~~the~~ this compact into law, pays any eligibility fee established by the commission, and has not withdrawn from this compact or had its membership in this compact revoked, provided that a state that has withdrawn from this compact or had its membership revoked becomes a party state if it is readmitted to membership in this compact pursuant to article VIII, section a. "Party state" includes a host state. "Party state" also includes statutorily created administrative departments, agencies, or instrumentalities of a party state, but does not include municipal corporations, regional or local units of government, or other political subdivisions of a party state that are responsible for governmental activities on less than a statewide basis.

~~l.~~ p. "Person" means any individual, corporation, association, business enterprise, or other legal entity either public or private and any legal successor, representative, agent, or agency of that individual, corporation, association, business enterprise, or other legal entity. "Person" also includes the United States, states, political subdivisions of states, and any department, agency, or instrumentality of the United States or a state.

~~m.~~ q. "Region" means the area of the party states.

~~n. "Regional facility" means a facility which is located within the region and which is established by a party state pursuant to designation of that state as a host state by the commission.~~

~~o.~~ r. "Site" means the geographic location of a facility.

~~p.~~ s. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or ~~any~~ other territorial possession of the United States.

~~q.~~ t. "Storage" means the temporary holding of low-level radioactive waste ~~for treatment or disposal~~.

~~r.~~ u. "Treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of ~~any~~ low-level radioactive waste in order to render the low-level radioactive waste safer for transport or management, amenable to recovery, convertible to another usable material or reduced in volume.

~~s.~~ v. "Waste management", "manage waste", "management of waste", "management", or "managed" means the storage, ~~transportation,~~ treatment, or disposal of low-level radioactive waste.

ARTICLE III – THE COMMISSION

a. There is created the midwest interstate low-level radioactive waste commission. The commission consists of one voting member from each party state. The governor of each party state shall notify the commission in writing of its member and any alternates. An alternate may act on behalf of the member only in that member's absence. The method for selection and the expenses of each commission member shall be the responsibility of the member's respective state.

b. Each commission member is entitled to one vote. ~~No~~ Except as otherwise specifically provided in this compact, an action of the commission is binding ~~unless~~ if a majority of the total membership ~~cast their~~ casts its vote in the affirmative. A party state may direct its member or alternate member of the commission how to vote or not vote on matters before the commission.

*According to enrolled Act

c. The commission shall elect annually from among its members a chairperson. The commission shall adopt and publish, in convenient form, bylaws and policies which are not inconsistent with this compact, including procedures for the use of binding arbitration under article VI, section o, and procedures which substantially conform with the provisions of the federal Administrative Procedure Act (5 U.S.C. §§ 500 to 559) in regard to notice, conduct, and recording of meetings; access by the public to records; provision of information to the public; conduct of adjudicatory hearings; and issuance of decisions.

d. The commission shall meet at least once annually and shall also meet upon the call of the chairperson or ~~a~~ any other commission member.

e. All meetings of the commission shall be open to the public with reasonable advance notice. The commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all commission actions and decisions shall be made in open meetings and appropriately recorded.

f. The commission may establish advisory committees for the purpose of advising the commission on any matters pertaining to waste management.

g. The office of the commission shall be in a party state. The commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall have the responsibilities and authority delegated to it by the commission in its bylaws. The staff shall serve at the commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the commission.

h. The commission may do any or all of the following:

~~1. Enter into an agreement with any person, state, or group of states for the right to use regional facilities for waste generated outside the region and for the right to use facilities outside the region for waste generated within the region. The right of any person to use a regional facility for waste generated outside of the region requires an affirmative vote of a majority of the commission, including the affirmative vote of the member of the host state in which any affected regional facility is located.~~

~~2. Approve the disposal of waste generated within the region at a facility other than a regional facility.~~

~~3.~~ 1. Appear as an intervenor or party in interest before any court of law or any federal, state, or local agency, board, or commission in any matter related to waste management. In order to represent its views, the commission may arrange for any expert testimony, reports, evidence, or other participation.

~~4.~~ 2. Review ~~the~~ any emergency ~~closure~~ closing of a ~~regional~~ compact facility, determine the appropriateness of that ~~closure~~ closing, and take whatever lawful actions are necessary to ensure that the interests of the region are protected.

~~5.~~ 3. Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

~~6. Suspend the privileges or revoke the membership of a party state by a two-thirds vote of the membership in accordance with article VIII.~~

4. Approve the disposal of naturally occurring and accelerator-produced radioactive material at a compact facility. The commission shall not approve the acceptance of such material without first making an explicit determination of the effect of the new low-level radioactive waste stream on the compact facility's maximum capacity. Such approval requires the affirmative vote of a majority of the commission, including the affirmative vote of the member from the host state of the compact facility that would accept the material for disposal. Any such host state may at any time rescind its vote granting the approval and, thereafter, additional naturally occurring and accelerator-produced radioactive material shall not be disposed of at a compact facility unless the disposal is again approved. All provisions of this compact apply to the disposal of naturally occurring and accelerator-

produced radioactive material that has been approved for disposal at a compact waste facility pursuant to this subsection.

5. Enter into contracts in order to perform its duties and functions as provided in this compact.

6. When approved by the commission, with the member from each host state in which an affected compact facility is operating or being developed or constructed voting in the affirmative, enter into agreements to do any of the following:

(a) Import for disposal within the region low-level radioactive waste generated outside the region.

(b) Export for disposal outside the region low-level radioactive waste generated inside the region.

(c) Dispose of low-level radioactive waste generated within the region at a facility within the region that is not a compact facility.

7. Authorize a host state to permanently close a compact facility located within its borders earlier than otherwise would be required by article VI, section i. Such closing requires the affirmative vote of a majority of the commission, including the affirmative vote of the member from the state in which the affected compact facility is located.

i. The commission shall do all of the following:

~~1. Receive and act on the petition of a nonparty state to become an eligible state.~~

~~2.~~ 1. Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the commission.

~~3. Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.~~

~~4.~~ 2. Adopt and amend, by a two-thirds vote of the membership, in accordance with the procedures and criteria developed pursuant to article IV, a regional ~~management~~ disposal plan which designates host states for the establishment of needed ~~regional~~ compact facilities.

~~5.~~ 3. Adopt an annual budget.

4. Establish and implement a procedure for determining the capacity of a compact facility. The capacity of a compact facility shall be established as soon as reasonably practical after the host state of the compact facility is designated and shall not be changed thereafter without the consent of the host state. The capacity of a compact facility shall be based on the projected volume, radioactive characteristics, or both, of the low-level radioactive waste to be disposed of at the compact facility during the period set forth in article VI, section i.

5. Provide a host state with funds necessary to pay reasonable development expenses incurred by the host state after it is designated to host a compact facility.

6. Establish and implement procedures for making payments from the remedial action fund provided for in section p.

7. Establish and implement procedures to investigate a complaint joined in by two or more party states regarding another party state's performance of its obligations.

8. Adopt policies promoting source reduction and the environmentally sound treatment of low-level radioactive waste in order to minimize the amount of low-level radioactive waste to be disposed of at compact facilities.

9. Establish and implement procedures for obtaining information from generators regarding the volume and characteristics of low-level radioactive waste projected to be disposed of at compact facilities and regarding generator activities with respect to source reduction, recycling, and treatment of low-level radioactive waste.

10. Prepare annual reports regarding the volume and characteristics of low-level radioactive waste projected to be disposed of at compact facilities.

j. Funding ~~of the budget of~~ for the commission shall be provided as follows:

1. ~~Each state, upon becoming a party state, shall pay fifty thousand dollars or one thousand dollars per cubic meter shipped from that state in 1980, whichever is lower, to the~~

~~commission which shall be used for the administrative costs of the commission.~~ When no compact facility is operating, the commission may assess fees to be collected from generators of low-level radioactive waste in the region. The fees shall be reasonable and equitable. The commission shall establish and implement procedures for assessing and collecting the fees. The procedures may allow the assessing of fees against less than all generators of low-level radioactive waste in the region; provided that if fees are assessed against less than all generators of waste in the region, generators paying the fees shall be reimbursed the amount of the fees, with reasonable interest, out of the revenues of operating compact facilities.

2. When a compact facility is operating, funding for the commission shall be provided through a surcharge collected by the host state as part of the fee system provided for in article VI, section j. The surcharge to be collected by the host state shall be determined by the commission and shall be reasonable and equitable.

~~2.~~ 3. ~~Each state hosting a regional facility shall levy surcharges on all users of the regional facility based upon its portion of the total volume and characteristics of wastes managed at that facility. The~~ In the aggregate, the fees or surcharges ~~collected at all regional facilities~~, as the case may be, shall be no more than is necessary to:

(a) ~~Be sufficient to cover~~ Cover the annual budget of the commission~~; and~~.

~~(b) Represent the financial commitments of all party states to the commission; and~~

~~(c) Be paid to the commission, provided, that each host state collecting surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the commission.~~

(b) Provide a host state with the funds necessary to pay reasonable development expenses incurred by the host state after it is designated to host a compact facility.

(c) Provide moneys for deposit in the remedial action fund established pursuant to section p.

(d) Provide moneys to be added to an inadequately funded long-term care fund as provided in article VI, section o.

k. ~~The commission shall keep accurate accounts of all receipts and disbursements.~~ Financial statements of the commission shall be prepared according to generally accepted accounting principles. The commission shall contract with an independent certified public accountant to annually audit ~~all receipts and disbursements of commission funds~~, its financial statements and to submit an audit report to the commission. The audit report shall be made a part of the annual report of the commission required by this article.

l. The commission may accept for any of its purposes and functions and may utilize and dispose of any donations, grants of money, equipment, supplies, materials and services from any state or the United States, or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation. The nature, amount, and condition, if any, attendant upon any donation or grant accepted or received by the commission together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the commission.

~~m. The commission is not liable for any costs associated with any of the following:~~

~~1. The licensing and construction of any facility;~~

~~2. The operation of any facility;~~

~~3. The stabilization and closure of any facility;~~

~~4. The care of any facility;~~

~~5. The extended institutional control, after care of any facility; or~~

~~6. The transportation of waste to any facility.~~

~~n. 1.~~ m. The commission is a legal entity separate and distinct from the party states ~~and is liable for its actions as a separate and distinct legal entity. Liabilities of the commission are not liabilities of the party states.~~ Members of the commission and its employees are not personally liable for actions taken by them in their official capacity. The commission is not

liable or otherwise responsible for any costs, expenses, or liabilities resulting from the development, construction, operation, regulation, closing, or long-term care of any compact facility or any noncompact facility made available to the region by any contract or agreement entered into by the commission under section h, subsection 6. Nothing in this section relieves the commission of its obligations under this article or under contracts to which it is a party. Any liabilities of the commission are not liabilities of the party states.

~~2. Except as provided under section m and section n, subsection 1, nothing in this compact alters liability for any act, omission, course of conduct, or liability resulting from any causal or other relationships.~~

~~o. Any person aggrieved by a final decision of the commission may obtain judicial review of such decision in any court of jurisdiction by filing in such court a petition for review within sixty days after the commission's final decision.~~

n. Final decisions of the commission shall be made, and shall be subject to judicial review, in accordance with all of the following conditions:

1. Every final decision shall be made at an open meeting of the commission. Before making a final decision, the commission shall provide an opportunity for public comment on the matter to be decided. Each final decision shall be reduced to writing and shall set forth the commission's reasons for making the decision.

2. Before making a final decision, the commission may conduct an adjudicatory hearing on the proposed decision.

3. Judicial review of a final decision shall be initiated by filing a petition in the United States district court for the district in which the person seeking the review resides or in which the commission's office is located not later than sixty days after issuance of the commission's written decision. Concurrently with filing the petition for review with the court, the petitioner shall serve a copy of the petition on the commission. Within five days after receiving a copy of the petition, the commission shall mail a copy of it to each party state and to all other persons who have notified the commission of their desire to receive copies of such petitions. Any failure of the commission to so mail copies of the petition does not affect the jurisdiction of the reviewing court. Except as otherwise provided in this subsection, standing to obtain judicial review of final decisions of the commission and the form and scope of the review are subject to and governed by 5 U.S.C. § 706.

4. If a party state seeks judicial review of a final decision of the commission that does any of the following, the facts shall be subject to trial de novo by the reviewing court unless trial de novo of the facts is affirmatively waived in writing by the party state:

(a) Imposes financial penalties on a party state.

(b) Suspends the right of a party state to have waste generated within its borders disposed of at a compact facility or at a noncompact facility made available to the region by an agreement entered into by the commission under section h, subsection 6.

(c) Terminates the designation of a party state as a host state.

(d) Revokes the membership of a party state in this compact.

(e) Establishes the amounts of money that a party state that has withdrawn from this compact or had its membership in this compact revoked is required to pay under article VIII, section e.

Any such trial de novo of the facts shall be governed by the federal rules of civil procedure and the federal rules of evidence.

5. Preliminary, procedural, or intermediate actions by the commission that precede a final decision are subject to review only in conjunction with review of the final decision.

6. Except as provided in subsection 5, actions of the commission that are not final decisions are not subject to judicial review.

o. Unless approved by a majority of the commission, with the member from each host state in which an affected compact facility is operating or is being developed or constructed voting in the affirmative, no person shall do any of the following:

1. Import low-level radioactive waste generated outside the region for disposal within the region.

2. Export low-level radioactive waste generated within the region for disposal outside the region.

3. Manage low-level radioactive waste generated outside the region at a facility within the region.

4. Dispose of low-level radioactive waste generated within the region at a facility within the region that is not a compact facility.

p. The commission shall establish a remedial action fund to pay the costs of reasonable remedial actions taken by a party state if an event results from the development, construction, operation, closing, or long-term care of a compact facility that poses a threat to human health, safety, or welfare or to the environment. The amount of the remedial action fund shall be adequate to pay the costs of all reasonably foreseeable remedial actions. A party state shall notify the commission as soon as reasonably practical after the occurrence of any event that may require the party state to take a remedial action. The failure of a party state to notify the commission does not limit the rights of the party state under this section.

If the moneys in the remedial action fund are inadequate to pay the costs of reasonable remedial actions, the amount of the deficiency is a liability with respect to which generators shall provide indemnification under article VII, section g. Generators who provide the required indemnification have the rights of contribution provided in article VII, section g. This section applies to remedial action taken by a party state regardless of whether the party state takes the remedial action on its own initiative or because it is required to do so by a court or regulatory agency of competent jurisdiction.

q. If the commission makes payment from the remedial action fund provided for in section p, the commission is entitled to obtain reimbursement under applicable rules of law from any person who is responsible for the event giving rise to the remedial action. Reimbursement may be obtained from a party state only if the event giving rise to the remedial action resulted from the activities of that party state as a generator of waste.

r. If this compact is dissolved, all moneys held by the commission shall be used first to pay for any ongoing or reasonably anticipated remedial actions. Remaining moneys shall be distributed in a fair and equitable manner to those party states that have operating or closed compact facilities within their borders and shall be added to the long-term care funds maintained by those party states.

ARTICLE IV - REGIONAL ~~MANAGEMENT~~ DISPOSAL PLAN

The commission shall adopt and periodically update a regional ~~management~~ disposal plan designed to ensure the safe and efficient ~~management~~ disposal of low-level radioactive waste generated within the region. In adopting a regional low-level radioactive waste ~~management~~ disposal plan, the commission shall do all of the following:

a. Adopt procedures for determining, consistent with considerations for public health and safety, the type and number of ~~regional~~ compact facilities which are presently necessary and which are projected to be necessary to ~~manage~~ dispose of low-level radioactive waste generated within the region;

~~b. Develop and consider policies promoting source reduction of waste generated within the region;~~

~~c.~~ b. Develop and adopt procedures and criteria for identifying a party state as a host state for a ~~regional~~ compact facility. In developing these criteria, the commission shall consider all of the following:

1. The health, safety, and welfare of the citizens of the party states.

2. The existence of ~~regional~~ compact facilities within each party state.

3. The minimization of low-level radioactive waste transportation.

4. The volumes and types of low-level radioactive wastes projected to be generated within each party state.

5. The environmental~~, economic, and ecological~~ impacts on the air, land, and water resources of the party states.

6. The economic impacts on the party states.

~~d.~~ c. Conduct such hearings, and obtain such reports, studies, evidence, and testimony required by its approved procedures prior to identifying a party state as a host state for a needed ~~regional~~ compact facility;

~~e.~~ d. Prepare a draft ~~management~~ disposal plan and any update thereof, including procedures, criteria, and host states, ~~including alternatives,~~ which shall be made available in a convenient form to the public for comment. Upon the request of a party state, the commission shall conduct a public hearing in that state prior to the adoption or update of the ~~management~~ disposal plan. The ~~management~~ disposal plan and any update thereof shall include the commission's response to public and party state comment.

ARTICLE V – RIGHTS AND OBLIGATIONS OF PARTY STATES

a. Each party state shall act in good faith in the performance of acts and courses of conduct which are intended to ensure the provision of facilities for regional availability and usage in a manner consistent with this compact.

b. ~~Each~~ Except for low-level radioactive waste attributable to radioactive material or low-level radioactive waste imported into the region in order to render the material or low-level radioactive waste amenable to transportation, storage, disposal, or recovery, or in order to convert the low-level radioactive waste or material to another usable material, or to reduce it in volume or otherwise treat it, each party state has the right to have all low-level radioactive wastes generated within its borders ~~managed~~ disposed of at ~~regional~~ compact facilities subject to the payment of all fees established by the host state under article VI, section j, and to the provisions contained in article VI, sections l and s, article VIII, section d, article IX, ~~section~~ sections c and d and article X. All party states have an equal right of access to any facility made available to the region by ~~any~~ an agreement entered into by the commission pursuant to article III, section h, subsection 6, subject to the provisions of article VI, sections l and s, article VIII, sections c and d, and article X.

c. ~~Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to commission approval under article III.~~ If a party state's right to have waste generated within its borders disposed of at compact facilities, or at any noncompact facility made available to the region by an agreement entered into by the commission under article III, section h, subsection 6, is suspended, low-level radioactive waste generated within its borders by any person shall be* disposed of at any such facility during the period of the suspension.

d. To the extent permitted by federal law, each party state may enforce any applicable federal and state laws, regulations, and rules pertaining to the packaging and transportation of waste generated within or passing through its borders. Nothing in this section shall be construed to require a party state to enter into any agreement with the United States nuclear regulatory commission.

e. Each party state shall provide to the commission any data and information the commission requires to implement its responsibilities. Each party state shall establish the capability to obtain any data and information required by the commission.

f. If, notwithstanding the sovereign immunity provision in article VII, section f, subsection 1, and the indemnification provided for in article III, section p, article VI, section o, and article VII, section g, a party state incurs a cost as a result of an inadequate remedial action fund or an exhausted long-term care fund, or incurs a liability as a result of an action described in article VII, section f, subsection 1, and not described in article VII, section f, subsection 2, the cost or liability shall be the pro rata obligation of each party state and each state that has withdrawn from this compact or had its membership in this compact revoked. The commission shall determine each state's pro rata obligation in a fair

* The words "shall not be" probably intended

and equitable manner based on the amount of low-level radioactive waste from each such state that has been or is projected to be disposed of at the compact facility with respect to which the cost or liability to be shared was incurred. No state shall be obligated to pay the pro rata obligation of any other state.

The pro rata obligations provided for in this section do not result in the creation of state debt. Rather, the pro rata obligations are contractual obligations that shall be enforced by only the commission or an affected party state.

g. If the party states make payment pursuant to this section, the surcharge or fee provided for in article III, section j, shall be used to collect the funds necessary to reimburse the party states for those payments. The commission shall determine the time period over which reimbursement shall take place.

ARTICLE VI – DEVELOPMENT, ~~AND~~ OPERATION, AND CLOSING OF COMPACT FACILITIES

a. A party state may volunteer to become a host state, and the commission may designate that state as a host state ~~upon a two-thirds vote of its members~~.

b. If not all ~~regional~~ compact facilities required by the regional ~~management~~ disposal plan are ~~not~~ developed pursuant to section a, ~~or upon notification that an existing regional facility will be closed,~~ the commission may designate a host state.

c. ~~Each party~~ After a state is designated ~~as~~ a host state by the commission, it is responsible for ~~determining possible facility locations within its borders~~ the timely development and operation of the compact facility it is designated to host. ~~The selection of a facility site shall not conflict with applicable federal and host state laws, regulations, and rules not inconsistent with this compact and shall be based on factors including, but not limited to, geological, environmental, and economic viability of possible facility locations.~~ The development and operation of the compact facility shall not conflict with applicable federal and host state laws, rules, and regulations, provided that the laws, rules, and regulations of a host state and its political subdivisions shall not prevent, nor shall they be applied so as to prevent, the host state's discharge of the obligation set forth in this section. The obligation set forth in this section is contingent upon the discharge by the commission of its obligation set forth in article III, section i, subsection 5.

d. If a party state designated as a host state fails to discharge the obligations imposed upon it by section c, its host state designation may be terminated by a two-thirds vote of the commission with the member from the host state of any then operating compact facility voting in the affirmative. A party state whose host state designation has been terminated has failed to fulfill its obligations as a host state and is subject to the provisions of article VIII, section d.

~~d.~~ e. Any party state designated as a host state may request the commission to relieve that state of the responsibility to serve as a host state. ~~The~~ Except as set forth in section d, the commission may relieve a party state of ~~this~~ its responsibility only upon a showing by the requesting party state that, based upon criteria established by the commission that are consistent with applicable federal criteria, no feasible potential ~~regional~~ compact facility site ~~of the type it is designated to host~~ exists within its borders. A party state relieved of its host state responsibility shall repay to the commission any funds provided to that state by the commission for the development of a compact facility, and also shall pay to the commission the amount the commission determines is necessary to ensure that the commission and the other party states do not incur financial loss as a result of the state being relieved of its host state responsibility. Any funds so paid to the commission with respect to the financial loss of the other party states shall be distributed forthwith by the commission to the party states that would otherwise incur the loss. In addition, until the state relieved of its responsibility is again designated as a host state and a compact facility located in that state begins operating, it shall annually pay to the commission, for deposit

in the remedial action fund, an amount the commission determines is fair and equitable in light of the fact the state has been relieved of the responsibility to host a compact facility, but continues to enjoy the benefits of being a member of this compact.

~~e. After a state is designated a host state by the commission, it is responsible for the timely development and operation of a regional facility.~~

f. The host state shall select the technology for the compact facility. If requested by the commission, information regarding the technology selected by the host state shall be submitted to the commission for its review. The commission may require the host state to make changes in the technology selected by the host state if the commission demonstrates that the changes do not decrease the protection of air, land, and water resources and the health and safety of all people who may be affected by the compact facility. If requested by the host state, any commission decision requiring the host state to make changes in the technology shall be preceded by an adjudicatory hearing in which the commission shall have the burden of proof.

g. A host state may assign to a private contractor the responsibility, in whole or in part, to develop, construct, operate, close, or provide long-term care for a compact facility. Assignment of such responsibility by a host state to a private contractor does not relieve the host state of any responsibility imposed upon it by this compact. A host state may secure indemnification from the private contractor for any costs, liabilities, and expenses incurred by the host state resulting from the development, construction, operation, closing, or long-term care of a compact facility.

~~f.~~ h. To the extent permitted by federal and state law, a host state shall regulate and license any compact facility within its borders and ensure the ~~extended~~ long-term care of that compact facility.

~~g. The commission may designate a party state as a host state while a regional facility is in operation if the commission determines that an additional regional facility is or may be required to meet the needs of the region. The commission shall make this designation following the procedures established under article IV.~~

~~h. Designation of a host state is for a period of twenty years or the life of the regional facility which is established under that designation, whichever is longer. Upon request of a host state, the commission may modify the period of its designation.~~

i. A host state shall accept waste for disposal for a period of twenty years from the date the compact facility in the host state becomes operational, or until its capacity has been reached, whichever occurs first. At any time before the compact facility closes, the host state and the commission may enter into an agreement to extend the period during which the host state is required to accept such waste or to increase the capacity of the compact facility. Except as specifically authorized by section l, subsection 4, the twenty-year period shall not be extended, and the capacity of the facility shall not be increased, without the consent of the affected host state and the commission.

~~i.~~ j. A host state ~~may~~ shall establish a ~~fee~~ system ~~for~~ of fees to be collected from the users of any ~~regional~~ compact facility within its borders. The fee system, and the costs paid through the system, shall be reasonable and equitable. The fee system shall be subject to the commission's approval. ~~This~~ The fee system shall provide the host state with sufficient revenue to ~~cover any~~ pay costs associated with the compact facility, including, but not limited to ~~the planning, siting, licensure,~~ operation, ~~decommissioning, extended care, and long-term liability, associated with such facilities~~ closing, long-term care, debt service, legal costs, local impact assistance, and local financial incentives. ~~This fee system may also include reasonable revenue beyond the costs incurred for the host state, subject to approval by the commission. A host state shall submit an annual financial audit of the operation of the regional facility to the commission.~~ The fee system also shall be used to collect the surcharge provided in article III, section j, subsection 2. The fee system ~~may~~ shall include incentives for source reduction and ~~may~~ shall be based on the hazard of the low-level radioactive waste as well as the volume.

~~j.~~ k. A host state shall ensure that a ~~regional~~ compact facility located within its borders ~~which~~ that is permanently closed is properly ~~decommissioned~~ cared for so as to ensure protection of air, land, and water resources and the health and safety of all people who may be affected by the facility. ~~A host state shall also provide for the care of a closed or decommissioned regional facility within its borders so that the public health and safety of the state and region are ensured.~~

~~k. A host state intending to close a regional facility located within its borders shall notify the commission in writing of its intention and the reasons. Notification shall be given to the commission at least five years prior to the intended date of closure.~~

l. The development of subsequent compact facilities shall be as follows:

1. No compact facility shall begin operating until the commission designates the host state of the next compact facility.

2. The following actions shall be taken by the state designated to host the next compact facility within the specified number of years after the compact facility it is intended to replace begins operation:

(a) Within three years, enact legislation providing for the development of the next compact facility.

(b) Within seven years, initiate site characterization investigations and tests to determine licensing suitability for the next compact facility.

(c) Within eleven years, submit a license application for the next compact facility that the responsible licensing authority deems complete.

If a host state fails to take any of these actions within the specified time, all low-level radioactive waste generated by a person within that state shall be denied access to the then operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection 6, until the action is taken. Denial of access may be rescinded by the commission, with the member from the host state of the then operating compact facility voting in the affirmative. A host state that fails to take any of these actions within the specified time has failed to fulfill its obligations as a host state and is subject to the provisions of this section, and article VIII, section d.

3. Within fourteen years after a compact facility begins operating, the state designated to host the next compact facility shall have obtained a license from the responsible licensing authority to construct and operate the compact facility the state has been designated to host. If the license is not obtained within the specified time, all low-level radioactive waste generated by any person within the state designated to host the next compact facility shall be denied access to the then operating compact facility, and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection 6, until the license is obtained. The state designated to host the next compact facility shall have failed in its obligations as a host state and shall be subject to section d, and article VIII, section d. In addition, at the sole option of the host state of the then operating compact facility, all low-level radioactive waste generated by any person within any party state that has not fully discharged its obligations under section i, shall be denied access to the then operating compact facility, and to a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, until the license is obtained. Denial of access may be rescinded by the commission, with the member from the host state of the then operating compact facility voting in the affirmative.

4. If twenty years after a compact facility begins operating, the next compact facility is not ready to begin operating, the state designated to host the next compact facility shall have failed in its obligation as a host state and shall be subject to section d, and article VIII, section d. If at the time the capacity of the then operating compact facility has been reached, or twenty years after the facility began operating, whichever occurs first, the next compact facility is not ready to begin operating, the host state of the then operating compact facility,

without the consent of any other party state or the commission, may continue to operate the facility until a compact facility in the next host state is ready to begin operating. During any such period of continued operation of a compact facility, all low-level radioactive waste generated by any person within the state designated to host the next compact facility shall be denied access to the then operating compact facility and to a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6. In addition, during such period, at the sole option of the host state of the then operating compact facility, all low-level radioactive waste generated by any person within any party state that has not fully discharged its obligations under section i, shall be denied access to the then operating compact facility and to any noncompact facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection 6. Denial of access may be rescinded by the commission, with the member from the host state of the then operating compact facility voting in the affirmative. The provisions of this subsection shall not apply if their application is inconsistent with an agreement between the host state of the then operating compact facility and the commission as authorized in section i, or inconsistent with section p or q.

5. During any period that access is denied for low-level radioactive waste disposal pursuant to section l, subsection 2, 3, or 4, the party state designated to host the next compact disposal facility shall pay to the host state of the then operating compact facility an amount the commission determines is reasonably necessary to ensure that the host state, or an agency or political subdivision thereof, does not incur financial loss as a result of the denial of access.

6. The commission may modify any of the requirements contained in section l, subsections 2 and 3, if it finds that circumstances have changed so that the requirements are unworkable or unnecessarily rigid or no longer serve to ensure the timely development of a compact facility. The commission may adopt such a finding by a two-thirds vote, with the member from the host state of the then operating compact facility voting in the affirmative.

m. This ~~section~~ compact shall not prevent an emergency closing of a ~~regional~~ compact facility by a host state to protect ~~its~~ air, land, and water resources and the health and safety of ~~its citizens~~ all people who may be affected by the compact facility. ~~However, a~~ A host state ~~which~~ that has an emergency closing of a ~~regional~~ compact facility shall notify the commission in writing within three working days of its action and shall, within thirty working days of its action, demonstrate justification for the closing.

~~l. If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the commission until a regional facility is operational.~~

~~m. A party state which is designated as a host state by the commission and fails to fulfill its obligations as a host state may have its privileges under the compact suspended or membership in the compact revoked by the commission.~~

n. A party state that has fully discharged its obligations under section i shall not again be designated a host state of a compact facility without its consent until each party state has been designated to host a compact facility and has fully discharged its obligations under section i, or has been relieved under section e, of its responsibility to serve as a host state.

o. Each host state of a compact facility shall establish a long-term care fund to pay for monitoring, security, maintenance, and repair of the facility after it is permanently closed. The expenses of administering the long-term care fund shall be paid out of the fund. The fee system established by the host state that establishes a long-term care fund shall be used to collect moneys in amounts that are adequate to pay for all long-term care of the compact facility. The moneys shall be deposited into the long-term care fund. Except where the matter is resolved through arbitration, the amount to be collected through the fee

system for deposit into the fund shall be determined through an agreement between the commission and the host state establishing the fund. Not less than three years, nor more than five years, before the compact facility it is designated to host is scheduled to begin operating, the host state shall propose to the commission the amount to be collected through the fee system for deposit into the fund. If, one hundred eighty days after such proposal is made to the commission, the host state and the commission have not agreed, either the commission or the host state may require the matter to be decided through binding arbitration. The method of administration of the fund shall be determined by the host state establishing the long-term care fund, provided that moneys in the fund shall be used only for the purposes set forth in this section, and shall be invested in accordance with the standards applicable to trustees under the laws of the host state establishing the fund. If, after a compact facility is closed, the commission determines the long-term care fund established with respect to that compact facility is not adequate to pay for all long-term care for that compact facility, the commission shall collect and pay over to the host state of the closed compact facility, for deposit into the long-term care fund, an amount determined by the commission to be necessary to make the amount in the fund adequate to pay for all long-term care of the compact facility. If a long-term care fund is exhausted and long-term care expenses for the compact facility with respect to which the fund was created have been reasonably incurred by the host state of the compact facility, those expenses are a liability with respect to which generators shall provide indemnification as provided in article VII, section g. Generators that provide indemnification shall have contribution rights as provided in article VII, section g.

p. A host state that withdraws from the compact or has its membership revoked shall immediately and permanently close any compact facility located within its borders, except that the commission and a host state may enter into an agreement under which the host state may continue to operate, as a noncompact facility, a facility within its borders that, before the host state withdrew or had its membership revoked, was a compact facility.

q. If this compact is dissolved, the host state of any then operating compact facility shall immediately and permanently close the compact facility, provided that a host state may continue to operate a compact facility or resume operating a previously closed compact facility, as a noncompact facility, subject to all of the following requirements:

1. The host state shall pay to the other party states the portion of the funds provided to that state by the commission for the development, construction, operation, closing, or long-term care of a compact facility that is fair and equitable, taking into consideration the period of time the compact facility located in that state was in operation and the amount of waste disposed of at the compact facility, provided that a host state that has fully discharged its obligations under section i, shall not be required to make such payment.

2. The host state shall physically segregate low-level radioactive waste disposed of at the compact facility after this compact is dissolved from low-level radioactive waste disposed of at the compact facility before this compact is dissolved.

3. The host state shall indemnify and hold harmless the other party states from all costs, liabilities, and expenses, including reasonable attorneys' fees and expenses, caused by operating the compact facility after this compact is dissolved, provided that this indemnification and hold harmless obligation shall not apply to costs, liabilities, and expenses resulting from the activities of a host state as a generator of waste.

4. Moneys in the long-term care fund established by the host state that are attributable to the operation of the compact facility before this compact is dissolved, and investment earnings thereon, shall be used only to pay the cost of monitoring, securing, maintaining, or repairing that portion of the compact facility used for the disposal of low-level radioactive waste before this compact is dissolved. Such moneys and investment earnings, and moneys added to the long-term care fund through a distribution authorized by article III, section r, also may be used to pay the cost of any remedial action made necessary by an event resulting from the disposal of waste at the facility before this compact is dissolved.

r. Financial statements of a compact facility shall be prepared according to generally accepted accounting principles. The commission may require the financial statements to be audited on an annual basis by a firm of certified public accountants selected and paid by the commission.

s. Low-level radioactive waste may be accepted for disposal at a compact facility only if the generator of the low-level radioactive waste has signed, and there is on file with the commission, an agreement to provide indemnification to a party state, or employee of that state, for all of the following:

1. Any cost of a remedial action described in article III, section p, that, due to inadequacy of the remedial action fund, is not paid as set forth in that provision.

2. Any expense for long-term care described in section o that, due to exhaustion of the long-term care fund, is not paid as set forth in that provision.

3. Any liability for damages to persons, property, or the environment incurred by a party state, or employee of that state while acting within the scope of employment, resulting from the development, construction, operation, regulation, closing, or long-term care of a compact facility, or a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, or other matter arising from this compact. The agreement also shall require generators to indemnify the party state or employee against all reasonable attorney's fees and expenses incurred in defending an action for such damages. This indemnification shall not extend to liability based on any of the following:

(a) The activities of the party states as generators of waste.

(b) The obligations of the party states to each other and the commission imposed by this compact or other contracts related to the disposal of low-level radioactive waste under this compact.

(c) Activities of a host state or employees thereof that are grossly negligent or willful and wanton.

The agreement shall provide that the indemnification obligation of generators shall be joint and several, except that the indemnification obligation of the party states with respect to their activities as generators of low-level radioactive waste shall not be joint and several, but instead shall be prorated according to the amount of waste that each state had disposed of at the compact facility giving rise to the liability. Such proration shall be calculated as of the date of the event giving rise to the liability. The agreement shall be in a form approved by the commission with the member from the host state of any then operating compact facility voting in the affirmative. Among generators there shall be rights of contribution based on equitable principles, and generators shall have rights of contribution against another person responsible for such damages under common law, statute, rule, or regulation, provided that a party state that through its own activities did not generate any low-level radioactive waste disposed of at the compact facility giving rise to the liability, an employee of such a party state, and the commission shall not have a contribution obligation. The commission may waive the requirement that the party state sign and file such an indemnification agreement as a condition to being able to dispose of low-level radioactive waste generated as a result of the party state's activities. Such a waiver shall not relieve a party state of the indemnification obligation imposed by article VII, section g.

ARTICLE VII - OTHER LAWS AND REGULATIONS

a. Nothing in this compact:

1. Abrogates or limits the applicability of any act of congress or diminishes or otherwise impairs the jurisdiction of any federal agency expressly conferred thereon by the congress;

2. Prevents the enforcement of any other law of a party state which is not inconsistent with this compact;

3. Prohibits any ~~storage~~ generator from storing or ~~treatment of waste by the generator~~ treating, on its own premises, low-level radioactive waste generated by it within the region;

4. Affects any administrative or judicial proceeding pending on the effective date of this compact;

5. Alters the relations between and the respective internal responsibility of the government of a party state and its subdivisions;

6. Affects the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the secretary of the United States department of energy or successor agencies or federal research and development activities as ~~defined~~ described in 42 U.S.C. § ~~2051~~ 2021; ~~or~~

7. Affects the rights and powers of any party state or its political subdivisions, to the extent not inconsistent with this compact, to regulate and license any facility or the transportation of waste within its borders ~~or affects the rights and powers of any party state or its political subdivisions to tax or impose fees on the waste managed at any facility within its border~~.

8. Requires a party state to enter into any agreement with the United States nuclear regulatory commission.

9. ~~Alters or limits liability of transporters of waste, owners, and operators of sites for their acts, omissions, conduct, or relationships in accordance with applicable laws.~~ Limits, expands, or otherwise affects the authority of a state to regulate low-level radioactive waste classified by any agency of the United States government as below regulatory concern or otherwise exempt from federal regulation.

b. ~~For purposes of this compact, all state laws or parts of laws in conflict~~ If a court of the United States finally determines that a law of a party state conflicts with this compact ~~are hereby superseded~~, this compact shall prevail to the extent of the conflict. The commission shall not commence an action seeking such a judicial determination unless commencement of the action is approved by a two-thirds vote of the membership of the commission.

c. ~~No~~ Except as authorized by this compact, no law, rule, or regulation of a party state or of any of its subdivisions or instrumentalities may be applied in a manner which discriminates against the generators of another party state.

d. Except as provided in article III, section m, and section f of this article, no provision of this compact shall be construed to eliminate or reduce in any way the liability or responsibility, whether arising under common law, statute, rule, or regulation, of any person for penalties, fines, or damages to persons, property, or the environment resulting from the development, construction, operation, closing, or long-term care of a compact facility, or a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, or other matter arising from this compact. The provisions of this compact shall not alter otherwise applicable laws relating to compensation of employees for workplace injuries.

e. Except as provided in 28 U.S.C. § 1251(a), the district courts of the United States have exclusive jurisdiction to decide cases arising under this compact. This section does not apply to proceedings within the jurisdiction of state or federal regulatory agencies or to judicial review of proceedings before state or federal regulatory agencies. This section shall not be construed to diminish other laws of the United States conferring jurisdiction on the courts of the United States.

f. For the purposes of activities pursuant to this compact, the sovereign immunity of party states and employees of party states shall be as follows:

1. A party state or employee thereof, while acting within the scope of employment, shall not be subject to suit or held liable for damages to persons, property, or the environment resulting from the development, construction, operation, regulation, closing, or long-term care of a compact facility, or any noncompact facility made available to the region by any agreement entered into by the commission pursuant to article III, section h, subsection

6. This applies whether the claimed liability of the party state or employee is based on common law, statute, rule, or regulation.

2. The sovereign immunity granted in subsection 1 does not apply to any of the following:

(a) Actions based upon the activities of the party states as generators of low-level radioactive waste. With regard to those actions, the sovereign immunity of the party states shall not be affected by this compact.

(b) Actions based on the obligations of the party states to each other and the commission imposed by this compact, or other contracts related to the disposal of low-level radioactive waste under this compact. With regard to those actions, the party states shall have no sovereign immunity.

(c) Actions against a host state, or employee thereof, when the host state or employee acted in a grossly negligent or willful and wanton manner.

g. If in an action described in section f, subsection 1, and not described in section f, subsection 2, it is determined that, notwithstanding section f, subsection 1, a party state, or employee of that state who acted within the scope of employment, is liable for damages or has liability for other matters arising under this compact as described in article VI, section s, subsection 3, the generators who caused waste to be placed at the compact facility with respect to which the liability was incurred shall indemnify the party state or employee against that liability. Those generators also shall indemnify the party state or employee against all reasonable attorney's fees and expenses incurred in defending against any such action. The indemnification obligation of generators under this section shall be joint and several, except that the indemnification obligation of party states with respect to their activities as generators of waste shall not be joint and several, but instead shall be prorated according to the amount of waste each state has disposed of at the compact facility giving rise to the liability. Among generators, there shall be rights of contribution based upon equitable principles, and generators shall have rights of contribution against another person responsible for damages under common law, statute, rule, or regulation. A party state that through its own activities did not generate low-level radioactive waste disposed of at the compact facility giving rise to the liability, an employee of a party state, and the commission shall have no contribution obligation under this section. This section shall not be construed as a waiver of the sovereign immunity provided for in section f, subsection 1.

h. The sovereign immunity of a party state provided for in section f, subsection 1, shall not be extended to a private contractor assigned responsibilities as authorized in article VI, section g.

ARTICLE VIII – ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION, SUSPENSION OF ACCESS, ENTRY INTO FORCE, AND TERMINATION

~~a. Eligible parties to this compact are the states of Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Virginia, and Wisconsin. Eligibility terminates on July 1, 1984.~~

~~b.~~ a. Any state ~~not eligible for membership in the compact~~ may petition the commission ~~for eligibility~~ to be eligible for membership in the compact. The commission may establish appropriate eligibility requirements. These requirements may include, but are not limited to, an eligibility fee or designation as a host state. A petitioning state becomes eligible for membership in the compact upon the approval of the commission, including the affirmative vote of ~~all~~ the member from each host ~~states~~ state in which a compact facility is operating or being developed or constructed. Any state becoming eligible upon the approval of the commission becomes a member of the compact ~~in the same manner as any state eligible for membership at the time this compact enters into force~~ when the state enacts this compact into law and pays the eligibility fee established by the commission.

~~c. An eligible state becomes a party state when the state enacts the compact into law and pays the membership fee required in article III, section j, subsection 1.~~

~~d.~~ b. The commission is formed upon the appointment of commission members and the tender of the membership fee payable to the commission by three party states. The governor of the first state to enact this compact shall convene the initial meeting of the commission. The commission shall cause legislation to be introduced in the congress which grants the consent of the congress to this compact, and shall take action necessary to organize the commission and implement the provisions of this compact.

~~e.~~ c. ~~Any~~ A party state that has fully discharged its obligations under article VI, section i, or has been relieved under article VI, section e, of its responsibilities to serve as a host state, may withdraw from this compact by repealing the authorizing legislation ~~but no withdrawal may take effect until five years after the governor of the withdrawing state gives notice in writing of the withdrawal to the commission and to the governor of each party state~~ and by receiving the unanimous consent of the commission. Withdrawal ~~does not affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal~~ takes effect on the date specified in the commission resolution consenting to withdrawal. ~~Any host state which grants a disposal permit for waste generated in a withdrawing state shall void the permit when the withdrawal of that state is effective.~~ All legal rights of the withdrawn state established under this compact, including, but not limited to, the right to have low-level radioactive waste generated within its borders disposed of at compact facilities, cease upon the effective date of withdrawal, but any legal obligations of that party state under this compact, including, but not limited to, those set forth in section e continue until they are fulfilled.

~~f.~~ d. Any party state ~~which~~ that fails to comply with the terms of this compact or fails to fulfill its obligations may have ~~its privileges~~ reasonable financial penalties imposed against it, may have the right to have low-level radioactive waste generated within its borders disposed of at compact facilities, or a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, suspended, or may have its membership in the compact revoked by ~~the commission in accordance with article III, section h, subsection 6~~ a two-thirds vote of the commission, provided that the membership of the party state designated to host the next compact facility shall not be revoked unless the member from the host state of a then operating compact facility votes in the affirmative. Revocation takes effect ~~one year from~~ on the date ~~the affected party state receives written notice from the commission of its action~~ specified in the resolution revoking the party state's membership. All legal rights of the ~~affected~~ revoked party state established under this compact, including, but not limited to, the right to have low-level radioactive waste generated within its borders disposed of at compact facilities, cease upon the effective date of revocation, but any legal obligations of that party state ~~arising prior to revocation~~ under this compact, including, but not limited to, those set forth in section e continue until they are fulfilled. The chairperson of the commission shall transmit written notice of a revocation of a party state's membership in the compact, suspension of a party state's low-level radioactive waste disposal rights, or imposition of financial penalties immediately following the vote of the commission to the governor of the affected party state, ~~all other~~ governors of all the other party states, and the congress of the United States.

e. A party state that withdraws from this compact or has its membership in the compact revoked before it has fully discharged its obligations under article VI forthwith shall repay to the commission the portion of the funds provided to that state by the commission for the development, construction, operation, closing, or long-term care of a compact facility that the commission determines is fair and equitable, taking into consideration the period of time the compact facility located in that host state was in operation and the amount of low-level radioactive waste disposed of at the compact facility. If at any time after a compact facility begins operating, a party state withdraws from the compact or has its membership revoked, the withdrawing or revoked party state shall be obligated forthwith to pay to the commission, the amount the commission determines would have been paid under the fee

system established by the host state of the compact facility, to dispose of at the compact facility the estimated volume of low-level radioactive waste generated in the withdrawing or revoked party state that would have been disposed of at the compact facility from the time of withdrawal or revocation until the time the compact facility is closed. Any funds so paid to the commission shall be distributed by the commission to the persons who would have been entitled to receive the funds had they originally been paid to dispose of low-level radioactive waste at the facility. Any person receiving funds from the commission shall apply the funds to the purposes to which they would have been applied had they originally been paid to dispose of low-level radioactive waste at the compact facility. In addition, a withdrawing or revoked party state forthwith shall pay to the commission an amount the commission determines to be necessary to cover all other costs and damages incurred by the commission and the remaining party states as a result of the withdrawal or revocation. The intention of this section is to eliminate a decrease in revenue resulting from withdrawal of a party state or revocation of a party state's membership, to eliminate financial harm to the remaining party states, and to create an incentive for party states to continue as members of the compact and to fulfill their obligations. This section shall be construed and applied so as to effectuate this intention.

f. Any party state whose right to have low-level radioactive waste generated within its borders disposed of at compact facilities is suspended by the commission, shall pay to the host state of the compact facility to which access has been suspended the amount the commission determines is reasonably necessary to ensure that the host state, or any political subdivision thereof, does not incur financial loss as a result of the suspension of access.

g. This compact becomes effective ~~July 1, 1983, or at any date subsequent to July 1, 1983,~~ upon enactment by at least three eligible states and consent to this compact by the congress. ~~However, article IX, section b shall not take effect until the congress has by law consented to this compact. The congress shall have an opportunity to withdraw such consent every five years. Failure of the congress to affirmatively withdraw its consent has the effect of renewing consent for an additional five year period.~~ The consent given to this compact by the congress shall extend to any future admittance of new party states ~~under sections b and c of this article~~ and to the power of the ~~region~~ commission to ~~ban~~ regulate the shipment and disposal of waste ~~from the region~~ and disposal of naturally occurring and accelerator-produced radioactive material pursuant to ~~article III~~ this compact. Amendments to this compact are effective when enacted by all party states and, if necessary, consented to by the congress. To the extent required by the Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. § 2021(d)(4)(d), every five years after this compact has taken effect, the congress by law may withdraw its consent.

h. The withdrawal of a party state from this compact ~~under section e of this article~~, the suspension of low-level radioactive waste disposal rights, the termination of a party state's designation as a host state, or the revocation of a state's membership in this compact ~~under section f of this article~~ does not affect the applicability of this compact to the remaining party states.

i. ~~A state which has been designated by the commission to be a host state has ninety days from receipt by the governor of written notice of designation to withdraw from the compact without any right to receive refund of any funds already paid pursuant to this compact, and without any further payment. Withdrawal becomes effective immediately upon notice as provided in section e. A designated host state which withdraws from the compact after ninety days and prior to fulfilling its obligations shall be assessed a sum the commission determines to be necessary to cover the costs borne by the commission and remaining party states as a result of that withdrawal.~~ This compact may be dissolved and the obligations arising under this compact may be terminated only as follows:

1. Through unanimous agreement of all party states expressed in duly enacted legislation; or

2. Through withdrawal of consent to this compact by the congress under article I, section

10, of the United States Constitution, in which case dissolution shall take place one hundred twenty days after the effective date of the withdrawal of consent.

Unless explicitly abrogated by the state legislation dissolving this compact, or if dissolution results from withdrawal of congressional consent, the limitations on the investment and use of long-term care funds in article VI, section o and section q, subsection 4, the contractual obligations in article V, section f, the indemnification obligations and contribution rights in article VI, sections o and s, and article VII, section g, and the operation rights indemnification and hold-harmless obligations in article VI, section q, shall remain in force notwithstanding dissolution of this compact.

ARTICLE IX - PENALTIES AND ENFORCEMENT

a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

~~b. Unless otherwise authorized by the commission pursuant to article III, section h after January 1, 1986, it is a violation of this compact:~~

~~1. For any person to deposit at a regional facility waste not generated within the region;~~

~~2. For any regional facility to accept waste not generated within the region;~~

~~3. For any person to export from the region waste which is generated within the region; or~~

~~4. For any person to dispose of waste at a facility other than a regional facility.~~

b. The parties to this compact intend that the courts of the United States shall specifically enforce the obligations, including the obligations of party states and revoked or withdrawn party states, established by this compact.

c. The commission, an affected party state, or both may obtain injunctive relief, recover damages, or both to prevent or remedy violations of this compact.

~~c.~~ d. Each party state acknowledges that the ~~receipt by~~ transport into a host state of low-level radioactive waste packaged or transported in violation of applicable laws, rules, and regulations may result in the imposition of sanctions by the host state which may include reasonable financial penalties assessed against any generator, transporter, or collector responsible for the violation, or suspension or revocation of ~~the violator's right of~~ access to the compact facility in the host state by a generator, transporter, or collector responsible for the violation.

~~d.~~ e. Each party state has the right to seek legal recourse against ~~any~~ a party state which acts in violation of this compact.

f. This compact shall not be construed to create a cause of action for a person other than a party state or the commission. Nothing in this section shall limit the right of judicial review set forth in article III, section n, subsection 3, or the rights of contribution set forth in article III, section p, article VI, sections o and s, and article VII, section g.

ARTICLE X - SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any ~~phrase, clause, sentence, or~~ provision of this compact is ~~declared~~ finally determined by a court of competent jurisdiction to be contrary to the constitution of ~~any~~ a participating state or of the United States or the ~~applicability~~ application thereof to ~~any government, agency,~~ a person~~,~~ or circumstance is held invalid, the validity of the remainder of this compact to that person or circumstance and the applicability ~~thereof~~ of the entire compact to any ~~government, agency,~~ other person~~,~~ or circumstance shall not be affected thereby. If ~~any~~ a provision of this compact shall be held contrary to the constitution of ~~any~~ a state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. If any provision of this compact imposing a financial obligation upon a party state, or a state that has withdrawn from this compact or had its membership in this compact revoked, is finally

determined by a court of competent jurisdiction to be unenforceable due to the state's constitutional limitations on its ability to pay the obligation, then that state shall use its best efforts to obtain an appropriation to pay the obligation, and, if the state is a party state, its right to have low-level radioactive waste generated within its borders disposed of at compact facilities, or a noncompact facility made available to the region by an agreement entered into by the commission pursuant to article III, section h, subsection 6, shall be suspended until the appropriation is obtained.

Approved April 4, 1996

CHAPTER 1052

DEPARTMENT OF INSPECTIONS AND APPEALS – MISCELLANEOUS PROVISIONS

H.F. 2230

AN ACT relating to the duties of the department of inspections and appeals concerning liens on improper provider payments from the department of human services, the administration of certain health care statutes, and the conducting of audits.

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

Section 1. Section 10A.104, subsection 9, Code Supplement 1995, is amended to read as follows:

9. Administer and enforce this chapter, and chapters 99B, 135B, 135C, 135G, 135H, 135J, 137A, 137B, 137C, 137D, and 137E.

Sec. 2. Section 10A.108, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a person refuses or neglects to repay benefits or provider payments inappropriately obtained from the department of human services, the amount inappropriately obtained, including any interest, penalty, or costs attached to the amount, constitutes a debt and is a lien in favor of the state upon all property and any rights or title to or interest in property, whether real or personal, belonging to the person for the period established in subsection 2, with the exception of property which is exempt from execution pursuant to chapter 627.

Sec. 3. Section 10A.302, subsections 1 and 5, Code 1995, are amended by striking the subsections.

Approved April 4, 1996

CHAPTER 1053

NURSING FACILITIES - ALTERNATIVE LICENSURE AND INSPECTIONS
S.F. 2235

AN ACT relating to the use of alternative licensing for nursing facilities and providing for a contingent effective date.

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

Section 1. Section 135C.2, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The rules adopted by the department regarding nursing facilities shall provide that a nursing facility may choose to be inspected either by the department or by the joint commission on accreditation of health care organizations. The rules regarding acceptance of inspection by the joint commission on accreditation of health care organizations shall include recognition, in lieu of inspection by the department, of comparable inspections and inspection findings of the joint commission on accreditation of health care organizations, if the department is provided with copies of all requested materials relating to the inspection process.

Sec. 2. Section 135C.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Notwithstanding section 135C.9, nursing facilities which are accredited by the joint commission on accreditation of health care organizations shall be licensed without inspection by the department, if the nursing facility has chosen to be inspected by the joint commission on accreditation of health care organizations in lieu of inspection by the department.

Sec. 3. CONTINGENCY - EFFECTIVE DATE. This Act is effective upon passage of federal legislation which provides for acceptance of the joint commission on accreditation of health care organizations inspections for nursing facilities required for participation in programs authorized by either Title XVIII or Title XIX of the federal Social Security Act.

Approved April 4, 1996

CHAPTER 1054

REAL ESTATE BROKERS AND SALESPERSONS - PERMISSIBLE ACTS
H.F. 2202

AN ACT relating to permissible acts related to real estate sales, exchanges, purchases, rentals, leases, or advertising by licensees and nonlicensees.

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

Section 1. Section 543B.7, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 11. A nonlicensed employee of a licensee who provides information to another licensee concerning the sale, exchange, purchase, rental, lease, or advertising of real estate which has been provided to the employee by the employer licensee either verbally or in writing.

Sec. 2. Section 543B.56, subsection 3, paragraph b, Code Supplement 1995, is amended to read as follows:

b. Act in a transaction on the licensee's own behalf, on behalf of the licensee's immediate family or brokerage, or on behalf of an organization or business entity in which the licensee has an interest, unless the licensee has ~~the~~ provided written ~~consent of~~ disclosure of the interest to all parties to the transaction.

Approved April 4, 1996

CHAPTER 1055

REGULATION OF PROFESSIONAL ENGINEERING, LAND SURVEYING, AND ARCHITECTURE

H.F. 2318

AN ACT relating to the licensure and practice of land surveying, to the unlawful practice of land surveying, architecture, and professional engineering, and establishing a civil penalty.

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

Section 1. Section 542B.16, Code 1995, is amended to read as follows:

542B.16 SEAL - CERTIFICATE OF RESPONSIBILITY - REPRODUCTIONS.

1. Each ~~registrant~~ licensee, upon ~~registration~~ licensure, ~~may~~ shall obtain a seal. ~~If the registrant obtains or uses a seal, it shall be~~ of a design approved by the board, bearing the ~~registrant's~~ licensee's name, Iowa ~~registration~~ license number, and the words "professional engineer" or "land surveyor" or both, as the case may be. A legible rubber stamp or other facsimile of the seal may be used and shall have the same effect as the use of the actual seal.

2. All engineering documents and land surveying documents shall be dated and shall contain all of the following: ~~(1)~~

a. The signature of the ~~registrant~~ licensee in responsible charge~~; (2) a certificate~~.

b. A certification that the work was done by ~~such registrant~~ the licensee or under the ~~registrant's~~ licensee's direct personal supervision~~; and (3) the~~.

c. The Iowa ~~registration number or~~ legible seal of ~~such registrant~~ the licensee.

~~If engineering documents or land surveying documents comply with this section, reproductions thereof also comply with this section if the date, signature, certificate, and registration number thereon are legibly reproduced.~~

3. ~~No~~ An agency, ~~of this state and no~~ subdivision, or municipal corporation of this state, ~~nor any~~ or an officer ~~thereof~~ of the state, subdivision, or municipal corporation, shall not file for record or approve any engineering document or land surveying document which does not comply with this section.

4. ~~No registrant~~ A licensee shall not place the ~~registrant's~~ licensee's signature or seal on any engineering document or land surveying document unless the ~~registrant~~ licensee was in responsible charge of the work, except that the ~~registrant~~ licensee may do so if the ~~registrant~~ licensee contributed to the work and the ~~registrant~~ licensee in responsible charge has signed and certified the work.

5. Violation of this section by a ~~registrant~~ licensee shall be deemed fraud and deceit in the ~~registrant's~~ licensee's practice.

Sec. 2.* NEW SECTION. 542B.27 CIVIL PENALTY.

*See chapter 1219, §29 herein

1. a. In addition to any other penalties provided for in this section, the board may by order impose a civil penalty upon a person who is not registered under this chapter as a professional engineer or a land surveyor and who does any of the following:

(1) Engages in or offers to engage in the practice of professional engineering or land surveying.

(2) Uses or employs the words "professional engineer" or "land surveyor", or implies authorization to provide or offer professional engineering or land surveying services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is a professional engineer or land surveyor or is engaged in the practice of professional engineering or land surveying.

(3) Presents or attempts to use the certificate of registration or the seal of a professional engineer or land surveyor.

(4) Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of registration.

(5) Falsely impersonates any registered professional engineer or land surveyor.

(6) Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of registration.

(7) Knowingly aids or abets an unregistered person who engages in any activity identified in this paragraph.

b. A civil penalty imposed shall not exceed one thousand dollars for each offense. Each day of a continued violation constitutes a separate offense.

c. In determining the amount of a civil penalty to be imposed, the board may consider any of the following:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The interest of the public.

d. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted in the same manner as provided in section 542B.22.

e. The board, in connection with a proceeding under this subsection, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

f. A person aggrieved by the imposition of a civil penalty under this subsection may seek judicial review in accordance with section 17A.19.

g. If a person fails to pay a civil penalty within thirty days after entry of an order under paragraph "a", or if the order is stayed pending an appeal within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney's fees and costs.

h. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 3. Section 544A.15, Code 1995, is amended to read as follows:

544A.15 UNLAWFUL PRACTICE - VIOLATIONS - PENALTY - CONSENT AGREEMENT - CIVIL PENALTY.

1. It is unlawful for a person to engage in or to offer to engage in the practice of architecture in this state or use in connection with the person's name the title "architect", "registered architect", or "architectural designer", or to imply that the person provides or offers to provide professional architectural services, or to otherwise assume, use, or advertise

any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is an architect or is engaged in the practice of architecture unless the person is qualified by registration as provided in this chapter.

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

3. a. In addition to the criminal penalty provided for in this section, the board may by order impose a civil penalty upon a person who is not registered under this chapter as an architect pursuant to this chapter and who does any of the following:

(1) Engages in or offers to engage in the practice of architecture.

(2) Uses or employs the words "architect", "registered architect", "architectural designer", or implies authorization to provide or offer professional architectural services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person or entity is an architect or is engaged in the practice of architecture.

(3) Presents or attempts to use the certificate of registration or the seal of an architect.

(4) Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of registration.

(5) Falsely impersonates any other registered architect.

(6) Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of registration.

(7) Knowingly aids or abets an unregistered person who engages in any activity identified in this paragraph.

b. A civil penalty imposed shall not exceed one thousand dollars for each offense. Each day of a continued violation constitutes a separate offense.

c. In determining the amount of a civil penalty to be imposed, the board may consider any of the following:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The interest of the public.

d. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a registered architect.

e. The board, in connection with a proceeding under this subsection, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

f. A person aggrieved by the imposition of a civil penalty under this subsection may seek judicial review in accordance with section 17A.19.

g. If a person fails to pay a civil penalty within thirty days after entry of an order under paragraph "a", or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney's fees and costs.

h. An action to enforce an order under this section may be joined with an action for an injunction.

4. The board at its discretion and in lieu of prosecuting a first offense ~~described in~~ under this section may enter into a consent agreement with a violator, or with a person guilty of aiding or abetting a violator, which acknowledges the violation and the violator's agreement to refrain from any further violations.

Sec. 4. Sections 542B.1 and 542B.26, Code Supplement 1995, are amended by striking from the sections the word "registered" and inserting in lieu thereof the word "licensed".

Sec. 5. Sections 542B.3, 542B.10, 542B.11, 542B.18, 542B.20, and 542B.35, Code 1995, are amended by striking from the sections the word "registered" and inserting in lieu thereof the word "licensed".

Sec. 6. Sections 542B.6, 542B.10, 542B.11, 542B.15, 542B.18, 542B.19, 542B.20, 542B.25, and 542B.30, Code 1995, are amended by striking from the sections the word "registration" and inserting in lieu thereof the word "licensure".

Sec. 7. Sections 542B.13, 542B.14, 542B.17, 542B.21, and 542B.26, Code Supplement 1995, are amended by striking from the sections the word "registration" and inserting in lieu thereof the word "licensure".

Sec. 8. Section 542B.18, Code 1995, is amended by striking from the section the word "registrant" and inserting in lieu thereof the word "licensee".

Sec. 9. Section 542B.20, Code 1995, is amended by striking from the section the word "registrants" and inserting in lieu thereof the word "licensees".

Sec. 10. Section 542B.21, Code Supplement 1995, is amended by striking from the section the word "registrant's" and inserting in lieu thereof the word "licensee's".

Sec. 11. Section 542B.21, Code Supplement 1995, is amended by striking from the section the word "registrant" and inserting in lieu thereof the word "licensee".

Approved April 4, 1996

CHAPTER 1056

BANK REGULATION AND RELATED MATTERS

H.F. 2409

AN ACT relating to the regulation of activities of state banks and state bank affiliates, interstate branching or banking, and personnel of the banking division, state banks, and state bank affiliates, and the regulation of financial transactions involving such entities and personnel.

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

Section 1. Section 524.103, subsection 8, Code Supplement 1995, is amended to read as follows:

8. "Bank" means a corporation organized under this chapter or ~~Title 12 of the United States Code~~ 12 U.S.C. § 21.

Sec. 2. Section 524.107, subsection 3, Code Supplement 1995, is amended to read as follows:

3. Notwithstanding subsections 1 and 2, an organization formed for educational purposes in association with an accredited elementary or secondary school which engages in the receipt of deposits ~~of no more than twenty dollars per depositor,~~ may use the words "educational bank", the use of which is otherwise restricted in subsection 2, and such an educational bank is not a bank within the meaning or scope of regulation of this chapter.

Sec. 3. Section 524.211, subsections 2, 3, and 4, Code Supplement 1995, are amended to read as follows:

2. The superintendent, deputy superintendent, finance company bureau chief, general counsel, and all examiners assigned to the finance company bureau are prohibited from obtaining a loan of money or property from a ~~finance company licensed by the banking division~~ person or entity licensed pursuant to chapter 533A, 533D, 536, or 536A, or a person or entity affiliated with such licensee.

3. The superintendent, deputy superintendent, an assistant to the superintendent, a bank examination analyst, finance company bureau chief, general counsel, or an examiner of the banking division, who has credit relations with a ~~mortgage banking company or credit card company licensed by the banking division~~ person or entity licensed or registered pursuant to chapter 535B or 536C, is prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the ~~mortgage banking company or credit card company with which such person has credit relations~~ licensee or registrant.

4. An assistant to the superintendent, a bank examination analyst, ~~general counsel,~~ or an examiner assigned to the bank bureau of the banking division who has credit relations with a ~~finance company licensed by the banking division~~ person or entity licensed pursuant to chapter 533A, 533D, 536, or 536A, or with a person or entity affiliated with such licensee, is prohibited from participating in decisions, oversight, and official review of matters concerning the regulation of the ~~finance company with which such person has credit relations~~ licensee.

Sec. 4. Section 524.215, subsection 5, Code Supplement 1995, is amended to read as follows:

5. In ~~any~~ an action brought to recover moneys ~~the~~ for a loss ~~of~~ in connection with an indemnity bond which was a result of embezzlement, misappropriation, or misuse of state bank funds by a director, officer, or employee of the state bank.

Sec. 5. Section 524.220, subsections 1 and 2, Code Supplement 1995, are amended to read as follows:

1. A state bank shall render a full, clear, and accurate statement of its condition to the superintendent, ~~on forms to be supplied~~ in a format prescribed by the superintendent, verified by the oath of an officer and attested by the signatures of at least three of the directors, or verified by the oath of two of its officers and attested by two of the directors. The superintendent may, in the superintendent's discretion, use any form of statement of condition that is used by the federal deposit insurance corporation or the federal reserve system.

2. The statement shall be transmitted to the superintendent or the superintendent's designee within thirty days after the end of each calendar quarter.

Sec. 6. Section 524.302, subsection 3, Code Supplement 1995, is amended to read as follows:

3. The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter. The articles of incorporation shall be signed by all of the incorporators ~~and acknowledged before an officer authorized to take acknowledgments of deeds~~.

Sec. 7. Section 524.401, subsections 1 and 2, Code Supplement 1995, are amended to read as follows:

1. The minimum capital structure of a state bank existing and operating on July 1, 1995, shall not be ~~as follows:~~ less than the amount required by law prior to that date.

~~a. The amount required by subsection 2.~~

~~b. An amount less than that provided for under paragraph "a" which the state bank had on July 1, 1995, but not less than the minimum amount required by law prior to that date.~~

2. The minimum capital structure of a state bank ~~originally~~ incorporated after July 1, 1995, pursuant to the provisions of this chapter shall not be less than the amount required by the federal deposit insurance corporation, or its successor, or a greater amount which

the superintendent may deem necessary in view of the deposit potential of the state bank and current banking standards relating to total capital requirements.

2A. A state bank incorporated on or after July 1, 1995, pursuant to this chapter, prior to receiving authorization to do business from the superintendent, shall establish paid-in surplus and undivided profits as required by the superintendent.

Sec. 8. Section 524.608, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

In addition to any examination made by the banking division or other supervisory agency, the board of directors shall review the adequacy of the bank's internal controls and cause to be made no less frequently than ~~annually~~ once each calendar year additional auditing procedures that the board deems to be appropriate. The board shall determine the bank's audit needs and record in the board's minutes the extent to which audit procedures are to be employed. A report which summarizes significant audit findings shall be delivered to the superintendent as soon as practical upon completion.

Sec. 9. Section 524.706, subsection 1, Code Supplement 1995, is amended to read as follows:

1. a. An executive officer of a state bank may receive loans ~~or~~ and extensions of credit, as defined in section 524.904, subsection 1, from a state bank of which the person is an executive officer ~~not exceeding, in the aggregate, the following~~, as follows:

(1) ~~An amount~~ For amounts secured by a lien on a dwelling which is expected, after the obligation is incurred, to be owned by the executive officer and used as the officer's principal residence.

(2) ~~An amount~~ For amounts to finance the education of a child or children of the executive officer.

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

(4) ~~Other~~ For amounts which do not, in the aggregate, exceed the principal amounts of segregated deposit accounts which the bank may lawfully set off. An interest in or portion of a segregated deposit account does not satisfy the requirements of this subparagraph if that interest or portion is also pledged to secure the payment of a debt or obligation of any person other than the executive officer. If the deposit is eligible for withdrawal before the secured loan matures, the bank shall establish internal procedures to prevent the release of the security without the bank's prior consent.

(5) For amounts secured by bonds, notes, certificates of indebtedness, or treasury bills of the United States or by other such obligations fully guaranteed by the United States as to principal and interest.

(6) For amounts secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States.

b. A state bank shall not loan money or extend credit to an executive officer of the state bank, and an executive officer of a state bank shall not receive a loan or extension of credit from the state bank, exceeding the limitations imposed by this section or for a purpose other than that authorized by this section. Such loans ~~or~~ and extensions of credit shall not exceed an amount totaling more than fifteen percent of the aggregate capital of the state bank ~~and any~~, except for loans and extensions of credit identified in paragraph "a", subparagraphs (4), (5), and (6). Any such loan on real property shall comply with section 524.905. A majority of the board of directors, voting in the absence of the applying executive officer, whether or not the executive officer is also a director, shall give its prior approval to any obligation of an executive officer to the state bank of which the person is an executive officer. Approval shall be recorded in the minutes.

Sec. 10. Section 524.904, subsections 2, 3, 4, and 5, Code Supplement 1995, are amended to read as follows:

2. A state ~~bank's total outstanding~~ bank may grant loans and extensions of credit to one borrower ~~shall~~ in an amount not to exceed fifteen percent of the state bank's aggregate capital as defined in section 524.103, unless the additional lending provisions described in subsections 3, and ~~4, and 5~~ apply.

3. A state bank may grant loans ~~or~~ and extensions of credit to one borrower ~~up~~ in an amount not to exceed twenty-five percent of the state bank's aggregate capital if ~~the~~ any amount that exceeds ~~fifteen percent of the state bank's aggregate capital~~ the lending limitation described in subsection 2 is fully secured by one or any combination of the following:

a. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable nonperishable staples when such goods are covered by insurance to the extent that insuring the goods is customary, and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.

b. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable refrigerated or frozen staples when such goods are fully covered by insurance and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.

c. Shipping documents or instruments that secure title to or give a first lien on livestock. At inception, the current value of the livestock securing the loans must equal at least one hundred percent of the amount of the outstanding loans and extensions of credit. For purposes of this section, "livestock" includes dairy and beef cattle, hogs, sheep, and poultry, whether or not held for resale. For livestock held for resale, current value means the price listed for livestock in a regularly published listing or actual purchase price established by invoice. For livestock not held for resale, the value shall be determined by the local slaughter price. The bank must maintain in its files evidence of purchase or an inspection and valuation for the livestock pledged that is reasonably current, taking into account the nature and frequency of turnover of the livestock to which the documents relate.

d. Mortgages, deeds of trust, or similar instruments granting a first lien on farmland or on single-family or two-family residences, subject to the provisions of section 524.905, provided the amount loaned shall not exceed fifty percent of the appraised value of such real property.

e. With the prior approval of the superintendent, other readily marketable collateral. The market value of the collateral securing the loans must at all times equal at least one hundred percent of the outstanding loans and extensions of credit.

4. A state bank may grant loans and extensions of credit to ~~a corporate group, including the lending provisions of subsection 3, in an amount not to exceed twenty-five percent of the state bank's aggregate capital. A corporate group includes a person and all corporations in which the person owns or controls fifty percent or more of the shares entitled to vote~~ one borrower not to exceed thirty-five percent of the state bank's aggregate capital if any amount that exceeds the lending limitations described in subsections 2 and 3 consists of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper endorsed without recourse subject to a repurchase agreement.

5. A state bank may grant loans ~~or~~ and extensions of credit to ~~one borrower not to exceed thirty-five percent of the state bank's aggregate capital if the amount that exceeds the lending provisions provided in subsections 2, 3, and 4 consists of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper en-~~

~~dorsed without recourse subject to a repurchase agreement~~ a corporate group in an amount not to exceed twenty-five percent of the state bank's aggregate capital if all loans and extensions of credit to any one borrower within a corporate group conform to subsections 2 and 3, and the financial strength, assets, guarantee, or endorsement of any one corporate group member is not relied upon as a basis for loans and extensions of credit to any other corporate group member. A state bank may grant loans and extensions of credit to a corporate group in an amount not to exceed thirty-five percent of aggregate capital if all loans and extensions of credit to any one borrower within a corporate group conform to subsections 2, 3, and 4, and the financial strength, assets, guarantee, or endorsement of any one corporate group member is not relied upon as a basis for loans and extensions of credit to any other corporate group member. A corporate group includes a person and all corporations in which the person owns or controls fifty percent or more of the shares entitled to vote.

Sec. 11. Section 524.1007, subsection 3, Code 1995, is amended to read as follows:

3. For purposes of subsection 1, "affiliate" means ~~another~~ a trust company subsidiary authorized by the superintendent pursuant to section 524.802, subsection 12, paragraph "b", and located in this state, a state bank located in this state, or a national bank located in this state and organized under 12 U.S.C. ~~secs.~~ § 21, ~~et seq. to engage generally in the banking business. A state bank and another bank shall not be deemed "affiliates" unless both~~ that are under the common ownership of a bank holding company as defined in section 524.1801 ~~that owns at least eighty percent of the voting shares of each of the two banks~~.

Sec. 12. Section 524.1008, subsections 1, 3, and 4, Code 1995, are amended to read as follows:

1. A state bank authorized to act in a fiduciary capacity may enter into an agreement for the succession of fiduciary accounts with a trust company subsidiary authorized by the superintendent pursuant to section 524.802, subsection 12, paragraph "b", or one or more other state or national banks that are located in this state and authorized to act in a fiduciary capacity. In the agreement, the succeeding bank or trust company subsidiary may agree to succeed the relinquishing bank as a fiduciary with respect to those fiduciary accounts which are designated in the agreement. The designation of accounts may be by general class or description and may include fiduciary accounts subject and not subject to court administration and fiduciary accounts to arise in the future under wills, trusts, court orders, or other documents under which the relinquishing bank is named as a fiduciary or is named to become a fiduciary upon the death of a testator or settlor or upon the happening of any other subsequent event. The agreement shall provide either (a) that the succeeding bank or trust company subsidiary maintain one or more employees or agents at the office of the relinquishing bank in order to facilitate the continued servicing of the designated fiduciary accounts, or (b) that the relinquishing bank act as an agent of the succeeding bank or trust company subsidiary with respect to the fiduciary accounts that are subject to the agreement, and the relinquishing bank as an agent may perform services other than fiduciary services with respect to those accounts. If the relinquishing bank is an agent under alternative (b) above, then the relinquishing bank shall disclose to its customers that it is acting as an agent of the succeeding bank or trust company subsidiary. The relinquishing bank shall mail a notice of the succession to all persons having an interest in a fiduciary account at their last known address, and shall publish a notice of the succession to fiduciary accounts in a newspaper published in the county of the principal place of business of the relinquishing bank. After the publication, the succeeding bank or trust company subsidiary shall, without further notice, approval or authorization succeed the relinquishing bank as to the fiduciary accounts and the fiduciary powers, rights, privileges, duties, and liabilities for the fiduciary accounts. On the effective date of the succession to fiduciary accounts, the relinquishing bank is released from fiduciary duties under

the fiduciary accounts and shall discontinue its exercise of trust powers to the fiduciary accounts. This subsection does not absolve a relinquishing bank from liabilities arising out of a breach of fiduciary duty occurring prior to the succession of fiduciary accounts.

3. ~~A state bank or national bank that is owned or controlled by a bank holding company as defined in section 524.1801 shall not be a party to an agreement authorized by subsection 1.~~ A bank shall not agree to relinquish fiduciary accounts to or act as an agent of more than one succeeding ~~bank~~ fiduciary at any one time.

4. The privilege of succeeding to fiduciary accounts that is extended to a state bank or trust company subsidiary by subsection 1 is also extended on the same terms and conditions to a national bank located in this state and organized under 12 U.S.C. ~~sees.~~ § 21 ~~et seq. to engage generally in the banking business~~.

Sec. 13. Section 524.1201, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Notwithstanding any of the other provisions of this section, original loan documentation recordkeeping functions may be located at an authorized bank office or at any other location approved by the superintendent.

Sec. 14. Section 524.1201, subsection 3, Code Supplement 1995, is amended to read as follows:

3. Notwithstanding any of the other provisions of this section, original trust recordkeeping functions may be ~~centrally~~ located at an authorized bank office~~, and original loan documentation recordkeeping functions may be located at an authorized bank office or at the office of the holding company of a state bank, subject to the approval of~~ or at any other location approved by the superintendent.

Sec. 15. NEW SECTION. 524.1205 ESTABLISHMENT OF BRANCH OR OFFICE IN OTHER STATE – SUPERINTENDENT'S AUTHORITY TO REGULATE.

Notwithstanding section 524.1201, subsection 1, and section 524.1202, subsection 2, paragraph "b", upon application to and approval by the superintendent, a state bank may acquire in any manner, establish, maintain, operate, retain, or relocate a branch or office in a state other than this state. Subject to the approval of the superintendent, such branch or office may engage in any activity authorized for a branch or office of a bank organized under the laws of that other state. The superintendent shall supervise and regulate all out-of-state branches and offices of a state bank. Sections 524.1201 and 524.1203 apply to an out-of-state branch or office of a state bank except as otherwise provided by the laws of the state in which a branch or office is located or by the superintendent pursuant to this section. This section does not authorize or permit a state-chartered bank located outside of this state or a national bank located outside of this state to establish a de novo branch or office in this state. This section does not authorize or permit, before June 1, 1997, an interstate merger transaction within the meaning of 12 U.S.C. § 1831u(a).

Sec. 16. Section 524.1213, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. For purposes of subsection 3, a bank that results from the conversion of a state savings association or federal savings association, as defined in 12 U.S.C. § 1813, is deemed to have been in continuous existence and operation as a bank for the combined periods of continuous existence and operation of the bank and the association from which it was converted.

NEW SUBSECTION. 4B. For purposes of subsection 3, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, a bank located in this state is deemed to have been in existence and operation for the same period of time as the bank which is acquired.

Sec. 17. Section 524.1801, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.1801 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Bank holding company" means bank holding company as defined in 12 U.S.C. § 1841(a), and also includes a company that would become a bank holding company upon completion of an acquisition.

2. "Company" means company as defined in 12 U.S.C. § 1841(b).

3. "Control" means control as provided in 12 U.S.C. § 1841(a).

4. "Location" means, for purposes of determining where a bank or bank holding company is located, the following:

a. A bank is located in the state in which its principal place of business or main office is physically located.

b. A bank holding company is located in the state which is its home state as determined under 12 U.S.C. § 1841(o)(4).

5. "Out-of-state bank holding company" means out-of-state bank holding company as defined in 12 U.S.C. § 1841(o).

Sec. 18. Section 524.1804, Code 1995, is amended to read as follows:

524.1804 ~~MORE THAN ONE FOURTH OF STOCK BY~~ NOTICE OF ACQUISITION — ~~EFFECT~~.

~~Any~~ A bank holding company~~, or firm which would thereby become a bank holding company,~~ which proposes to directly or indirectly acquire ~~ownership or~~ control of ~~the voting shares of any bank, and which upon such acquisition would own or control more than twenty-five percent of the voting shares of the bank~~, or directly or indirectly acquire all or substantially all of the assets of, a state bank or national bank, shall provide to the superintendent a copy of ~~any original~~ the application and any modifications or amendments to the application submitted to the ~~board of governors of the~~ federal reserve ~~system~~ board for permission to take such action~~, and a copy of any subsequent amendment thereto,~~ at the same time the application ~~or amendment~~ is transmitted to the federal reserve ~~system~~ board. The superintendent may conduct such investigation into and evaluation of the proposed action as the superintendent deems necessary and appropriate, and may submit to the federal reserve board any information so obtained together with the superintendent's own comments or recommendations regarding the proposed acquisition.

Sec. 19. Section 524.1805, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

524.1805 RESTRICTIONS ON ACQUISITIONS AND MERGERS.

1. An out-of-state bank or out-of-state bank holding company shall not directly or indirectly acquire control of, or directly or indirectly acquire all or substantially all of the assets of, a bank located in this state unless the bank has been in continuous existence and operation for at least five years.

2. For purposes of subsection 1, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, a bank located in this state is deemed to have been in existence for the same period of time as the bank to be acquired.

3. For purposes of subsection 1, the period of existence and operation of a bank is deemed to be continuous, notwithstanding any of the following:

a. Any direct or indirect change in the name, ownership, or control of the bank.

b. Any rechartering or merger of the bank.

4. For purposes of subsection 1, a bank that resulted from the conversion of a state savings association or federal savings association, as defined in 12 U.S.C. § 1813, is deemed to have been in continuous existence and operation as a bank for the combined periods of continuous existence and operation of the bank and the association from which it was converted.

5. An out-of-state bank or out-of-state bank holding company that is organized under laws other than those of this state is subject to and shall comply with the provisions of chapter 490, division XV, relating to foreign corporations, and shall immediately provide the superintendent of banking with a copy of each filing submitted to the secretary of state under that division.

Sec. 20. Section 524.1912, subsection 2, Code 1995, is amended to read as follows:

2. An authorization for a state bank to engage in activities regulated under title XIII, subtitle 1, if any, does not grant ~~a regional bank holding company~~ an out-of-state bank holding company that acquires a state bank ~~under section 524.1903~~ or any state bank owned or controlled by ~~that~~ such bank holding company or any subsidiary or affiliate the ability or right to engage in such activities outside of this state.

Sec. 21. Section 535B.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A nonprofit organization qualifying for tax exempt status under the Internal Revenue Code as defined in section 422.3 which offers housing services to low and moderate income families.

Sec. 22. Section 535B.3, subsections 1 and 3, Code 1995, are amended to read as follows:

1. A person exempt under section 535B.2, subsection 10, 11, ~~or~~ 12, or 13, shall register with the administrator.

3. The registrant, except a nonprofit organization exempt under section 535B.2, subsection 13, shall pay an annual registration fee of one hundred dollars.

Sec. 23. Section 524.1912, Code 1995, as amended by section 20 of this Act, shall be recodified by the Code editor as section 524.1808 of the Code.

Sec. 24.

1. Sections 524.1901 through 524.1904 and 524.1906 through 524.1911, Code 1995, are repealed.

2. Section 524.1905, Code Supplement 1995, is repealed.

Approved April 4, 1996

CHAPTER 1057

OPEN-END CREDIT ACCOUNTS – DISCLOSURE REQUIREMENTS

S.F. 2282

AN ACT relating to the requirement of notifying a consumer of a change in the terms of an open-end credit agreement.

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

Section 1. Section 537.3205, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Notwithstanding subsections 1 through 5, a creditor is not required to deliver or mail to the consumer a written disclosure of a change in the terms of an open-end credit account if the change involves a decrease in the rate of the finance charge, a decrease in a delinquency charge, or a decrease in an over-limit charge.

Approved April 4, 1996

CHAPTER 1058

LINKED INVESTMENTS

H.F. 2397

AN ACT relating to linked investments and establishing an effective date.

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

Section 1. Section 12.32, Code 1995, is amended to read as follows:

12.32 DEFINITIONS.

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

1. "Eligible borrower" means any person who is in the business or is entering the business of producing, processing, or marketing horticultural crops or nontraditional crops in this state or any person in this state who is qualified to participate in one of the programs in this division.

2. "Eligible lending institution" means a financial institution that is empowered to make commercial loans~~,~~ and is eligible pursuant to chapter 12C to be a depository of state funds~~, and agrees to participate in the linked investments for tomorrow program~~.

3. "Linked investment" means a certificate of deposit placed pursuant to this division by the treasurer of state with an eligible lending institution, at an interest rate not more than three percent below current market rates on the condition that the institution agrees to lend the value of the deposit, according to the investment agreement provided in section ~~12.37~~ 12.35, to an eligible borrower at a rate not to exceed four percent above the rate paid on the certificate of deposit.

Sec. 2. Section 12.34, subsection 2, Code 1995, is amended to read as follows:

2. The treasurer shall adopt rules pursuant to chapter 17A to ~~implement~~ administer this division ~~including, but not limited to, rules identifying horticultural crops and nontraditional crops for which the linked investments may be loaned~~.

Sec. 3. Section 12.34, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Certificates of deposit placed by the treasurer on or after July 1, 1996, pursuant to this division may be renewed at the option of the treasurer. The initial certificate of deposit for a given borrower shall have a maturity of one year and may be renewed for eight additional one-year periods.

Sec. 4. Section 12.35, Code 1995, is amended to read as follows:

12.35 APPLICATION.

1. An eligible lending institution that desires to receive a linked investment shall enter into an agreement with the treasurer of state, which shall include requirements necessary for the eligible lending institution to comply with this division.

~~1.~~ 2. An eligible lending institution that desires to receive a linked investment shall accept and review applications for loans from eligible borrowers. ~~The lending institution shall apply all usual lending standards to determine the credit worthiness of each eligible borrower. Loan applications shall be for the purchase or lease of land, machinery, equipment, seed, fertilizer, direct marketing facilities, or new or expanding processing facilities for horticultural crops or nontraditional crops. The maximum size of a loan is two hundred thousand dollars per borrower for a production loan and five hundred thousand dollars for processing or marketing facilities.~~

~~2.~~ 3. The eligible ~~financial~~ lending institution shall forward to the ~~state~~ treasurer of state a linked investment loan package in the form and manner as prescribed by the treasurer of state. The package shall include information required by the treasurer of state, including but not limited to the amount of the loan requested and the purpose of the loan. The institution shall certify that the applicant is an eligible borrower ~~and shall certify the present borrowing rate applicable to the specific eligible borrower~~.

Sec. 5. Section 12.36, Code 1995, is amended to read as follows:

12.36 ACTIONS BY TREASURER ~~—AGREEMENT~~.

1. The treasurer of state shall accept or reject a linked investment loan package or any portion of the package based on the type or terms of the loan involved, the availability of state funds, or the compliance of the eligible borrower or eligible lending institution.

2. Upon acceptance of the linked investment loan package or any portion of the package, the treasurer of state shall place certificates of deposit with the eligible lending institution at a rate not more than three percent below the current market rate. ~~After July 1, 1992, the~~ The treasurer of state shall not place a certificate of deposit with an eligible lending institution pursuant to this division, unless the certificate of deposit earns a rate of interest of at least two percent. ~~When necessary, the treasurer may place certificates of deposit prior to acceptance of a linked investment loan package.~~ Interest earned on the certificate of deposit and principal not renewed shall be remitted to the treasurer of state at the time the certificate of deposit matures. Certificates of deposit placed pursuant to this division are not subject to a penalty for early withdrawal.

~~3. The eligible lending institution shall enter into an investment agreement with the treasurer of state, which shall include requirements necessary to carry out this division. The requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The agreement may include a specification of the period of time in which the lending institution is to lend funds upon the placement of a linked investment, and shall include provisions for the certificates of deposit to be placed for one year maturities that may be renewed for eight additional one year periods. Interest shall be paid at the times determined by the treasurer of state.~~

Sec. 6. Section 12.38, Code 1995, is amended to read as follows:

12.38 REPORTS.

By February 1 of each year, the treasurer of state shall report on the linked investments for tomorrow ~~program, the rural small business transfer linked investment loan program, the targeted small business linked investments program, and the main street linked investments loan program~~ programs for the preceding calendar year to the governor, the department of economic development, the speaker of the house of representatives, and the president of the senate. The speaker of the house shall transmit copies of this report to the house co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the house which customarily consider legislation regarding agriculture and commerce, and the president of the senate shall transmit copies of this report to the senate co-chair of the joint economic development appropriations subcommittee and the chairs of the standing committees in the senate which customarily consider legislation regarding agriculture and commerce. The report shall set forth the linked investments made by the treasurer of state under the program during the year, the total amount deposited, the number of deposits, and an estimate of foregone interest, and shall include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based and the eligible borrowers to which the loans were made.

Sec. 7. Section 12.40, Code 1995, is amended to read as follows:

12.40 RURAL SMALL BUSINESS TRANSFER LINKED INVESTMENT LOAN PROGRAM.

1. As used in this section, "rural small business" means an existing rural small business, for which local competition does not exist in the principal realm of business activity of that business, and the loss of which will work a hardship on the rural community. A rural small business may include a grocery store, drug store, gasoline station, convenience store, hardware business, or farm supply store. A rural small business does not include a new business.

2. The treasurer of state shall adopt rules consistent with this division to implement a rural small business transfer linked investment loan program to ~~further the following purposes:~~

~~a. To promote the business prosperity and economic welfare of Iowa through promoting the prosperity and economic welfare of rural Iowa.~~

~~b. To~~ maintain and expand existing employment opportunities and the provision of retail goods on a local level in small rural communities by assisting in the transfer of ownership of retail-oriented businesses where, in the absence of sufficient financial assistance, the businesses may close.

3. ~~Upon the placement of linked investment moneys with an eligible lending institution, the institution is required to lend money to a person pursuant to rules adopted by the treasurer of state for the transfer of a rural small business. The~~ In order to qualify as an eligible borrower, the rural small business must be located in a city with a population of five thousand or less. A city located in a county with a population in excess of three hundred thousand, if the city is contiguous to another city in the county and that other city is contiguous to the largest city in that county, shall be ~~considered as having a population in excess of five thousand~~ ineligible to qualify as a borrower.

4. ~~The~~ In order to qualify as an eligible borrower, the transfer of the rural small business must be by purchase, lease-purchase, or contract of sale. The purchase must be for a portion of the business which is essential to its continued viability, including real estate where the business is located, fixtures attached to the real estate, equipment relied upon by the business, and inventory for sale by the business.

~~5. The eligible lending institution shall apply all usual lending standards to determine the creditworthiness of each eligible borrower. The lending institution shall forward to the treasurer of state all information or any certification relating to the loan required and in a manner prescribed by this division and rules which shall be adopted by the treasurer of state.~~

~~6.~~ 5. ~~A~~ In order to qualify as an eligible borrower, a borrower and the seller of the rural small business shall not be within the third degree of consanguinity or affinity.

6. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer's approval of the linked investment loan package.

7. The maximum loan amount that a borrower may receive under this program shall ~~not be more than~~ be fifty thousand dollars.

~~8. Not more than one-third of the amount of the percentage authorized in section 12.34 may be used for purposes of supporting this program and the main street linked investment loan program under section 12.51.~~

Sec. 8. NEW SECTION. 12.41 HORTICULTURAL AND NONTRADITIONAL CROPS LINKED INVESTMENT LOAN PROGRAM.

The treasurer of state shall adopt rules to implement a horticultural and nontraditional crops linked investment loan program to provide statewide availability of lower cost funds for lending that will stimulate existing or encourage new businesses in the areas of producing, processing, or marketing horticultural or nontraditional crops. The rules shall be in accordance with the following:

1. In order to qualify as an eligible borrower, the loan application shall be for the purchase or lease of land, machinery, equipment, or the purchase of other inputs used in the business of producing, processing, or marketing horticultural or nontraditional crops as defined by the treasurer.

2. Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer's approval of the linked investment loan package.

3. The maximum loan amount that an eligible borrower may receive under this program is two hundred thousand dollars for a production loan and five hundred thousand dollars for processing or marketing facilities.

Sec. 9. The treasurer of state shall not place any new certificates of deposit for linked investments for the targeted small business linked investments program under section

12.43 between the effective date of this Act and June 30, 1997, unless the person for whom the linked investment is to be made has been certified by the department of inspections and appeals under section 10A.302 and has submitted to the treasurer of state a targeted small business borrower application by the effective date of this Act. Certificates of deposit placed prior to, or following the submission of a borrower application by a certified targeted small business by the effective date of this Act may be renewed in accordance with section 12.34.

Sec. 10. Certificates of deposit placed prior to the effective date of this Act or certificates of deposit placed on or after the effective date of this Act for persons who were certified under section 12.52 and who have submitted to the treasurer of state a main-street borrower application by the effective date of this Act, under the main street linked investments program may be renewed in accordance with section 12.34.

Sec. 11. Sections 12.51 and 12.52, Code 1995, are repealed.

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 4, 1996

CHAPTER 1059

WORKERS' COMPENSATION - LIMITED LIABILITY COMPANY MEMBERS
H.F. 308

AN ACT relating to the election of workers' compensation coverage by a limited liability company member.

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

Section 1. Section 85.1, subsection 3, paragraph b, subparagraph (3), Code 1995, is amended to read as follows:

(3) Officers of a family farm corporation or members of a limited liability company, spouses of the officers or members, the parents, brothers, sisters, children and stepchildren of either the officers or members, or the spouses of the officers or members, and the spouses of the brothers, sisters, children, and stepchildren of either the officers or members, or the spouses of the officers or members who are employed by the corporation or limited liability company, the primary purpose of which, although not necessarily the stated purpose, is farming or ownership of agricultural land, and who are actually engaged in agricultural pursuits or operations immediately connected with the agricultural pursuits either on or off the premises of the corporation or limited liability company.

Sec. 2. Section 85.1A, Code 1995, is amended to read as follows:

85.1A PROPRIETORS, LIMITED LIABILITY COMPANY MEMBERS, AND PARTNERS.

A proprietor, limited liability company member, or partner who is actively engaged in the proprietor's, limited liability company member's, or partner's business on a substantially full-time basis, may elect to be covered by the workers' compensation law of this state by purchasing valid workers' compensation insurance specifically including the proprietor, limited liability company member, or partner. The election constitutes an assumption by the employer of workers' compensation liability for the proprietor, limited liability company member, or partner for the time period in which the insurance contract is in force. The proprietor, limited liability company member, or partner shall accept compensation in the manner provided by the workers' compensation law and the employer is

relieved from any other liability for recovery of damages, or other compensation for injury.

Sec. 3. Section 85.36, subsection 10, Code Supplement 1995, is amended to read as follows:

10. If a wage, or method of calculating a wage, is used for the basis of the payment of a workers' compensation insurance premium for a proprietor, partner, limited liability company member, or officer of a corporation, the wage or the method of calculating the wage is determinative for purposes of computing the proprietor's, partner's, limited liability company member's, or officer's weekly workers' compensation benefit rate.

Sec. 4. Section 85.61, subsection 11, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

"Worker" or "employee" means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer; an executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer; an official elected or appointed by the state, or a county, school district, area education agency, municipal corporation, or city under any form of government; a member of the Iowa highway safety patrol; a conservation officer; and a proprietor, limited liability company member, or partner who elects to be covered pursuant to section 85.1A, except as specified in this chapter.

Sec. 5. Section 85.61, subsection 13, paragraph e, Code Supplement 1995, is amended to read as follows:

e. Proprietors, limited liability company members, and partners who have not elected to be covered by the workers' compensation law of this state pursuant to section 85.1A.

Approved April 4, 1996

CHAPTER 1060

LEGALIZATION OF DEFECTIVE NOTARIAL ACTS

H.F. 2081

AN ACT relating to legalizing official acts performed by notaries public more than ten years earlier.

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

Section 1. NEW SECTION. 9E.9A DEFECTIVE NOTARIAL ACT.

An instrument in writing to which is attached a defective certificate of acknowledgment attached by a notary public more than ten years earlier is valid, legal, and binding as if the instrument had been properly acknowledged by the notary public.

Sec. 2. Section 586.1, subsections 1 and 2, Code 1995, are amended to read as follows:

1. Official acts performed ~~before 1970~~ more than ten years earlier by notaries public during the time that they held over in office without qualifying after the expiration of the preceding term, if such notaries public ~~have since~~ subsequently qualified.

2. Acknowledgments taken ~~before 1970~~ more than ten years earlier by notaries public outside their jurisdiction.

Approved April 4, 1996

CHAPTER 1061

TELECOMMUNICATOR TRAINING STANDARDS

H.F. 523

AN ACT relating to the establishment of minimum standards for the training of telecommunicators.

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

Section 1. Section 80B.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. Minimum qualifications for instructors in telecommunicator training schools.

Sec. 2. NEW SECTION. 80B.11C TELECOMMUNICATOR TRAINING STANDARDS.

The director of the academy, subject to the approval of the council, in consultation with the Iowa state sheriffs' and deputies' association, the Iowa police executive forum, the Iowa association of chiefs of police and peace officers, the Iowa state police association, the Iowa association of professional fire fighters, the Iowa emergency medical services association, the joint council of Iowa fire service organizations, the Iowa department of public safety, the Iowa chapter of the association of public safety communications officials-international, inc., the Iowa chapter of the national emergency number association, the emergency management division of the Iowa department of public defense, and the Iowa department of public health, shall adopt rules pursuant to chapter 17A establishing minimum standards for training of telecommunicators. For purposes of this section, "telecommunicator" means a person who receives requests for, or dispatches requests to, emergency response agencies which include, but are not limited to, law enforcement, fire, rescue, and emergency medical services agencies.

Approved April 4, 1996

CHAPTER 1062

LASCIVIOUS ACTS WITH A CHILD - SOLICITATION

S.F. 2423

AN ACT prohibiting a person from soliciting another person to arrange a sex act with a child and making a penalty applicable.

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

Section 1. Section 709.8, subsection 3, Code 1995, is amended to read as follows:

3. Solicit a child to engage in a sex act or solicit a person to arrange a sex act with a child.

Approved April 4, 1996

CHAPTER 1063

EXEMPTION FROM MOTOR CARRIER SAFETY RULES

H.F. 2001

AN ACT extending an exemption from federal motor carrier safety regulations for medically unqualified drivers and providing an effective date.

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

Section 1. Section 321.449, unnumbered paragraph 5, Code Supplement 1995, is amended to read as follows:

Notwithstanding other provisions of this section, rules adopted under this section concerning physical and medical qualifications for drivers of commercial vehicles engaged in intrastate commerce shall not be construed as disqualifying any individual who was employed as a driver of commercial vehicles engaged in intrastate commerce whose physical or medical condition existed prior to ~~January 1, 1988~~ July 29, 1996.

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

Approved April 4, 1996

CHAPTER 1064

STATE TRANSPORTATION COMMISSION PLANNING REQUIREMENTS

H.F. 2207

AN ACT relating to the state transportation commission's planning process and federal funding.

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

Section 1. Section 307A.2, subsection 12, Code 1995, is amended to read as follows:

12. Prepare, adopt and cause to be published a long-range program for the primary road system, in conjunction with the state transportation plan adopted by the commission. Such program shall be prepared for a period of at least five years and shall be revised, brought up to date and republished at least once every year in order to have a continuing five-year program. The program shall include, insofar as such estimates can be made, an estimate of the money expected to become available during the period covered by the program and a statement of the construction, maintenance, and other work planned to be performed during such period. The commission shall conduct periodic reinspections of the primary roads in order to revise, from time to time, its estimates of future needs to conform to the physical and service conditions of the primary roads. The commission shall annually cause to be published a sufficiency rating report showing the relative conditions of the primary roads. Before the last day of December of each year, the commission shall adopt and cause to be published from its long-range program, a plan of improvements to be accomplished during the next calendar year. However, in years when the federal government is reauthorizing federal highway funding, the commission shall not be required to adopt and publish the annual plan of improvements to be accomplished until at least ninety days from the enactment of the new federal funding formula. This annual program shall list definite projects in order of urgency and shall include a reasonable year's work with the funds estimated to be available. The annual program shall be final and followed

by the commission in the next year except that deviations may be made in case of disaster or other unforeseen emergencies or difficulties. The relative urgency of the proposed improvements shall be determined by a consideration of the physical condition, safety, and service characteristics of the various primary roads.

Approved April 4, 1996

CHAPTER 1065

REGISTRATION PLATES - MOTOR TRUCKS AND TRUCK TRACTORS
H.F. 2113

AN ACT providing for a permanent registration plate for motor trucks and truck tractors licensed pursuant to multistate registration.

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

Section 1. Section 321.34, subsection 4, Code Supplement 1995, is amended to read as follows:

4. MULTIYEAR PLATES. In lieu of issuing annual registration plates for trailers, ~~and~~ semitrailers, motor trucks, and truck tractors, the department may issue a multiyear registration plate for a three-year period or a permanent registration plate for trailers and semitrailers licensed under chapter 326, and a permanent registration plate for motor trucks and truck tractors licensed under chapter 326, upon payment of the appropriate registration fee. Payment of fees ~~to the department~~ for trailers and semitrailers for a permanent registration plate shall, at the option of the registrant, be made at five-year intervals or on an annual basis. Fees from three-year and five-year payments shall not be reduced or prorated. Payment of fees for motor trucks and truck tractors shall be made on an annual basis.

Approved April 8, 1996

CHAPTER 1066

MOTOR FUEL AND SPECIAL FUEL TAXATION AND REGULATION
H.F. 2140

AN ACT relating to the motor vehicle fuel tax law and providing effective and retroactive applicability dates.

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

Section 1. Section 321.19, subsection 2, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

~~Section 452A.3 and chapter~~ Chapter 326 ~~are~~ is not applicable to urban transit companies or systems.

Sec. 2. Section 452A.2, subsections 2, 15, and 21, Code Supplement 1995, are amended to read as follows:

2. "Blender" means a person who owns and blends alcohol with gasoline to produce ethanol blended gasoline and blends the product at a nonterminal location. The blender is not restricted to blending alcohol with gasoline. Products blended with gasoline other than grain alcohol are ~~treated and~~ taxed as gasoline. "Blender" also means a person blending two or more special fuel products at a nonterminal location where the tax has not been paid on all of the products blended. ~~The~~ This blend is taxed as a special fuel.

15. "Licensed compressed natural gas and liquefied petroleum gas user" means a person licensed by the department who dispenses compressed natural gas or liquefied petroleum gas, upon which the special fuel tax has not been previously paid, for highway use from fuel sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial vehicle owned or controlled by the person.

21. "Special fuel" means fuel oils and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft, and includes any substance used for that purpose, except that it does not include motor fuel. Kerosene shall not be considered to be a special fuel, unless blended with other special fuels for use in a motor vehicle with a diesel engine.

Sec. 3. Section 452A.5, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

The distribution allowance shall be prorated between the supplier and the distributor or dealer as follows:

Sec. 4. Section 452A.8, subsection 2, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

At the time of filing ~~of~~ a report, a supplier~~,~~ or restrictive supplier~~, or importer~~ shall pay to the department the full amount of the fuel tax due for the preceding calendar month. An importer shall pay to the department the full amount of fuel tax due for the preceding semimonthly period. The tax shall be computed as follows:

Sec. 5. Section 452A.8, subsection 2, paragraph a, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

From the total number of invoiced gallons of motor fuel or undyed special fuel withdrawn from the terminal by the licensee ~~within the state~~ during the preceding calendar month or semimonthly period the following deductions shall be made:

Sec. 6. Section 452A.8, subsection 2, paragraph c, Code Supplement 1995, is amended to read as follows:

c. The tax due under paragraph "b" shall be the amount of fuel tax due from the supplier, restrictive supplier, or importer for the preceding reporting period. The director may require by rule that the payment of taxes by suppliers, restrictive suppliers, and importers be made by electronic funds transfer. The director may allow a tax float by rule where the eligible purchaser is not required to pay the tax to the supplier until one business day prior to the date the tax is due. ~~Any credit calculated by the supplier, restrictive supplier, or importer may be applied against the amount due.~~ A licensed supplier who is unable to recover the tax from an eligible purchaser is not liable for the tax, upon proper documentation, and may credit the amount of unpaid tax against a later remittance of tax. Under this provision, a supplier does not qualify for a credit if the purchaser did not elect to use the eligible purchaser status, or otherwise does not qualify to be an eligible purchaser. To qualify for the credit, the supplier must notify the department of the uncollectible account no later than ten calendar days after the due date for payment of the tax. If a supplier sells additional motor fuel or undyed special fuel to a delinquent eligible purchaser after notifying the department that the supplier has an uncollectible debt with that eligible purchaser, the limited liability provision does not apply to the additional fuel. The supplier is liable for tax collected from the purchaser.

Sec. 7. Section 452A.8, subsection 2, paragraph e, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

The department shall adopt rules governing the dispensing of compressed natural gas and liquefied petroleum gas by licensed dealers and licensed users. For purposes of this paragraph, "dealer" and "user" mean a licensed compressed natural gas or liquefied petroleum gas dealer or user and "fuel" means compressed natural gas or liquefied petroleum gas. The department shall require that all pumps located at dealer locations and user locations through which liquefied petroleum gas can be dispensed~~,~~ shall be metered, inspected, tested for accuracy, and sealed and licensed by the state department of agriculture and land stewardship, and that fuel delivered into the fuel supply tank of any motor vehicle, shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature-corrected, only a temperature-compensated meter shall be used. Natural gas used as fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

Sec. 8. Section 452A.17, subsection 1, paragraph a, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The refund is allowable for motor fuel or undyed special fuel sold directly to ~~or~~ and used for the following:

Sec. 9. Section 452A.17, subsection 1, paragraph a, subparagraph (8), Code Supplement 1995, is amended to read as follows:

(8) For motor fuel or undyed special fuel placed in motor vehicles and used, other than on a public highway, in the extraction and processing of natural deposits, without regard to whether the motor vehicle was registered under section 321.18. An applicant under this subparagraph shall maintain adequate records for a period of three years beyond the date of the claim.

Sec. 10. Section 452A.17, subsection 1, paragraph b, subparagraph (7), Code Supplement 1995, is amended to read as follows:

(7) Claim shall be made by and the amount of the refund shall be paid to the person who purchased the motor fuel or undyed special fuel as shown in the supporting invoice unless that person designates another person as an agent for purposes of filing and receiving the refund for idle time, power takeoff, reefer units, pumping credits, and transport diversions. A governmental agency may be designated as an agent for another governmental agency for purposes of filing and receiving the refund under this section.

Sec. 11. Section 452A.17, subsection 3, paragraph b, Code Supplement 1995, is amended to read as follows:

b. A refund shall not be paid with respect to any motor fuel or undyed special fuel taken out of this state in supply tanks of watercraft, aircraft, or motor vehicles.

Sec. 12. Section 452A.21, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

A refund ~~or credit memorandum will~~ shall not be issued unless the claim is filed within ninety days following the end of the month during which the ethanol blended gasoline was actually blended.

Sec. 13. Section 452A.63, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

All information obtained by the department of revenue and finance or the state department of transportation from the examining of reports or records required to be filed or kept under this chapter shall be treated as confidential and shall not be divulged except to other state officers, a member or members of the general assembly, or any duly appointed committee of either or both houses of the general assembly, or to a representative of the state having some responsibility in connection with the collection of the taxes imposed or in proceedings brought under the provisions of this chapter. The appropriate state agency

may make available to the public on or before forty-five days following the last day of the month in which the tax is required to be paid, the names of suppliers, restrictive suppliers, and importers and as to each of them the total gallons of motor fuel, undyed special fuel, and ethanol-blended gasoline withdrawn from terminals or imported into the state during that month. The department of revenue and finance or the state department of transportation, upon request of officials entrusted with enforcement of the motor vehicle fuel tax laws of the federal government or any other state, may forward to such officials any pertinent information which the appropriate state agency may have relative to motor fuel and special fuel provided the officials of the other state furnish like information.

Sec. 14. Section 452A.67, Code 1995, is amended to read as follows:

452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

~~An action or other proceeding shall not be maintained to~~ The department shall examine the return and enforce collection of any amount of ~~fuel~~ tax, penalty, fine, or interest over and above the amount shown to be due by reports filed by a licensee ~~except upon an assessment by the department of revenue and finance as authorized in this chapter~~ as soon as practicable but no later than three years after the return is filed. An assessment shall not be made covering a period beyond three years ~~prior to the date of assessment~~ after the return is filed except that the period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

Sec. 15. Section 452A.71, Code Supplement 1995, is amended to read as follows:

452A.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS AND COMPRESSED NATURAL GAS AND LIQUEFIED PETROLEUM GAS DEALERS AND USERS.

Except as provided in section 452A.54, ~~any person other than~~ a person who has paid or has had charged to the person's account with a distributor, dealer, or user fuel taxes imposed under this chapter with respect to motor fuel or undyed special fuel in excess of one hundred gallons, which is subsequently lost or destroyed, while the person is the owner, through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation~~, shrinkage,~~ or unknown causes, ~~the person~~ shall be entitled to a refund of the tax so paid or charged. To qualify for the refund, the person shall notify the department of revenue and finance in writing of the loss or destruction and the gallonage lost or destroyed within ten days from the date of discovery of the loss or destruction. Within sixty days after filing the notice, the person shall file with the department of revenue and finance an affidavit sworn to by the person having immediate custody of the motor fuel or undyed special fuel at the time of the loss or destruction setting forth in full the circumstances and amount of the loss or destruction and such other information as the department of revenue and finance may require. Any refund payable under this section may be applied by the department against any tax liability outstanding on the books of the department against the claimant.

Sec. 16. Section 452A.72, Code 1995, is amended to read as follows:

452A.72 REFUND ~~OR CREDIT~~ FOR FUEL TAXES ERRONEOUSLY OR ILLEGALLY COLLECTED OR PAID.

If any fuel taxes, penalties, or interest have been erroneously or illegally collected by the appropriate state agency from a licensee, the appropriate state agency may ~~permit the licensee to take credit against a subsequent tax return for the amount of the erroneous or illegal overpayment, may~~ apply the overpayment against any tax liability outstanding on the books of the department against the claimant, or shall certify the amount to the director of revenue and finance, who shall draw a warrant for the certified amount on the treasurer of state payable to the licensee. The refund shall be paid to the licensee immediately.

A refund ~~or credit~~ shall not be made under this section unless a written claim setting forth the circumstances for which the refund ~~or credit~~ should be allowed is filed with the

appropriate state agency within one year from the date of the payment of the taxes erroneously or illegally collected or paid.

However, if it is found during an examination by the appropriate state agency that a licensee paid, as a result of a mistake, an amount of tax, penalty, or interest which was not due, and the mistake is found within three years of the overpayment, the appropriate state agency shall credit the amount against any penalty, interest or taxes due~~, or to become due~~, or shall refund the amount to the person.

Sec. 17. Section 452A.74, subsections 1 and 6, Code Supplement 1995, are amended to read as follows:

1. For any person to knowingly fail, neglect, or refuse to make any required return or statement or pay over fuel taxes required under this ~~section~~ chapter.

6. For any person to use motor fuel, undyed special fuel, or ~~illegal use of~~ dyed special fuel in the fuel supply tank of a vehicle with respect to which the person knowingly has not paid or had charged to the person's account with a distributor or dealer, or with respect to which the person does not, within the time required in this chapter, report and pay the applicable fuel tax.

Sec. 18. Section 452A.74, subsection 8, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

Any delivery ~~by a distributor~~ of compressed natural gas or liquefied petroleum gas to a compressed natural gas or liquefied petroleum gas dealer or user for the purpose of evading the state tax on compressed natural gas or liquefied petroleum gas, into facilities other than those licensed above knowing that the fuel will be used for highway use shall constitute a violation of this section. Any compressed natural gas or liquefied petroleum gas dealer or user for purposes of evading the state tax on compressed natural gas or liquefied petroleum gas, who allows a distributor to place compressed natural gas or liquefied petroleum gas for highway use in facilities other than those licensed above, shall also be deemed in violation of this section.

Sec. 19. Section 452A.74A, subsection 2, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

A person who ~~illegally~~ imports motor fuel or undyed special fuel without a valid importer's license or supplier's license shall be assessed a civil penalty as provided in this subsection. However, the owner or operator of the importing vehicle shall not be guilty of violating this subsection if it is shown by the owner or operator that the owner or operator reasonably did not know or reasonably should not have known of the illegal importation.

Sec. 20. Section 452A.74A, subsection 3, Code Supplement 1995, is amended to read as follows:

3. IMPROPER RECEIPT OF FUEL ~~CREDIT OR~~ REFUND. If a person files an incorrect refund claim, in addition to the excess amount of the claim, a penalty of ten percent shall be added to the amount by which the amount claimed and refunded exceeds the amount actually due and shall be paid to the department. If a person knowingly files a fraudulent refund claim with the intent to evade the tax, the penalty shall be seventy-five percent in lieu of the ten percent. The person shall also pay interest on the excess refunded at the rate per month specified in section 421.7, counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1996.

Approved April 8, 1996

CHAPTER 1067

MUNICIPAL INFRACTIONS - JURISDICTIONAL AMOUNT
S.F. 2155

AN ACT to adjust the jurisdictional amount for municipal infractions tried before a judge in district court.

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

Section 1. Section 364.22, subsection 5, paragraph a, Code 1995, is amended to read as follows:

a. The matter shall be tried before a magistrate, 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~~ the jurisdictional amount for small claims set forth in section 631.1.

Approved April 8, 1996

CHAPTER 1068

DISTRICT ASSOCIATE JUDGES - NUMBER AND APPORTIONMENT
S.F. 2252

AN ACT relating to the number and apportionment of district associate judges, and providing an effective date.

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

Section 1. Section 602.6301, Code Supplement 1995, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population, according to the most recent federal decennial census, of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than two hundred thousand; four in counties having a population of two hundred thousand or more and less than two hundred thirty-five thousand; five in counties having a population of two hundred thirty-five thousand or more and less than two hundred seventy thousand; six in counties having a population of two hundred seventy thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial department. A district associate judge appointed pursuant to section 602.6302 or 602.6303 shall not be counted for purposes of this section.

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

Approved April 8, 1996

CHAPTER 1069

ASSAULTS AGAINST HEALTH CARE PROVIDERS

S.F. 2167

AN ACT relating to prohibiting the assault of a health care provider and providing penalties.

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

Section 1. Section 708.3A, Code Supplement 1995, is amended to read as follows:

708.3A ASSAULTS ON PEACE OFFICERS, FIRE FIGHTERS, AND ~~EMERGENCY~~ HEALTH CARE PROVIDERS.

1. A person who commits an assault, as defined in section 708.1, against a peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter, whether paid or volunteer, with the knowledge that the person against whom the assault is committed is a peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter and with the intent to inflict a serious injury upon the peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter, is guilty of a class "D" felony.

2. A person who commits an assault, as defined in section 708.1, against a peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter and who uses or displays a dangerous weapon in connection with the assault, is guilty of a class "D" felony.

3. A person who commits an assault, as defined in section 708.1, against a peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter, whether paid or volunteer, who knows that the person against whom the assault is committed is a peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter, and who causes bodily injury or disabling mental illness, is guilty of an aggravated misdemeanor.

4. Any other assault, as defined in section 708.1, committed against a peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter, whether paid or volunteer, by a person who knows that the person against whom the assault is committed is a peace officer, ~~basic emergency medical~~ health care provider ~~under chapter 147, an advanced emergency medical care provider under chapter 147A,~~ or fire fighter, is a serious misdemeanor.

5. As used in this section, "health care provider" means an emergency medical care provider as defined in chapter 147A or a person licensed or registered under chapter 148, 148C, 148D, 150, 150A, or 152 who is providing or who is attempting to provide emergency medical services, as defined in section 147A.1, or who is providing or who is attempting to provide health services as defined in section 135.61 in a hospital. A person who commits an assault under this section against a health care provider in a hospital, or at the scene or during out-of-hospital patient transportation in an ambulance, is presumed to know that the person against whom the assault is committed is a health care provider.

Approved April 8, 1996

CHAPTER 1070

PHARMACY TECHNICIAN AND PHARMACIST-INTERN REGISTRATION

S.F. 2323

AN ACT relating to pharmacy technician designation, registration and fees, delegation of duties, and disciplinary action.

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

Section 1. Section 155A.3, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 25A. "Pharmacy technician" means a person registered by the board who is in a technician training program or who is employed by a pharmacy under the responsibility of a licensed pharmacist to assist in the technical functions of the practice of pharmacy.

Sec. 2. Section 155A.6, subsections 2, 3, and 4, Code 1995, are amended to read as follows:

2. A person desiring to be a pharmacist-intern in this state shall apply to the board for registration. The application must be on a form prescribed by the board. A pharmacist-intern ~~must~~ shall be registered during internship training and thereafter pursuant to rules adopted by the board.

3. The board shall establish standards for pharmacist-intern registration and may deny, suspend, or revoke a pharmacist-intern registration for failure to meet the standards or for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124A, 124B, 126, 147, or 205, or any rule of the board.

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacist-intern registration standards, registration fees, conditions of registration, termination of registration, and approval of preceptors.

Sec. 3. Section 155A.6, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 5. A registration program for pharmacy technicians is established for the purposes of identification, tracking, and disciplinary action for the violation of federal drug laws or regulations, state drug or pharmacy laws, or board rules by pharmacy technicians. The registration shall not include any determination of the competency of the registered individual and, notwithstanding section 272C.2, subsection 1, shall not require continuing education for renewal. The ultimate responsibility for the actions of a pharmacy technician working under a licensed pharmacist's supervision shall remain with the licensed pharmacist.

NEW SUBSECTION. 6. A person who is or desires to be a pharmacy technician in this state shall apply to the board for registration. The application must be submitted on a form prescribed by the board. A pharmacy technician must be registered pursuant to rules adopted by the board.

NEW SUBSECTION. 7. The board may deny, suspend, or revoke a pharmacy technician registration for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124A, 124B, 126, 147, or 205, or any rule of the board.

NEW SUBSECTION. 8. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacy technician registration applications, renewals, fees, termination of registration, and any other relevant matters.

Sec. 4. Section 155A.33, Code 1995, is amended to read as follows:

155A.33 DELEGATION OF ~~NONJUDGMENTAL~~ TECHNICAL FUNCTIONS.

A pharmacist may delegate ~~nonjudgmental~~ technical dispensing functions to ~~assistants~~ pharmacy technicians, but only if the pharmacist is physically present to verify the accuracy and completeness of the patient's prescription prior to the delivery of the prescription to the patient or the patient's representative.

Approved April 8, 1996

CHAPTER 1071

PREVENTION OF DISABILITIES

S.F. 2213

AN ACT relating to the continued existence of the prevention of disabilities policy council and technical assistance committee and providing an effective date.

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

Section 1. 1991 Iowa Acts, chapter 169, section 9, is amended to read as follows:

SEC. 9. This Act is repealed effective June 30, ~~1996~~ 2000.

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

Approved April 8, 1996

CHAPTER 1072

HUNTING PRESERVES - SEASON FOR CERTAIN UNGULATES

S.F. 2165

AN ACT relating to the hunting season for ungulates on a hunting preserve and providing an effective date.

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

Section 1. Section 484B.10, subsection 1, Code 1995, is amended to read as follows:

1. A person shall not take a game bird or ungulate upon a hunting preserve, by shooting in any manner, except during the established season or as authorized by section 481A.56. The established season shall be September 1 through March 31 of the succeeding year, both dates inclusive. The owner of a hunting preserve shall establish the hunting season for nonnative, pen-reared ungulates on the hunting preserve.

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

Approved April 8, 1996

CHAPTER 1073

TIMBER BUYERS

S.F. 2212

AN ACT relating to the regulation of timber sales and surety bonds paid by timber buyers and providing an effective date.

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

Section 1. Section 456A.36, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. "Timber buyer" means a person engaged in the business of buying timber from the timber growers for sawing into lumber, for processing or for resale, but does not include a person who occasionally purchases timber for sawing or processing for the person's own use and not for resale. "Timber buyer" includes a person who contracts with a timber grower on a shared-profit basis to harvest timber from the timber grower's land.

Sec. 2. Section 456A.36, subsection 2, unnumbered paragraph 2, Code 1995, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The principal amount of the bond shall be ten percent of the total amount paid to timber growers during the preceding year, plus ten percent of the total amount due or delinquent and unpaid to timber growers at the end of the preceding year, and ten percent of the market value of growers' shares of timber harvested during the previous year. However, the total amount of the bond shall be not less than three thousand dollars and not more than fifteen thousand dollars.

Sec. 3. EFFECTIVE DATE. This Act takes effect January 1, 1997.

Approved April 8, 1996

CHAPTER 1074

ASBESTOS REMOVAL AND ENCAPSULATION

H.F. 2308

AN ACT relating to asbestos removal and encapsulation.

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

Section 1. Section 88B.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. "Public or commercial building" means a building that is not a residential apartment building of fewer than ten units or a school building.

Sec. 2. Section 88B.2, Code 1995, is amended to read as follows:

88B.2 PERMIT REQUIRED - APPLICATION, QUALIFICATIONS, AND EXCEPTIONS.

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

2. ~~Except as otherwise provided in this chapter, a~~ A business entity ~~shall not engage~~ engaging in the removal or encapsulation of asbestos ~~unless the entity holds~~ shall hold a permit for that purpose. ~~This chapter does not apply to a~~ unless the business entity ~~which uses its own employees in~~ is removing or encapsulating asbestos ~~for the purpose of reno-~~

~~vating, maintaining or repairing~~ at its own facilities~~, except that a business entity exempted from this chapter which assigns an employee to remove or encapsulate asbestos shall provide training on the health and safety aspects of the removal or encapsulation including the federal and state standards applicable to the asbestos project. The training program shall be available for review and approval upon inspection by the division.~~

Sec. 3. Section 88B.3, subsection 3, Code 1995, is amended to read as follows:

3. The commissioner shall prescribe fees for the issuance and renewal of licenses and permits. The fees shall be based on the costs of licensing, ~~and~~ permitting, and ~~other costs of~~ administering this chapter, including time spent by personnel of the division in performing duties and any travel expenses incurred. All fees provided for in this chapter shall be collected by the commissioner and remitted to the treasurer of state for deposit in the general fund of the state.

Sec. 4. Section 88B.4, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

88B.4 PERMIT - TERM, RENEWAL, AND RECORDS REQUIRED.

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

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

a. The date on which the current permit expires.

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

c. The amount of the renewal fee.

3. Before the permit expires, the permittee may renew it for an additional one-year term, if the business entity meets the following conditions:

a. Is otherwise entitled to a permit.

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

c. Pays the renewal fee prescribed by the division.

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

Sec. 5. Section 88B.5, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

88B.5 WAIVERS AND ALTERNATIVE PROCEDURES.

1. In an emergency that results from a sudden, unexpected event that is not a planned renovation or demolition, the commissioner may waive the requirement for a permit.

2. If the business entity is not primarily engaged in the removal or encapsulation of asbestos, the commissioner may waive the requirement for a permit if worker protection requirements are met.

3. The division shall not approve any waivers on work conducted at a school, public, or commercial building unless the request is accompanied by a recommendation from an asbestos project designer.

Sec. 6. Section 88B.6, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

88B.6 LICENSING OF ASBESTOS WORKERS.

1. APPLICATION.

a. To apply for a license, an individual shall submit an application to the division in the form required by the division and shall pay the prescribed fee.

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

c. A license is valid for one year from the completion date of the required training and may be renewed by providing information as required in subsection 2, paragraphs "b" and "c".

2. QUALIFICATIONS.

a. An individual is not eligible to be or do any of the following unless the person obtains a license from the division:

(1) A contractor or supervisor, or to work on an asbestos project.

(2) An inspector for asbestos-containing building material in a school or a public or commercial building.

(3) An asbestos management planner for a school or a public or commercial building.

(4) An asbestos project designer for a school or a public or commercial building.

b. To qualify for a license, the applicant must have successfully completed training as established by the United States environmental protection agency, paid a fee, and met other requirements as specified by the division by rule.

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

3. EXCEPTION. A license is not required of an employee employed by an employer exempted from the permit requirement of section 88B.2, subsection 2, if the employee is trained on appropriate removal or encapsulation procedures, safety, and health issues regarding asbestos removal or encapsulation, and federal and state standards applicable to the asbestos project.

Sec. 7. Section 88B.8, Code 1995, is amended to read as follows:

88B.8 REPRIMANDS, SUSPENSIONS, DENIALS, AND REVOCATIONS.

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

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

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

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

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

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

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

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

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

Sec. 8. REPEAL. Sections 88B.7, 88B.9, 88B.10, and 88B.13, Code 1995, are repealed.

Sec. 9. CODE EDITING. The Code editor shall reverse the order of sections 88B.2 and 88B.3.

Approved April 8, 1996

CHAPTER 1075

STATE CLAIMS PROCEDURES

S.F. 2367

AN ACT providing for the payment of outdated invoices by the agency to which the goods or services were provided, and by the department of revenue and finance, and providing an effective date.

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

Section 1. Section 25.1, Code 1995, is amended to read as follows:

25.1 RECEIPT, INVESTIGATION, AND REPORT.

1. When a claim is filed or made against the state, on which in the judgment of the director of the department of management the state would be liable except for the fact of its sovereignty or ~~which~~ that it has no appropriation available for its payment, the director of the department of management shall deliver that claim to the state appeal board.

2. The state appeal board shall make a record of the receipt of ~~that claim and forthwith deliver it~~ claims received from the director of the department of management, notify the special assistant attorney general for claims, and deliver a copy to the state official or agency against whom the claim is made, if any.

a. The official or agency shall report its recommendations concerning the claim to the special assistant attorney general for claims who ~~shall~~, with a view to determining the merits and legality of ~~it, fully~~ the claim, shall investigate the claim~~, including the facts upon which it is based~~ and report ~~in duplicate~~ the findings and conclusions of ~~law~~ the investigation to the state appeal board.

b. To help defray the initial costs of processing a claim and the costs of investigating a claim, the department of management may assess a processing fee and a fee to reimburse the office of the attorney general for the costs of the claim investigation against the state agency which incurred the liability of the claim.

3. Notwithstanding subsections 1 and 2 and section 25.2, the following claims shall be submitted by the person filing the claim directly to the agency against whom the claim is made for resolution according to section 25.2, subsection 2:

a. Outdated invoices, outdated bills for merchandise, or claims for services furnished to the state, for goods or services provided in the same fiscal year that the claim is filed.

b. Outdated invoices, outdated bills for merchandise, or claims for services furnished to the state, for goods or services provided in any prior fiscal year, for which funding would have been available to pay the claim if it had been filed before the close of the fiscal year.

Claims submitted under this section may be approved by the agency in accordance with section 25.2, subsection 2, except that payment for claims for which the appropriation has reverted to the general fund of the state must be paid in accordance with section 25.2, subsection 3.

Sec. 2. Section 25.2, Code Supplement 1995, is amended to read as follows:

25.2 EXAMINATION OF REPORT – APPROVAL OR REJECTION – PAYMENT.

1. The state appeal board with the recommendation of the special assistant attorney general for claims may approve or reject claims against the state of less than ten years ~~covering~~ involving the following: ~~outdated~~

a. Outdated warrants~~; outdated~~.

b. Outdated sales and use tax refunds~~; license~~.

c. License refunds~~; additional~~.

d. Additional agricultural land tax credits~~; outdated~~.

e. Outdated invoices~~; fuel~~.

f. Fuel and gas tax refunds~~; outdated~~.

g. Outdated homestead and veterans' exemptions~~; outdated~~.

h. Outdated funeral service claims~~; tractor~~.

i. Tractor fees~~; registration~~.

j. Registration permits~~; outdated~~.

k. Outdated bills for merchandise~~; services~~.

l. Services furnished to the state~~; claims~~.

m. Claims by any county or county official relating to the personal property tax credit~~; and refunds~~.

n. Refunds of fees collected by the state.

2. Notwithstanding subsection 1, an agency that receives a claim based on an outdated invoice, outdated bill for merchandise, or for services furnished to the state pursuant to section 25.1, subsection 3, may on its own approve or deny the claim. The agency shall provide the state appeal board with notification of receipt of the claim and action taken on the claim by the agency. The state appeal board shall adopt rules setting forth the procedures and standards for resolution of claims by state agencies. Claims denied by an agency shall be forwarded to the state appeal board by the agency for further consideration, in accordance with this chapter.

3. Payments authorized by the state appeal board shall be paid from the appropriation or fund of original certification of the claim. However, if that appropriation or fund has since reverted under section 8.33 then such payment authorized by the state appeal board shall be out of any money in the state treasury not otherwise appropriated.

4. Notwithstanding the provisions of this section, the director of revenue and finance may reissue outdated warrants.

5. On or before November 1 of each year, the director of revenue and finance shall provide the treasurer of state with a report of all unpaid warrants which have been outdated for two years or more. The treasurer shall include information regarding outdated warrants in the notice published pursuant to section 556.12. The provisions of section 556.11 regarding agreements to pay compensation for recovery or assistance in recovery of unclaimed property are applicable to agreements to pay compensation to recover or assist in the recovery of outdated warrants.

Sec. 3. Section 421.38, subsection 1, Code 1995, is amended to read as follows:

1. a. ~~THREE MONTHS~~ TIME AND FUNDING LIMIT. A claim shall not be allowed by the department of revenue and finance if ~~the~~ either of the following has occurred:

(1) The claim is presented after the lapse of three months from its accrual. ~~However, this~~

(2) The appropriation or fund of certification available for paying the claim has been exhausted or proves insufficient.

b. The time ~~limit~~ limitation set forth in paragraph "a", subparagraph (1), is subject to the following exceptions:

~~a.~~ (1) Claims by state employees for benefits pursuant to chapters 85, 85A, and 86 are subject to limitations provided in those chapters.

~~b.~~ (2) Claims for medical assistance payments authorized under chapter 249A are subject to the time limits imposed by rule adopted by the department.

(3) Claims approved by an agency according to the provisions of sections 25.1 and 25.2.

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

Approved April 8, 1996

CHAPTER 1076

ANATOMICAL GIFT PUBLIC AWARENESS AND TRANSPLANTATION

S.F. 2110

AN ACT relating to the establishment of an anatomical gift public awareness and transplantation fund to be administered by and an anatomical gift public awareness advisory committee to be established within the Iowa department of public health.

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

Section 1. NEW SECTION. 142C.15 ANATOMICAL GIFT PUBLIC AWARENESS AND TRANSPLANTATION FUND - ESTABLISHED - USES OF FUND.

1. a. An anatomical gift public awareness and transplantation fund is created as a separate fund in the state treasury under the control of the Iowa department of public health. The fund shall consist of moneys remitted by the county treasurer of a county or by the department of transportation which were collected through the payment of a contribution made by an applicant for registration of a motor vehicle pursuant to section 321.44A and any other contributions to the fund.

b. The moneys collected under this section and deposited in the fund are appropriated to the Iowa department of public health for the purposes specified in this section. Moneys in the fund shall not be subject to appropriation or expenditure for any other purpose.

c. The treasurer of state shall act as custodian of the fund and shall disburse amounts contained in the fund as directed by the department. The treasurer of state may invest the moneys deposited in the fund. The income from any investment shall be credited to and deposited in the fund. Notwithstanding section 8.33, moneys in the fund are not subject to reversion to the general fund of the state. The fund shall be administered by the department which shall make expenditures from the fund consistent with the purposes of this section.

d. The Iowa department of public health may use not more than five percent of the moneys in the fund for administrative costs. The remaining moneys in the fund may be expended through grants to any of the following persons, subject to the following conditions:

(1) Not more than twenty percent of the moneys in the fund annually may be expended in the form of grants to state agencies or to nonprofit legal entities with an interest in anatomical gift public awareness and transplantation. Grants shall be made based upon the submission of a grant application by an agency or entity to conduct a public awareness project.

(2) Not more than thirty percent of the moneys in the fund annually may be expended in the form of grants to hospitals for reimbursement for costs directly related to the development of in-hospital anatomical gift public awareness projects, anatomical gift referral protocols, and associated administrative expenses. As a condition of receiving a grant, a hospital shall demonstrate, through documentation, that the hospital, during the previous calendar year, properly complied with in-hospital anatomical gift request protocols for at least eighty percent of all deaths occurring in the hospital.

(3) Not more than fifty percent of the moneys in the fund annually may be expended in the form of grants to hospitals which perform heart, lung, liver, pancreas, or kidney transplants. As a condition of receiving a grant, a hospital shall demonstrate, through documentation, that the hospital, during the previous calendar year, properly complied with in-hospital anatomical gift request protocols for at least eighty percent of all deaths occurring in the hospital. The hospital shall submit an application on behalf of a patient requiring a transplant in the amount of the costs associated with the following, if funds are not available from any other third-party payor:

(a) The costs of the organ transplantation procedure.

(b) The costs of post-transplantation drug or other therapy.
(c) Other transplantation costs including but not limited to food, lodging, and transportation.

Sec. 2. NEW SECTION. 142C.16 ANATOMICAL GIFT PUBLIC AWARENESS ADVISORY COMMITTEE - ESTABLISHED - DUTIES.

1. The Iowa department of public health shall establish an anatomical gift public awareness advisory committee. Members shall include a representative of each of the following, appointed by the respective entity or that entity's successor:
a. A state organ procurement organization.
b. The Iowa medical society.
c. The association of Iowa hospitals and health systems.
d. The osteopathic medical association.
e. A bank or storage organization.
f. The Iowa chapter of the national association of social workers. The representative shall be a member of the association knowledgeable in anatomical gifts.
g. The Iowa funeral directors association.
h. The Iowa department of public health.
i. The department of human services.
j. The department of inspections and appeals.

2. Members shall serve staggered terms of two years. Appointments of members of the committee shall comply with sections 69.16 and 69.16A. Vacancies shall be filled by the original appointing authority and in the manner of the original appointment.

3. Members shall receive actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6.

4. The committee shall annually select a chairperson from its membership. A majority of the members of the committee shall constitute a quorum.

5. The advisory committee shall assist the department in all of the following activities:
a. Accepting and awarding grants to promote the donation of anatomical gifts.
b. Establishing criteria for the application for and awarding of grants to promote the donation of anatomical gifts.
c. Examining the anatomical gifts system to identify improvements or enhancements to promote anatomical gifts.
d. Recommending legislation to improve state law regarding anatomical gifts.

Sec. 3. NEW SECTION. 321.44A VOLUNTARY CONTRIBUTION - ANATOMICAL GIFT PUBLIC AWARENESS AND TRANSPLANTATION FUND.

For each application for registration or renewal, the county treasurer or the department shall request through use of a written form, and, if the application is made in person, through verbal communication, that an applicant make a voluntary contribution of one dollar or more to the anatomical gift public awareness and transplantation fund established pursuant to section 142C.15. Moneys collected in the form of contributions shall be remitted to the treasurer of state for deposit in the fund to be used for the purposes specified for the fund. The director shall adopt rules to administer this section.

Approved April 9, 1996

CHAPTER 1077

NONCONSENSUAL TERMINATION OF OR SERIOUS INJURY TO A PREGNANCY

H.F. 2109

AN ACT relating to nonconsensual termination of or serious injury to a pregnancy and providing penalties.

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

Section 1. Section 707.7, unnumbered paragraphs 1, 2, and 4, Code 1995, are amended to read as follows:

Any person who intentionally terminates a human pregnancy, with the knowledge and voluntary consent of the pregnant person, after the end of the second trimester of the pregnancy where death of the fetus results commits feticide. Feticide is a class "C" felony.

Any person who attempts to intentionally terminate a human pregnancy, with the knowledge and voluntary consent of the pregnant person, after the end of the second trimester of the pregnancy where death of the fetus does not result commits attempted feticide. Attempted feticide is a class "D" felony.

Any person who terminates a human pregnancy, with the knowledge and voluntary consent of the pregnant person, who is not a person licensed to practice medicine and surgery under the provisions of chapter 148, or an osteopathic physician and surgeon licensed to practice osteopathic medicine and surgery under the provisions of chapter 150A, commits a class "C" felony.

Sec. 2. Section 707.8, Code 1995, is amended to read as follows:

707.8 NONCONSENSUAL TERMINATION — SERIOUS INJURY TO A HUMAN PREGNANCY.

1. A person who terminates a human pregnancy without the consent of the pregnant person during the commission of a forcible felony is guilty of a class "B" felony.

~~1.~~ 2. A person who terminates a human pregnancy without the consent of the pregnant person during the commission of a felony or felonious assault is guilty of a class ~~"B"~~ "C" felony.

~~2.~~ 3. A person who intentionally terminates a human pregnancy without the knowledge and voluntary consent of the pregnant person is guilty of a class "C" felony. ~~This subsection shall not apply to a termination performed without the consent or knowledge of the pregnant person by a physician licensed in this state to practice medicine and surgery when circumstances preclude the pregnant person from providing consent and the termination is performed to preserve the life or health of the pregnant person or of the fetus.~~

4. A person who unintentionally terminates a human pregnancy by any of the means provided pursuant to section 707.6A, subsection 1, is guilty of a class "C" felony.

~~3.~~ 5. A person who by force or intimidation procures the consent of the pregnant person to a termination of a human pregnancy is guilty of a class "C" felony.

6. A person who unintentionally terminates a human pregnancy while drag racing in violation of section 321.278 is guilty of a class "D" felony.

7. A person who unintentionally terminates a human pregnancy without the knowledge and voluntary consent of the pregnant person by the commission of an act in a manner likely to cause the termination of or serious injury to a human pregnancy is guilty of an aggravated misdemeanor.

8. A person commits an aggravated misdemeanor when the person intentionally causes serious injury to a human pregnancy by the commission of an act in a manner likely to cause the termination of or serious injury to a human pregnancy.

9. A person commits an aggravated misdemeanor when the person unintentionally causes serious injury to a human pregnancy by any of the means described in section 707.6A, subsection 1.

10. A person commits a serious misdemeanor when the person unintentionally causes serious injury to a human pregnancy by the commission of an act in a manner likely to cause the termination of or serious injury to the human pregnancy.

11. For the purposes of this section "serious injury to a human pregnancy" means, relative to the human pregnancy, disabling mental illness, or bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, and includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones.

12. As used in this section, actions which cause the termination of or serious injury to a pregnancy do not apply to any of the following:

a. An act or omission of the pregnant person.

b. A termination of or a serious injury to a pregnancy which is caused by the performance of an approved medical procedure performed by a person licensed in this state to practice medicine and surgery or osteopathic medicine and surgery, irrespective of the duration of the pregnancy and with or without the voluntary consent of the pregnant person when circumstances preclude the pregnant person from providing consent.

c. An act committed in self-defense or in defense of another person or any other act committed if legally justified or excused.

Approved April 9, 1996

CHAPTER 1078

RESERVE PEACE OFFICERS – PROFESSIONAL PERMITS TO CARRY WEAPONS

S.F. 2299

AN ACT relating to reserve peace officers obtaining or renewing professional permits to carry weapons.

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

Section 1. NEW SECTION. 724.2A PEACE OFFICER DEFINED.

As used in sections 724.6 and 724.11 regarding obtaining or renewing a permit for the carrying of weapons, "peace officer" includes a reserve peace officer as defined in section 80D.1A.

Approved April 9, 1996

CHAPTER 1079

SUBSTANTIVE CODE CORRECTIONS

S.F. 2062

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities, and providing effective and retroactive applicability dates.

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

Section 1. Section 10A.104, subsection 9, Code Supplement 1995, is amended to read as follows:

9. Administer and enforce this chapter, and chapters 99B, 135B, 135C, 135G, 135H, 135J, 137A, 137B, 137C, 137D, and 137E.

Sec. 2. Section 56.14, Code Supplement 1995, is amended to read as follows:

56.14 POLITICAL MATERIAL - ~~SOLICITATIONS~~—YARD SIGNS.

1. a. A person who causes the publication or distribution of published material designed to promote or defeat the nomination or election of a candidate for public office or the passage of a constitutional amendment or public measure shall include conspicuously on the published material the identity and address of the person responsible for the material. If the person responsible is an organization, the name of one officer of the organization shall appear on the material. However, if the organization is a committee which has filed a statement of organization under this chapter, only the name of the committee is required to be included on the published material. Published material designed to promote or defeat the nomination or election of a candidate for public office or the passage of a constitutional amendment or public measure which contains language or depictions which a reasonable person would understand as asserting that an entity which is incorporated or is a registered committee had authored the material shall, if the entity is not incorporated or a registered committee, include conspicuously on the published material a statement that the apparent organization or committee is not incorporated or a registered committee in addition to the ~~disclaimer~~ attribution statement required by this section. For purposes of this section, "registered committee" means a committee which has an active statement of organization filed under section 56.5.

~~2.~~ b. This ~~section~~ subsection does not apply to the editorials or news articles of a newspaper or magazine which are not political advertisements. For the purpose of this ~~section~~ subsection, "published material" means any newspaper, magazine, shopper, outdoor advertising facility, poster, direct mailing, brochure, or any other form of printed general public political advertising; however, the identification need not be conspicuous on posters. This ~~section~~ subsection does not apply to yard signs, bumper stickers, pins, buttons, pens, matchbooks, and similar small items upon which the inclusion of the ~~disclaimer~~ attribution statement would be impracticable or to published material which is subject to federal regulations regarding ~~a disclaimer~~ an attribution requirement.

c. This subsection shall not be construed to require the inclusion on published material of information which discloses the identity or address of any individual who is acting independently and using the individual's own modest resources to publish or distribute the material.

~~3.~~ 2. a. Yard signs shall not be placed on any property which adjoins a city, county, or state roadway sooner than forty-five days preceding a primary or general election and shall be removed within seven days after the primary or general election~~,~~ in which the name of the particular candidate or ballot issue described on the yard sign appears on the ballot. Yard signs are subject to removal by highway authorities as provided in section 319.13, or by county or city law enforcement authorities in a manner consistent with section 319.13. The placement or erection of yard signs shall be exempt from the requirements

of chapter 480. Notice may be provided to the chairperson of the appropriate county central committee if the highway authorities are unable to provide notice to the candidate, candidate's committee, or political committee regarding the yard sign.

~~4.~~ b. This ~~section~~ subsection does not prohibit the placement of yard signs on agricultural land owned by individuals or by a family farm operation as defined in section 9H.1, subsections 8, 8A, 9, and 10; does not prohibit the placement of yard signs on property owned by private individuals who have rented or leased the property to a corporation, if the prior written permission of the property owner is obtained; and does not prohibit the placement of yard signs on residential property owned by a corporation but rented or leased to a private individual if the prior permission of the renter or lessee is obtained. For the purposes of this chapter, "agricultural land" means agricultural land as defined in section 9H.1.

~~5. This section shall not be construed to require the inclusion on published material of information which discloses the identity or address of any individual who is acting independently and using the individual's own modest resources to publish or distribute the material.~~

Sec. 3. Section 85.36, subsection 9, paragraph a, Code Supplement 1995, is amended to read as follows:

a. In computing the compensation to be allowed a volunteer fire fighter, emergency medical care provider, reserve peace officer, volunteer ambulance driver, volunteer emergency rescue technician as defined in section 147A.1, or emergency medical technician trainee, the earnings as a fire fighter, emergency medical care provider, reserve peace officer, volunteer ambulance driver, volunteer emergency rescue technician, or emergency medical technician trainee shall be disregarded and the volunteer fire fighter, emergency medical care provider, reserve peace officer, volunteer ambulance driver, volunteer emergency rescue technician, or emergency medical technician trainee shall be paid an amount equal to the compensation the volunteer fire fighter, emergency medical care provider, reserve peace officer, volunteer ambulance driver, volunteer emergency rescue technician, or emergency medical technician trainee would be paid if injured in the normal course of the volunteer fire fighter's, emergency medical care provider's, reserve peace officer's, volunteer ambulance driver's, volunteer emergency rescue technician's, or emergency medical technician trainee's regular employment or an amount equal to one hundred and forty percent of the statewide average weekly wage, whichever is greater.

Sec. 4. Section 85.61, subsection 2, Code Supplement 1995, is amended to read as follows:

2. "Employer" includes and applies to a person, firm, association, or corporation, state, county, municipal corporation, school corporation, area education agency, township as an employer of volunteer fire fighters, volunteer emergency rescue technicians, and emergency medical care providers only, benefited fire district, and the legal representatives of a deceased employer. "Employer" includes and applies to a rehabilitation facility approved for purchase-of-service contracts or for referrals by the department of human services or the department of education.

Sec. 5. Section 85.61, subsection 7, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

Personal injuries sustained by volunteer emergency rescue technicians or emergency medical care providers as defined in section 147A.1 arise in the course of employment if the injuries are sustained at any time from the time the volunteer emergency rescue technicians or emergency medical care providers are summoned to duty until the time those duties have been fully discharged.

Sec. 6. Section 85.61, subsection 11, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

"Worker" or "employee" includes an emergency medical care provider as defined in section 147A.1, a volunteer emergency rescue technician as defined in section 147A.1, a volunteer ambulance driver, or an emergency medical technician trainee, only if an agreement is reached between such worker or employee and the employer for whom the volunteer services are provided that workers' compensation coverage under chapters 85, 85A, and 85B is to be provided by the employer. An emergency medical care provider or volunteer emergency rescue technician who is a worker or employee under this paragraph is not a casual employee. "Volunteer ambulance driver" means a person performing services as a volunteer ambulance driver at the request of the person in charge of a fire department or ambulance service of a municipality. "Emergency medical technician trainee" means a person enrolled in and training for emergency medical technician certification.

Sec. 7. Section 147A.26, subsection 2, Code Supplement 1995, is amended to read as follows:

2. The data collected by and furnished to the department pursuant to this section ~~shall not be public records under chapter 22~~ are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, pursuant to section 22.7. The compilations prepared for release or dissemination from the data collected ~~shall be public records~~ are not confidential under ~~chapter 22, which are not subject to~~ section 22.7, subsection 2. However, ~~the confidentiality of~~ information which individually identifies patients ~~is to be protected~~ shall not be disclosed and ~~the laws of this~~ state and federal law regarding patient confidentiality shall apply ~~with regard to patient confidentiality~~.

Sec. 8. Section 164.4, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The department shall adopt rules that are no less restrictive than the uniform methods and rules for brucellosis eradication promulgated by the United States department of agriculture, APHIS 91-1, as effective ~~July 1, 1984~~ January 1, 1996, but may adopt rules that are more restrictive, subject to chapter 17A.

Sec. 9. Section 229.44, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

After an order is entered pursuant to section ~~229.34~~ 229.13 or 229.14, the court may transfer proceedings to the court of any county having venue at any further stage in the proceeding as follows:

Sec. 10. Section 322G.15, Code Supplement 1995, is amended to read as follows:

322G.15 APPLICABILITY.

1. This chapter takes effect July 1, 1991, and applies to motor vehicles originally purchased or leased ~~in this state~~ by consumers on or after ~~July 1, 1991~~ that date.

2. ~~Except~~ This chapter applies to motor vehicles originally purchased or leased in this state and, except for section 322G.3, subsections 1 and 2, and section 322G.6, subsection 1, ~~this chapter~~ applies to motor vehicles originally purchased or leased in other states, if the consumer is a resident of this state at the time the consumer's rights are asserted under this chapter. ~~Section 322G.14, which concerns rulemaking, shall take effect May 9, 1991.~~

Sec. 11. Section 421.17A, subsection 2, Code Supplement 1995, is amended to read as follows:

2. PURPOSE AND USE.

a. Notwithstanding other statutory provisions which provide for the execution, attachment, or levy against accounts, the facility may utilize the process established in this ~~chapter~~ section to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or being collected by the state provided that any exemptions or exceptions which specifically apply to enforcement of such obligations also apply to this section.

b. An obligor is subject to this section if the obligor's debt is being collected by the facility.

c. Any amount forwarded by a financial institution under this ~~chapter~~ section shall not exceed the delinquent or accrued amount of the obligor's debt being collected by the state.

Sec. 12. Section 444.26, Code Supplement 1995, is amended to read as follows:

444.26 PROPERTY TAX LEVY LIMITATIONS NOT AFFECTED.

Sections 444.25, ~~and~~ 444.25A, and 444.25B shall not be construed as removing or otherwise affecting the property tax limitations otherwise provided by law for any tax levy of the political subdivision, except that, upon an appeal from the political subdivision, the state appeal board may approve a tax levy consistent with the provisions of section 24.48 or 331.426.

Sec. 13. Section 455B.171, subsection 28, Code Supplement 1995, is amended to read as follows:

28. "Sewer system" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the federal Water Pollution Control Act, ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this ~~Act~~ part of this division.

Sec. 14. Section 455B.174, subsection 5, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Conduct random inspections of work done by city and county public works departments to ensure such public works departments are complying with this ~~Act~~ part of this division. If a city or county public works department is not complying with section 455B.183 in reviewing plans and specifications or in granting permits or both, the department shall perform these functions in that jurisdiction until the city or county public works department is able to perform them. Performance of these functions in a jurisdiction by a local public works department shall not be suspended or revoked until after notice and opportunity for hearing as provided in chapter 17A.

Sec. 15. Section 455B.177, subsection 1, Code 1995, is amended to read as follows:

1. The general assembly finds and declares that because the federal Water Pollution Control Act~~,~~ provides for a permit system to regulate the discharge of pollutants into the waters of the United States and provides that permits may be issued by states which are authorized to implement that Act, it is in the interest of the people of Iowa to enact this ~~Act~~ part of this division in order to authorize the state to implement the federal Water Pollution Control Act, and federal regulations and guidelines issued pursuant to that Act.

Sec. 16. Section 455B.179, Code 1995, is amended to read as follows:

455B.179 TRADE SECRETS PROTECTED.

Upon a satisfactory showing by any person to the director that public disclosure of any record, report, permit, permit application, or other document or information or part thereof would divulge methods or processes entitled to protection as a trade secret, any such record, report, permit, permit application, or other document or part thereof other than effluent data and analytical results of monitoring or public water supply systems, shall be accorded confidential treatment. Notwithstanding the provisions of chapter 22, a person in connection with duties or employment by the department shall not make public any information accorded confidential status~~;~~; however, any such record or other information accorded confidential status may be disclosed or transmitted to other officers, employees, or authorized representatives of this state or the United States concerned with carrying out this part of this division or when relevant in any proceeding under this ~~Act~~ part of this division.

Sec. 17. Section 610A.1, Code Supplement 1995, is amended to read as follows:

610A.1 ACTIONS OR APPEALS BROUGHT BY INMATES OR PRISONERS.

1. Notwithstanding section 610.1 or 822.5, if the person bringing a civil action or appeal is an inmate of an institution or facility under the control of the department of corrections or a prisoner of a county or municipal jail or detention facility, the inmate or prisoner shall pay in full all fees and costs associated with the action or appeal.

a. Upon filing of the action or appeal, the court shall order the inmate or prisoner to pay a minimum of twenty percent of the required filing fee before the court will take any further action on the inmate's or prisoner's action or appeal and shall also order the inmate or prisoner to make monthly payments of ten percent of all outstanding fees and costs associated with the inmate's or prisoner's action or appeal.

b. If the inmate has an inmate account under section 904.702, the department of corrections shall withdraw moneys maintained in the account for the payment of fees and costs associated with the inmate's action or appeal in accordance with the court's order until the required fees and costs are paid in full. The inmate shall file a certified copy of the inmate's account balance with the court at the time the action or appeal is filed.

c. An inmate may authorize the department of corrections to make or the inmate may make an initial or subsequent payment beyond that requirement by this section.

d. The court may dismiss any civil action or appeal in which the inmate or prisoner has previously failed to pay fees and costs in accordance with this section.

2. The court may make the authorization provided for in section 610.1 if it finds that the inmate does not have sufficient moneys in the inmate's account or sufficient moneys flowing into the account to make the payments required in this section or, in the case of a prisoner of a county or municipal jail or detention facility, that the prisoner otherwise meets the requirements of section 610.1.

Sec. 18. Section 610A.4, Code Supplement 1995, is amended to read as follows:

610A.4 COST SETOFF.

The state or a county or municipality shall have the right to set off the cost of incarceration of an inmate or prisoner at any time, following notice and hearing, against any claim made by or monetary obligation owed to an inmate or prisoner for whom the cost of incarceration can be calculated.

Sec. 19. Section 707A.1, subsection 1, as enacted by 1996 Iowa Acts, Senate File 2066,* section 1, is amended to read as follows:

1. "Licensed health care professional" means a physician and surgeon, ~~podiatrist~~ podiatric physician, osteopath, osteopathic physician and surgeon, physician assistant, nurse, dentist, or pharmacist required to be licensed under chapter 147.

Sec. 20. Section 805.8, subsection 5, paragraphs c and d, Code Supplement 1995, are amended to read as follows:

c. For violations of sections 481A.6, 481A.21, 481A.22, 481A.26, 481A.50, 481A.56, 481A.60 through 481A.62, ~~481A.82,~~ 481A.83, 481A.84, 481A.92, 481A.123, 481A.145, subsection 3, sections 482.7, 483A.7, 483A.8, 483A.23, and 483A.24, the scheduled fine is twenty-five dollars.

d. For violations of sections 481A.7, 481A.24, 481A.47, 481A.52, 481A.53, 481A.55, 481A.58, ~~481A.63,~~ 481A.76, ~~481A.81,~~ 481A.90, 481A.91, 481A.97, 481A.122, 481A.126, 481A.142, 481A.145, subsection 2, sections 482.8, and 483A.37, the scheduled fine is fifty dollars.

Sec. 21. Section 805.8, subsection 5, paragraph k, Code Supplement 1995, is amended to read as follows:

k. For violations of section ~~481A.80~~ 481A.144, subsection 4, or section 481A.145, subsections 4, 5, and 6, relating to minnows:

(1) For general minnow violations, the scheduled fine is twenty-five dollars.

*Chapter 1002 herein

(2) For commercial purposes, the scheduled fine is fifty dollars.

Sec. 22. 1995 Iowa Acts, chapter 186, section 9, is amended to read as follows:

SEC. 9. RETROACTIVE APPLICABILITY DATE. ~~This~~ Sections 4 and 7 of this Act ~~applies~~ apply retroactively to local option sales and services taxes approved on or after July 1, 1994. Statutory procedures required for local option sales and services tax elections held on or after July 1, 1994, and before the effective date of this Act shall be deemed to fulfill the notice, proceedings, and election requirements contained in section 7 of this Act.

Sec. 23. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. Section 22 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 22, 1995.

2. The sections of this Act which amend section 85.36, subsection 9, paragraph "a", and section 85.61, subsection 2, subsection 7, unnumbered paragraph 3, and subsection 11, unnumbered paragraph 3, being deemed of immediate importance, take effect upon enactment and apply retroactively to July 1, 1995.

Approved April 10, 1996

CHAPTER 1080

CITY HOSPITAL OR HEALTH CARE FACILITY TRUSTEES - TERMS

S.F. 2074

AN ACT relating to the dates on which city hospital or health care facility trustees take and depart from office.

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

Section 1. Section 392.6, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Cities maintaining an institution as provided for in this section which have a board of trustees consisting of three members may by ordinance increase the number of members to five and provide for the appointment of one of the additional members until the next succeeding general or city election, and for the appointment of the other additional member until the second succeeding general or city election. Thereafter, the terms of office of such additional members shall be four years. However, if a city has adopted an ordinance which increases the number of members of the board of trustees to five members and the terms of office of four of the five members end in the same year, the date of expiration of the term of one of the four members, to be determined by lot, shall be extended by an additional two years.

Sec. 2. Section 392.6, unnumbered paragraph 3, Code 1995, is amended to read as follows:

Terms of office of trustees elected pursuant to general or city elections shall begin at noon on the first day in January which is not a Sunday or legal holiday. Terms of office of trustees elected pursuant to special elections shall begin at noon on the tenth day after the special election which is not a Sunday or legal holiday. The trustees shall ~~within ten days after their election qualify~~ begin their terms of office by taking the oath of office, and organize as a board by the election of one of their number as chairperson and one as secretary, but no bond shall be required of them. Terms of office of trustees shall extend to

noon on the first day in January which is not a Sunday or legal holiday or until their successors are elected and qualified. Trustees who are elected at special elections shall serve the unexpired terms of office or until their successors are elected and qualified.

Approved April 10, 1996

CHAPTER 1081

ROOM AND BOARD REIMBURSEMENT BY COUNTY PRISONERS

S.F. 2352

AN ACT providing that the sheriff may charge for room and board provided to county prisoners and providing for the creation and filing of a room and board reimbursement lien.

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

Section 1. NEW SECTION. 356.7 CHARGE FOR ROOM AND BOARD – LIEN.

1. The county sheriff may charge a prisoner who is eighteen years of age or older for the room and board provided to the prisoner while in the custody of the county sheriff. Moneys collected by the sheriff under this section shall be credited to the county general fund. If a prisoner fails to pay for the room and board, the sheriff may file a room and board reimbursement lien as provided in subsection 2. The county attorney may file the room and board reimbursement lien on behalf of the sheriff and the county. This section does not apply to prisoners who are paying for their room and board by court order pursuant to sections 356.26 through 356.35.

2. The sheriff or the county attorney, on behalf of the sheriff, may file a room and board reimbursement lien with the clerk of the district court which shall include all of the following information, if known:

a. The name and date of birth of the person whose property or other interests are subject to the lien.

b. The present address of the residence and principal place of business of the person named in the lien.

c. The criminal proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number.

d. The name and address of the sheriff or the name and address of the county attorney who is filing the lien on behalf of the sheriff.

e. A statement that the notice is being filed pursuant to this section.

f. The amount of room and board reimbursement the person has been ordered to pay or is likely to be ordered to pay.

3. The filing of a room and board reimbursement lien in accordance with this section creates a lien in favor of the sheriff in any personal or real property identified in the lien to the extent of the interest held in that property by the person named in the lien.

4. This section does not limit the right of the sheriff to obtain any other remedy authorized by law.

Approved April 10, 1996

CHAPTER 1082

SEXUALLY PREDATORY OFFENSES - ENTICING AWAY A CHILD
H.F. 2316

† **AN ACT** relating to sex offenses, including enticing away a child and sentences for persons convicted of sexually predatory offenses.

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

Section 1. Section 692.15, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The fact that a person was convicted for a sexually predatory offense under chapter 901A shall be reported with other conviction data regarding that person.

Sec. 2. Section 710.10, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person's intent to commit an illegal act upon the child may be inferred when the individual is not known to the child and the individual does not have the permission of the child's parent, guardian, or custodian to contact the child.

Sec. 3. NEW SECTION. 901A.1 DEFINITIONS.

1. As used in this chapter, the term "sexually predatory offense" means any serious or aggravated misdemeanor or felony which constitutes:

a. A violation of any provision of chapter 709.

b. A violation of any of the following if the offense involves sexual abuse, attempted sexual abuse, or intent to commit sexual abuse:

(1) Murder as defined in section 707.1.

(2) Kidnapping as defined in section 710.1.

(3) Burglary as defined in section 713.1.

(4) Child endangerment under section 726.6, subsection 1, paragraph "e".

c. Sexual exploitation of a minor in violation of section 728.12, subsection 1.

d. Pandering involving a minor in violation of section 725.3, subsection 2.

e. Any offense involving an attempt to commit an offense contained in this section.

f. An offense under prior law of this state or an offense committed in another jurisdiction which would constitute an equivalent offense under paragraphs "a" through "e".

2. As used in this section,* the term "prior conviction" includes a plea of guilty, deferred judgment, deferred or suspended sentence, or adjudication of delinquency.

Sec. 4. NEW SECTION. 901A.2 ENHANCED SENTENCING.

1. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the maximum period of incarceration for the offense, notwithstanding any other provision of the Code to the contrary, prior to being eligible for parole or work release. However, a person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

2. A person convicted of a sexually predatory offense which is a serious or aggravated misdemeanor, who has two or more prior convictions for sexually predatory offenses, shall be sentenced to and shall serve a period of incarceration of ten years, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

3. A person convicted of a sexually predatory offense which is a felony, who has a prior conviction for a sexually predatory offense, shall be sentenced to and shall serve twice the

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

* The word "chapter" probably intended

maximum period of incarceration for the offense, or twenty-five years, whichever is greater, notwithstanding any other provision of the Code to the contrary. A person sentenced under this subsection shall not have the person's sentence reduced under chapter 903A or otherwise by more than fifteen percent.

4. A person convicted of a sexually predatory offense which is a felony who has previously been sentenced under subsection 3 shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. In order for a person to be sentenced under this subsection, the prosecuting attorney shall allege and prove that this section is applicable to the person.

5. A person sentenced under the provisions of this section shall not be eligible for deferred judgment, deferred sentence, or suspended sentence.

6. In addition to any other sentence imposed on a person convicted of a sexually predatory offense pursuant to subsection 1, 2, or 3, the person shall be sentenced to an additional term of parole or work release not to exceed two years. The board of parole shall determine whether the person should be released on parole or placed in a work release program. The sentence of parole supervision shall commence immediately upon the person's release by the board of parole and shall be under the terms and conditions as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapter 905 or 908 or rules adopted under those chapters. For purposes of disposition of a parole violator upon revocation of parole or work release, the sentence of an additional term of parole or work release shall be considered part of the original term of commitment to the department of corrections.

Sec. 5. NEW SECTION. 901A.3 TRIAL INFORMATION.

A prosecuting attorney charging a person with an offense which is believed to constitute a sexually predatory offense for the purpose of enhancement of sentence on subsequent offenses shall include a statement to that effect in the trial information. The court shall allow the indictment to be amended if it does not contain such information. This statement shall not be read to a jury.

Sec. 6. NEW SECTION. 901A.4 SEXUALLY PREDATORY OFFENSES - FINDING OF FACT - NOTICE.

1. Prior to pronouncing judgment and sentence, the finder of fact shall, if the offense is murder, kidnapping, burglary, or child endangerment in violation of section 726.6, subsection 1, paragraph "e", make a factual determination whether the offense constitutes a sexually predatory offense as defined in section 901A.1 for the purpose of enhancement of future offenses.

2. Upon conviction for a sexually predatory offense as defined in section 901A.1, the court shall provide written notice to the person that the conviction meets the definition of a sexually predatory offense for the purpose of enhancing future punishment for similar offenses.

Sec. 7. REPEAL. Sections 709C.1, 709C.2, 709C.3, 709C.4, and 709C.6 through 709C.10, Code 1995, are repealed.

Sec. 8. REPEAL. Sections 709C.2A, 709C.5, 709C.11, and 709C.12, Code Supplement 1995, are repealed.

Approved April 10, 1996

CHAPTER 1083

SOIL AND WATER CONSERVATION

S.F. 2260

AN ACT relating to soil and water conservation, by providing for the powers and duties of commissioners of soil and water conservation districts, and soil and water conservation practices.

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

Section 1. Section 161A.5, subsection 2, Code 1995, is amended to read as follows:

2. The governing body of each district shall consist of five commissioners elected on a nonpartisan basis for staggered ~~six-year~~ four-year terms commencing on the first day of January that is not a Sunday or holiday following their election. Any eligible elector residing in the district is eligible to the office of commissioner, except that no more than one commissioner shall at any one time be a resident of any one township. A vacancy is created in the office of any commissioner who changes residence into a township where another commissioner then resides. If a commissioner is absent for sixty or more percent of monthly meetings during any twelve-month period, the other commissioners by their unanimous vote may declare the member's office vacant. A vacancy in the office of commissioner shall be filled by appointment of the state soil conservation committee until the next succeeding general election, at which time the balance of the unexpired term shall be filled as provided by section 69.12.

Sec. 2. Section 161A.6, unnumbered paragraph 3, Code 1995, is amended to read as follows:

A commissioner shall not receive ~~no~~ compensation for the commissioner's services ~~but the commissioner may be paid expenses, including traveling expenses, necessarily incurred in the discharge of the commissioner's duties, if~~. However, to the extent funds are available, ~~for that purpose~~ a commissioner is entitled to receive actual expenses necessarily incurred in the discharge of the commissioner's duties, including reimbursement for mileage at the rate provided under section 70A.9 for state business use.

Sec. 3. Section 161A.48, subsection 1, Code 1995, is amended to read as follows:

1. An owner or occupant of agricultural land in this state is not required to establish any new permanent or temporary soil and water conservation practice unless cost-share or other public moneys have been specifically approved for that land and made available to the owner or occupant pursuant to section 161A.74.

Sec. 4. Section 161A.72, subsection 2, Code 1995, is amended to read as follows:

2. The commissioners of a district shall, to the extent funding is available, contract with ~~the~~ a person who is an owner or occupant of land within the district applying to establish soil and water conservation practices as provided in this chapter. Under the agreement, the ~~owner or occupant~~ person shall receive financial incentives to establish permanent soil and water conservation practices and management practices, in consideration for promising to maintain the practices according to rules adopted by the division. If the land subject to an agreement is converted to a nonagricultural use that does not require a permanent soil and water conservation practice which has been established with financial incentives, the permanent soil and water conservation practice shall not be removed, until the owner pays an amount to the district, which shall be deposited into a fund established by the district for use in providing financial incentives under this chapter. The amount shall be a prorated share of the amount paid in financial incentives to establish the practice, as provided in rules adopted by the division.

Sec. 5. Section 161A.73, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The allocation of cost-share moneys as financial incentives for the same purposes that are supported from the soil and water enhancement account of the resources enhancement and protection fund as provided in section 455A.19, or by the water protection practices account of the water protection fund established pursuant to section 161C.4. The financial incentives shall not exceed fifty percent of the estimated cost of establishing the practices, or fifty percent of the actual cost, whichever is less.

Sec. 6. APPLICABILITY. Notwithstanding section 1 of this Act, a person who has been elected or appointed to serve as a soil and water conservation district commissioner prior to the effective date of this Act shall continue to serve for the member's term as provided in section 161A.5, subsection 2, Code 1995.

Approved April 10, 1996

CHAPTER 1084

PROGRAMS FOR PERSONS WITH DISABILITIES

S.F. 2307

AN ACT relating to programs available to persons with disabilities which are administered by the department of human services.

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

Section 1. Section 225C.47, subsection 1, Code 1995, is amended by adding the following new paragraph before paragraph a and relettering the subsequent paragraphs:

NEW PARAGRAPH. a. "Family" means a group of interdependent persons living in the same household. A family consists of an individual with a disability and any of the following:

(1) The individual's parent.

(2) The individual's sibling.

(3) The individual's grandparent, aunt, or uncle.

(4) The individual's legal custodian.

(5) A person who is providing short-term foster care to the individual subject to a case permanency plan which provides for reunification between the individual and the individual's parent.

"Family" does not include a person who is employed to provide services to an individual with a disability in an out-of-home setting, including but not limited to a hospital, nursing facility, personal care home, board and care home, group foster care home, or other institutional setting.

Sec. 2. Section 225C.47, subsection 2, Code 1995, is amended to read as follows:

2. A comprehensive family support program is created in the department of human services to provide a statewide system of services and support to eligible families. The program shall be implemented in a manner which enables a family member of an individual with a disability to identify the services and support needed to enable the individual to reside with the individual's family, to function more independently, and to increase the individual's integration into the community.

Sec. 3. Section 225C.47, subsection 5, paragraphs a, b, and f, Code 1995, are amended to read as follows:

a. (1) An application process incorporating the eligibility determination processes of other disability services programs to the extent possible.

(2) Eligible families maintain control of decisions which affect the families' children who are individuals with a disability.

b. (1) Existing local agencies are utilized to provide facilities and a single entry point for comprehensive family support program applicants.

(2) Services and support are provided in a timely manner and emergency access to needed services and support is provided.

f. (1) Identification of the services and support and service provider components included in the comprehensive family support program.

(2) Upon request by a family member, provision of assistance in locating a service provider.

Sec. 4. Section 225C.47, subsection 5, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The utilization of a voucher system for payment provisions for the children-at-home component of the program under subsection 7.

Sec. 5. Section 225C.47, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The comprehensive family support program shall include a children-at-home component developed by the department in accordance with this subsection. A family eligible for the comprehensive family support program may choose the children-at-home component. Under the children-at-home component, a family member of an individual with a disability shall be assisted by department staff in identifying the services and support to be provided to the family under the program. The identification of services and support shall be based upon the specific needs of the individual and the individual's family which are not met by other service programs available to the individual and the individual's family. Based upon the services and support identified, the department shall develop a contract for direct payment of the services and support provided to the family.

Sec. 6. Section 225C.48, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The council shall perform the following duties in consultation with the department and any department staff with duties associated with the personal assistance services and comprehensive family support programs:

a. Oversee the operations of the programs.

b. Coordinate with the department of education and programs administered by the department of education to individuals with a disability, in providing information to individuals and families eligible for the programs under sections 225C.46 and 225C.47.

c. Work with the department and counties regarding managed care provisions utilized by the department and counties for services to individuals with a disability to advocate the inclusion of personal assistance services and the comprehensive family support program as approved service provisions under managed care.

d. Develop and oversee implementation of evaluation processes for the programs.

e. Oversee statewide training of department staff regarding the two programs.

f. Oversee efforts to promote public awareness of the programs.

Sec. 7. NEW SECTION. 225C.49 DEPARTMENTAL DUTIES CONCERNING SERVICES TO INDIVIDUALS WITH A DISABILITY.

1. The department shall provide coordination of the programs administered by the department which serve individuals with a disability and the individuals' families, including but not limited to the following juvenile justice and child welfare services: family-centered and intensive family preservation services described under section 232.102, decategorization of child welfare funding provided for under section 232.188, and foster care services paid under section 234.35, subsection 3. The department shall regularly review administrative rules associated with such programs and make recommendations to the

council on human services, governor, and general assembly for revisions to remove barriers to the programs for individuals with a disability and the individuals' families including the following:

a. Eligibility prerequisites which require declaring the individual at risk of abuse, neglect, or out-of-home placement.

b. Time limits on services which restrict addressing ongoing needs of individuals with a disability and their families.

2. The department shall coordinate the department's programs and funding utilized by individuals with a disability and their families with other state and local programs and funding directed to individuals with a disability and their families.

3. In implementing the provisions of this section, the department shall do all of the following:

a. Compile information concerning services and other support available to individuals with a disability and their families. Make the information available to individuals with a disability and their families and department staff.

b. Utilize internal training resources or contract for additional training of staff concerning the information under paragraph "a" and training of families and individuals as necessary to develop plans and contracts under sections 225C.46 and 225C.47.

4. The department shall designate one individual whose sole duties are to provide central coordination of the programs under sections 225C.46 and 225C.47 and to work with the personal assistance and family support services council to oversee development and implementation of the programs.

Approved April 10, 1996

CHAPTER 1085

DEPARTMENT OF GENERAL SERVICES - MISCELLANEOUS DUTIES

S.F. 2387

AN ACT relating to the department of general services, by providing for the sale or disposal of unwanted state personal property and by establishing a monument maintenance account.

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

Section 1. Section 18.8, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The director shall provide necessary voice or data communications, including telephone, and telegraph, lighting, fuel, and water services for the state buildings and grounds located at the seat of government, except the buildings and grounds referred to in section 216B.3, subsection 6.

Sec. 2. Section 18.12, subsection 3, Code Supplement 1995, is amended to read as follows:

3. Institute, in the name of the state, and with the advice and consent of the attorney general, civil and criminal proceedings against any person for injury or threatened injury to any public property, including but not limited to intangible and intellectual property, under the person's control.

Sec. 3. Section 18.12, subsection 8, Code Supplement 1995, is amended to read as follows:

8. Dispose of all personal property of the state under the director's control when it becomes unnecessary or unfit for further use by the state. ~~If the director concludes that the property has little value, the director may dispose of the personal property by means other than by sale.~~ If the director concludes that the personal property is contaminated, contains hazardous waste, or is hazardous waste, the director may charge the state agency responsible for the property for removal and disposal of the personal property.

The director may dispose of personal property by any of the following means:

a. The director may dispose of unfit or unnecessary personal property by sale. Proceeds from the sale of personal property shall be deposited in the ~~state~~ general fund of the state.

b. If the director concludes that the personal property has little or no value, the director may enter into an agreement with a not-for-profit organization or governmental agency to dispose of the personal property. The not-for-profit organization or governmental agency may charge the state agency in control of the property with the cost of removing and transporting the property. Title to the personal property shall transfer when the personal property is in the possession of the not-for-profit organization or governmental agency. If a governmental agency adds value to the property transferred to it and sells it, the proceeds from the sale shall be deposited with the governmental agency and not in the general fund of the state.

The director shall adopt rules establishing the procedures for inspecting, selecting, and removing personal property from state agencies or from state storage.

Sec. 4. Section 18.12, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 18A. Establish a monument maintenance account in the state treasury under the control of the department. Funds for the maintenance of a state monument, whether received by gift, devise, bequest, or otherwise, shall be deposited in the account. Funds in the account shall be deposited in an interest-bearing account. Notwithstanding section 12C.7, interest earned on the account shall be deposited in the account and shall be used to maintain the designated monument. Any maintenance funds for a state monument held by the state as of the date of the enactment of this provision shall immediately be transferred to the account and the funds and interest earned on the funds shall be used to maintain the designated monument. Notwithstanding section 8.33, unencumbered or unobligated receipts in the monument maintenance account at the end of a fiscal year shall not revert to the general fund of the state.

Sec. 5. Section 18.115, subsection 11, Code 1995, is amended to read as follows:

11. The state vehicle dispatcher is responsible for insuring motor vehicles owned by the state. Insurance coverage may be through a self-insurance program administered by the ~~division~~ department or purchased from an insurer. If the determination is made to utilize a self-insurance program the vehicle dispatcher shall maintain loss and exposure data for the vehicles under the dispatcher's jurisdiction. Each agency shall provide to the ~~division~~ department all requested motor vehicle loss and loss exposure information.

Approved April 10, 1996

CHAPTER 1086

SCHOOL IMPROVEMENT TECHNOLOGY PROGRAM

S.F. 2063

AN ACT establishing a school improvement technology program to fund instructional technology for school districts, the Iowa braille and sight saving school, the state school for the deaf, the Price laboratory school, the state hospital-schools, the state training school, and the Iowa juvenile home, providing for properly related matters, and making appropriations.

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

Section 1. NEW SECTION. 295.1 LEGISLATIVE FINDINGS AND INTENT.

The general assembly finds that it is in the public interest to develop and equitably fund instructional technology within the public schools of this state to ensure that school students, teachers, and administrators are equipped and prepared to excel in the twenty-first century. Toward that goal, it is the intent of this chapter to establish and fund a school improvement technology program.

Sec. 2. NEW SECTION. 295.2 SCHOOL IMPROVEMENT TECHNOLOGY APPROPRIATION.

1. a. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the sum of fifteen million dollars for the school improvement technology program.

b. There is appropriated from the rebuild Iowa infrastructure account of the state to the department of education for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the sum of fifteen million dollars for the school improvement technology program.

c. There is appropriated from the general fund of the state to the department of education for each fiscal year of the fiscal period beginning July 1, 1997, and ending June 30, 2001, the sum of thirty million dollars for the school improvement technology program.

2. From the moneys appropriated in subsection 1 other than the moneys allocated in subsection 3, for each fiscal year in which moneys are appropriated, the amount of moneys allocated to school districts shall be in the proportion that the basic enrollment of a district, bears to the sum of the basic enrollments of all school districts in the state for the budget year. However, a district shall not receive less than fifteen thousand dollars in a fiscal year. The Iowa braille and sight saving school, the state school for the deaf, and the Price laboratory school at the university of northern Iowa shall annually certify their basic enrollments to the department of education by October 1. The department of human services shall certify the average student yearly enrollments of the state training school, the Iowa juvenile home, Woodward state hospital-school, and Glenwood state hospital-school to the department of education by October 1.

3. From the moneys appropriated in subsection 1, for each fiscal year in which moneys are appropriated, the sum of four hundred fifty thousand dollars shall be divided among the area education agencies based upon each area education agency's percentage of the total full-time equivalent elementary and secondary teachers employed in the school districts in this state. An area education agency may contract with an appropriate accredited institution of higher education in Iowa to provide staff development and training in accordance with section 295.3.

4. For each year in which an appropriation is made to the school improvement technology program, the department of education shall notify the department of revenue and finance of the amount to be paid to each school district and area education agency based upon the distribution plan set forth for the appropriation made pursuant to this section. The allocation to each school district and area education agency under this section shall be made in one payment on or about October 15 of the fiscal year in which the appropriation is made, taking into consideration the relative budget and cash position of the state

resources. Prior to the receipt of funds, school districts shall provide to the department of education adequate assurance that they have developed or are developing a technology plan as required by section 295.3 and that funds received under this section will be used in accordance with the required technology plan.

5. Moneys received under this section shall not be commingled with state aid payments made under sections 257.16 and 257.35 to a school district or area education agency and shall be accounted for by the local school district or area education agency separately from state aid payments.

6. Payments made to school districts and area education agencies under this section are miscellaneous income for purposes of chapter 257 or are considered encumbered. Each local school district and area education agency shall maintain a separate listing within their budgets for payments received and expenditures made pursuant to this section.

7. Moneys received under this section shall not be used for payment of any collective bargaining agreement or arbitrator's decision negotiated or awarded under chapter 20.

8. For purposes of this section, "school district" means a school district, the Iowa braille and sight saving school, the state school for the deaf, the Price laboratory school at the university of northern Iowa, the state training school, the Iowa juvenile home, Woodward state hospital-school, and Glenwood state hospital-school.

Sec. 3. NEW SECTION. 295.3 SCHOOL IMPROVEMENT TECHNOLOGY PLANNING.

1. The board of directors of a school district shall adopt a technology plan that supports school improvement technology efforts and includes an evaluation component. The plan shall be developed by licensed professional staff of the district, including both teachers and administrators. The plan shall, at a minimum, focus on the attainment of student achievement goals under sections 280.12 and 280.18, shall consider the district's interconnectivity with the Iowa communications network, and shall demonstrate how, over a four-year period, the board will utilize technology to improve student achievement. Technology plans shall be kept on file in the district and a copy sent to the appropriate area education agency. Progress made under these plans shall be included as part of the annual report submitted to the department of education in compliance with sections 280.12 and 280.18.

2. Each area education agency shall develop a plan to assist school districts in the development of a technology planning process to meet the purposes of this chapter. The plan shall describe how the area education agency intends to support school districts with instructional technology staff development and training. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, prior to the receipt of funds, each area education agency shall provide the department of education adequate assurance that a technology plan as required under this section has been or is being developed. For the fiscal year beginning July 1, 1997, and for each succeeding fiscal year, each area education agency shall submit its plan to the department of education. The department shall approve each plan prior to the disbursement of funds.

3. The Iowa braille and sight saving school, the state school for the deaf, and the Price laboratory school at the university of northern Iowa shall develop a technology plan that supports and improves student achievement, demonstrates how technology will be utilized to improve student achievement, and includes an evaluation component. Plans and an annual progress report shall be submitted to the state board of regents and the department of education.

4. The state training school, the Iowa juvenile home, and the Glenwood and Woodward state hospital-schools shall each develop a technology plan that supports and improves student achievement, demonstrates the manner in which technology will be utilized to improve student achievement, and includes an evaluation component. Plans and an annual progress report shall be submitted to the departments of human services and education.

Sec. 4. NEW SECTION. 295.4 SCHOOL IMPROVEMENT AND TECHNOLOGY EXPENDITURES.

1. School districts, as defined in section 295.2, subsection 7,* shall expend funds received pursuant to section 295.2 for the acquisition, lease, lease-purchase, installation, and maintenance of instructional technology equipment, including hardware and software, materials and supplies related to instructional technology and staff development and training related to instructional technology, and shall establish priorities for the use of the funds. However, funds received by a school district pursuant to section 295.2 shall not be expended to add a full-time equivalent position or otherwise increase staffing.

2. Funds received by an area education agency pursuant to section 295.2 shall be expended for the costs related to supporting school districts within the area served with technology planning and equipment, including hardware and software, materials and supplies related to instructional technology and staff development and training related to instructional technology.

Sec. 5. NEW SECTION. 295.5 REPEAL.

This chapter is repealed effective July 1, 2001.

Approved April 10, 1996

CHAPTER 1087

EVALUATOR LICENSING OF EDUCATORS

S.F. 2159

AN ACT relating to evaluator licensing of educators.

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

Section 1. Section 272.33, Code 1995, is amended to read as follows:

272.33 EVALUATOR LICENSE.

~~Effective July 1, 1990, in~~ In addition to licenses required under rules adopted pursuant to this chapter, an individual employed as an administrator, supervisor, school service person, or teacher by a school district, area education agency, or community college, who conducts evaluations of the performance of individuals holding licenses under this chapter, shall possess an evaluator license or an evaluator endorsement appearing on a teaching or administrative license. Individuals employed in community colleges who do not directly supervise licensed teaching faculty are exempt from this section.

~~By July 1, 1990, the~~ The board of educational examiners shall adopt rules establishing requirements for an evaluator license or an evaluator endorsement including but not limited to renewal requirements, fees, and suspension and revocation of evaluator licenses or endorsements. An approved program shall include provisions for determining that an applicant for an evaluator license or endorsement has satisfactorily completed the program. The state board of education shall work with institutions of higher education under the state board of regents, private colleges and universities, community colleges, and area education agencies to ensure that the courses required under subsection 1 are offered throughout the state at convenient times and at reasonable cost. The requirements shall include completion of a program approved by the state board of education as follows:

1. For evaluation of teachers, the development of skills including but not limited to analysis of lesson plans, classroom observation, analysis of data, performance improvement strategies, and communication skills.

2. For evaluation of licensed employees other than teachers, the development of skills including but not limited to communication skills, analysis of employee performance,

*Subsection 8 probably intended

analysis of data, and performance improvement strategies.

~~A~~ An evaluator license is valid for a period of five years ~~from its issuance~~ and is renewable upon meeting renewal requirements established by the board of educational examiners. The holder of a license with an evaluator endorsement must complete evaluation coursework as part of license renewal requirements. The board of educational examiners shall develop renewal requirements for holders of evaluator endorsements. To be eligible for an evaluator license or evaluator endorsement, an individual must hold either a teacher's license or administrative license issued by the board of educational examiners. An individual possessing a permanent teaching license which remains in force shall be issued an evaluator license.

Approved April 15, 1996

CHAPTER 1088

SPECIAL REGISTRATION PLATES AND RELATED MATTERS

H.F. 514

AN ACT relating to Iowa motor vehicle registration plates, by providing for special United States armed forces retired plates, special Iowa heritage plates and an Iowa heritage fund, education plates and transfer and appropriation of revenue from the sale of the plates to the school budget review committee, and special silver and bronze star plates, providing for special registration plates with distinguishing processed emblems, providing for required plate specifications, making penalties applicable, and providing an effective date.

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

Section 1. Section 257.31, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 17. a. If a district's average transportation costs per pupil exceed the state average transportation costs per pupil determined under paragraph "c" by one hundred fifty percent, the committee may grant transportation assistance aid to the district. Such aid shall be miscellaneous income and shall not be included in district cost.

b. To be eligible for transportation assistance aid, a school district shall annually certify its actual cost for all children transported in all school buses not later than July 31 after each school year on forms prescribed by the committee.

c. A district's average transportation costs per pupil shall be determined by dividing the district's actual cost for all children transported in all school buses for a school year pursuant to section 285.1, subsection 12, less the amount received for transporting nonpublic school pupils under section 285.1, by the district's actual enrollment for the school year excluding the shared-time enrollment for the school year as defined in section 257.6. The state average transportation costs per pupil shall be determined by dividing the total actual costs for all children transported in all districts for a school year, by the total of all districts' actual enrollments for the school year.

d. Funds transferred to the committee in accordance with section 321.34, subsection 18, are appropriated to and may be expended for the purposes of the committee, as described in this section. However, highest priority shall be given to districts that meet the conditions described in this subsection. Notwithstanding any other provision of the Code, unencumbered or unobligated funds transferred to the committee pursuant to section 321.34, subsection 18, remaining on June 30 of the fiscal year for which the funds were transferred,

shall not revert but shall be available for expenditure for the purposes of this subsection in subsequent fiscal years.

Sec. 2. NEW SECTION. 303.9A IOWA HERITAGE FUND.

1. An Iowa heritage fund is created in the state treasury to be administered by the state historical society board of trustees. The fund shall consist of all moneys allocated to the fund by the treasurer of state.

2. Moneys in the fund shall be used in accordance with the following:

a. Sixty-five percent shall be retained by the state historical society and used to maintain and expand Iowa's history curriculum, to provide teacher training in Iowa history, and to support museum exhibits, historic sites, and adult education programs.

b. Five percent shall be retained by the state historical society to be used for start-up costs for the one hundred seventy-fifth and two hundredth anniversaries of Iowa statehood.

c. Five percent shall be retained by the state historical society to be used for the promotion of the sale of the Iowa heritage registration plate issued under section 321.34.

Sec. 3. Section 321.34, subsection 11, Code Supplement 1995, is amended to read as follows:

11. CONGRESSIONAL MEDAL OF HONOR PLATES. The owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck or pickup who has been awarded the congressional medal of honor may, upon written application to the department, order special registration plates which shall be red, white, and blue in color and shall bear an emblem of the congressional medal of honor and an identifying number. Each applicant applying for special registration plates under this subsection may purchase only one set of registration plates under this subsection. The application is subject to approval by the department and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The special plates are subject to an annual registration fee of fifteen dollars. The department shall validate the special plates in the same manner as regular registration plates are validated under this section. The department shall not issue special registration plates until service organizations in the state have furnished the department either the special dies or the cost of the special dies necessary for the manufacture of the special registration plate.

The surviving spouse of a person who was issued special plates under this subsection may continue to use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the fifteen dollar annual registration fee. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

Sec. 4. Section 321.34, Code Supplement 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 18. SPECIAL REGISTRATION PLATES - GENERAL PROVISIONS.

a. The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, or travel trailer may, upon written application to the department, order special registration plates with a distinguishing processed emblem as authorized by this section or as approved by the department. The fee for the issuance of special registration plates is twenty-five dollars for each vehicle, unless otherwise provided by this section, which fee is in addition to the regular annual registration fee. The county treasurer shall validate special registration plates with a distinguishing processed emblem in the same manner as regular registration plates, upon payment of five dollars in addition to the regular annual registration fee.

b. Upon receipt of a special registration plate with a distinguishing processed emblem as authorized by this section or as approved by the department, the applicant shall surrender the regular registration plates to the county treasurer. An applicant no longer eligible for a special registration plate shall surrender the special vehicle registration plates to the county treasurer for issuance of regular registration plates.

c. An applicant may, upon payment of the additional fee for a personalized plate as provided in subsection 5, obtain a personalized special registration plate with a processed emblem. Personalized plates authorized by this section with the processed emblem shall be limited to no more than five initials, letters, or combinations of numerals and letters.

NEW SUBSECTION. 19. NEW SPECIAL REGISTRATION PLATES - DEPARTMENT REVIEW.

a. Any person may submit a request to the department to recommend a new special registration plate with a processed emblem. The request shall provide a proposed design for the processed emblem, the purpose of the special registration plate with the processed emblem, any eligibility requirements for purchase or receipt of the special registration plate with the processed emblem, and evidence there is sufficient interest in the special registration plate with the processed emblem to pay implementation costs. The department shall consider the request and make a recommendation based upon criteria established by the department which shall include consideration of the information included in the request, the number of special registration plates with processed emblems currently authorized, and any other relevant factors.

b. If a request for a proposed special registration plate with a processed emblem meets the criteria established by the department, the department shall, in consultation with the persons seeking the special registration plate with the processed emblem, approve a recommended design for the processed emblem, and propose eligibility requirements for the special registration plate with the processed emblem.

c. If the department recommends approval of a proposed special registration plate, the department shall forward the recommendation to the committees on transportation of the general assembly by January 15 of each year. The proposed special registration plate shall not be issued unless the special registration plate is enacted into law.

NEW SUBSECTION. 20. HANDICAPPED SPECIAL PLATES. An owner referred to in subsection 18, 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 special registration plates with a handicapped processed emblem designed by the department bearing the international symbol of accessibility. The special registration plates with a handicapped processed emblem 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 special registration plates with a handicapped processed emblem shall be issued to the applicant. There shall be no fee in addition to the regular annual registration fee for the special registration plates with a handicapped processed emblem. The authorization for special registration plates with a handicapped processed emblem 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 registration plates with a handicapped processed emblem shall be surrendered in exchange for regular registration plates as provided in subsection 18 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.

NEW SUBSECTION. 21. EX-PRISONER OF WAR SPECIAL PLATES. An owner referred to in subsection 18, who was a prisoner of war during the second world war at any time between December 7, 1941, and December 31, 1946, the Korean conflict at any time between June 25, 1950, and January 31, 1955, or the Vietnam conflict at any time between August 5, 1964, and June 30, 1973, all dates inclusive, may upon written application to the department, order special registration plates with an ex-prisoner of war processed emblem with the emblem designed by the department in cooperation with the adjutant general which emblem signifies that the owner was a prisoner of war as described in this subsection. The application is subject to approval by the department, in consultation with the adjutant general.

The surviving spouse of a person who was issued special plates under this subsection may continue to use the special plates subject to registration of the special plates in the surviving spouse's name and upon payment of the annual registration fee. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

NEW SUBSECTION. 22. NATIONAL GUARD SPECIAL PLATES. An owner referred to in subsection 18, who is a member of the national guard, as defined in chapter 29A, may upon written application to the department, order special registration plates with a national guard processed emblem with the emblem designed by the department in cooperation with the adjutant general which emblem signifies that the applicant is a member of the national guard. The application shall be approved by the department in consultation with the adjutant general. Special registration plates with a national guard processed emblem shall be surrendered, as provided in subsection 18, in exchange for regular registration plates upon termination of the owner's membership in the active national guard.

NEW SUBSECTION. 23. PEARL HARBOR SPECIAL PLATES. An owner referred to in subsection 18, who was at Pearl Harbor, Hawaii, as a member of the armed services of the United States on December 7, 1941, may, upon written application to the department, order special registration plates with a Pearl Harbor processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department.

NEW SUBSECTION. 24. PURPLE HEART SPECIAL PLATES. An owner referred to in subsection 18, 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 with a purple heart processed emblem. The design of the emblem shall include a representation of a purple heart medal and ribbon. The application is subject to approval by the department in consultation with the adjutant general.

NEW SUBSECTION. 25. UNITED STATES ARMED FORCES RETIRED SPECIAL PLATES. An owner referred to in subsection 18, who is a retired member of the United States armed forces, may, upon written application to the department and upon presentation of satisfactory proof of membership, order special registration plates with a United States armed forces retired processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. For purposes of this subsection, a person is considered to be retired if the person served twenty years or longer in the United States armed forces.

NEW SUBSECTION. 26. SILVER OR BRONZE STAR PLATES. An owner referred to in subsection 18, who was awarded a silver or a bronze star by the United States government,

may upon written application to the department and presentation of satisfactory proof of the award of the silver or bronze star, order special registration plates with a silver or bronze star processed emblem. The emblem shall be designed by the department in consultation with the adjutant general.

NEW SUBSECTION. 27. IOWA HERITAGE SPECIAL PLATES.

a. An owner referred to in subsection 18, may upon written application to the department, order special registration plates with an Iowa heritage emblem. The emblem shall contain a picture of the American gothic house and the words "Iowa Heritage" and shall be designed by the department in consultation with the state historical society of Iowa.

b. The special Iowa heritage fee for letter number designated plates is thirty-five dollars. The special fee for personalized Iowa heritage plates is twenty-five dollars which shall be paid in addition to the special fee of thirty-five dollars. The special fee shall be in addition to the regular annual registration fee.

c. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "d", the treasurer of state shall credit monthly the amount of the special fees collected in the previous month for the Iowa heritage plates from those revenues in the following manner:

(1) Seventy-five percent shall be credited to the Iowa heritage fund, created under section 303.9A.

(2) Twenty-five percent shall be allocated to the department of education. The department shall use the moneys to support teacher training in Iowa history, to purchase Iowa history classroom materials, to support student participation in Iowa history and citizenship-building activities and to create a grant program for school districts to apply for funding to support field trips to museums, historic sites, and heritage attractions.

NEW SUBSECTION. 28. EDUCATION PLATES.

a. Upon application and payment of the proper fees, the director may issue education plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, or travel trailer.

b. Education plates shall be designed by the department in cooperation with the department of education.

c. The special school transportation fee for letter number designated education plates is thirty-five dollars. The fee for personalized education plates is twenty-five dollars, which shall be paid in addition to the special school transportation fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "d", the treasurer of state shall transfer monthly from those revenues to the school budget review committee in accordance with section 257.31, subsection 16, the amount of the special school transportation fees collected in the previous month for the education plates.

d. Upon receipt of the special registration plates, the applicant shall surrender the current registration receipt and plates to the county treasurer. The county treasurer shall validate the special registration plates in the same manner as regular registration plates are validated under this section. The annual special school transportation fee for letter number designated plates is ten dollars, which shall be paid in addition to the regular annual registration fee. The annual fee for personalized education plates is five dollars, which shall be paid in addition to the annual special school transportation fee and the regular annual registration fee. The annual special school transportation fee shall be credited as provided under paragraph "c".

Sec. 5. Section 321.166, subsection 2, Code 1995, is amended to read as follows:

2. Every registration plate or pair of plates shall display a registration plate number which shall consist of alphabetical or numerical characters or a combination thereof and the name of this state, which may be abbreviated. Every registration plate issued by the county treasurer shall display the name of the county ~~except plates issued for truck tractors, motorcycles, motorized bicycles, travel trailers, semitrailers and trailers. The year of expiration or the date of expiration shall be displayed on vehicle registration plates, except plates issued under section 321.19~~, including any plate issued pursuant to section 321.34, except Pearl Harbor and purple heart registration plates issued prior to January 1, 1997, and collegiate, fire fighter, and Congressional medal of honor registration plates. Special truck registration plates shall display the word "special".

Sec. 6. Section 321.166, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 9. Special registration plates issued pursuant to section 321.34 beginning January 1, 1997, other than Congressional medal of honor, collegiate, fire fighter, and natural resources registration plates, shall be consistent with the design and color of regular registration plates but shall provide a space on a portion of the plate for the purpose of allowing the placement of a distinguishing processed emblem. Special registration plates shall also comply with the requirements for regular registration plates as provided in this section to the extent the requirements are consistent with the section authorizing a particular special vehicle registration plate.

NEW SUBSECTION. 10. If the department reissues a new registration plate design for a special registration plate under section 321.34, all persons who have purchased or obtained the special registration plates shall not be required to pay the issuance fee.

Sec. 7. Section 321L.2, subsection 1, paragraph a, Code Supplement 1995, is amended to read as follows:

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.

Sec. 8. Section 321.34, subsections 7 through 9, 12, 13, and 14, Code Supplement 1995, are amended by striking the subsections effective January 1, 1997. However, all special plates issued pursuant to section 321.34, subsections 7 through 9, 12, 13, and 14, Code Supplement 1995, shall remain valid through the month of expiration in 1997.

Sec. 9. EFFECTIVE DATE. This Act takes effect January 1, 1997.

Approved April 15, 1996

CHAPTER 1089

MOTOR VEHICLE DIMENSIONAL AND WEIGHT REQUIREMENTS - COMMERCIAL VEHICLE CERTIFICATES OF TITLE

H.F. 2350

AN ACT relating to motor vehicle dimensional and weight requirements and certificates of title for commercial vehicles and providing an effective date.

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

Section 1. Section 321.20A, Code Supplement 1995, is amended to read as follows:

321.20A CERTIFICATE OF TITLE - COMMERCIAL ~~MOTOR~~ VEHICLES.

1. Notwithstanding other provisions of this chapter, the owner of a commercial ~~motor~~ vehicle ~~with a gross vehicle weight rating of twenty-six thousand one pounds or more,~~ subject to the proportional registration provisions of chapter 326, may make application to the department for a certificate of title. The application for certificate of title shall be made within fifteen days of purchase or transfer and accompanied by a ten dollar title fee and appropriate use tax.

2. A commercial ~~motor~~ vehicle issued a certificate of title under this section shall not be subject to registration fees until the commercial ~~motor~~ vehicle is driven or moved upon the highways. The registration fee due shall be prorated for the remaining unexpired months of the registration year. Ownership of a commercial ~~motor~~ vehicle issued a certificate of title under this section shall not be transferred until registration fees have been paid to the department.

3. The certificate of title provision for commercial ~~motor~~ vehicles with a gross vehicle weight rating of twenty-six thousand one pounds or more shall apply to owners with fleets of more than fifty commercial ~~motor~~ vehicles based in Iowa under the proportional registration provisions of chapter 326. The original certificate of title shall be delivered to the owner if no security interest or encumbrance appears on the certificate, otherwise the certificate of title shall be delivered by the department to the person holding the first security interest or encumbrance as shown on the certificate of title.

Sec. 2. Section 321.457, subsection 2, paragraph d, Code 1995, is amended by striking the paragraph.

Sec. 3. Section 321.457, subsection 2, paragraphs g, i, and j, Code 1995, are amended to read as follows:

g. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of fifty-three feet when operating in a truck tractor-semitrailer combination exclusive of retractable extensions used to support the load. However, when a trailer or semitrailer is used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, or boats, the load carried on the trailer or semitrailer may extend up to three feet beyond the front bumper and up to four feet beyond the rear bumper of the trailer or semitrailer.

i. Power units designed to carry cargo, when used in combination with a trailer or semitrailer shall not exceed sixty-five feet in overall length for the combination exclusive of retractable extensions used to support the load. However, if a combination of vehicles is used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, or boats, the load may extend up to three feet beyond the front bumper of the power unit and up to four feet beyond the rear bumper of the trailer or semitrailer.

j. A stinger-steered automobile transporter shall not have an overall length exceeding seventy-five feet, exclusive of retractable extensions used to support the load and all other devices or appurtenances related to the safe and efficient operation of the vehicle, except that the load may extend up to three feet beyond the front bumper and up to four feet beyond the rear bumper.

Sec. 4. Section 321.463, Code Supplement 1995, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 7:

NEW UNNUMBERED PARAGRAPH. A vehicle or combination of vehicles transporting materials to or from a construction project or commercial plant site shall comply with the formula under this section which is used for travel on highways that are part of the interstate system. This paragraph applies only to a vehicle or combination of vehicles operating along a route of travel approved by the department or appropriate local authority.

Sec. 5. Section 321E.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department and local authorities may in their discretion and upon application and with good cause being shown issue permits for the movement of construction machinery or asphalt repavers being temporarily moved on streets, roads or highways and for vehicles with indivisible loads which exceed the maximum dimensions and weights specified in sections 321.452 to 321.466, but not to exceed the limitations imposed in sections 321E.1 to 321E.15 except as provided in sections 321E.29 and 321E.30. Vehicles permitted to transport indivisible loads may exceed the width and length limitations specified in sections 321.454 and 321.457 for the purpose of picking up an indivisible load or returning from delivery of the indivisible load. Permits issued may be single-trip ~~permits~~, multi-trip, or annual permits. Permits shall be in writing and shall be carried in the cab of the vehicle for which the permit has been issued and shall be available for inspection at all times. The vehicle and load for which the permit has been issued shall be open to inspection by a peace officer or an authorized agent of a permit granting authority. When in the judgment of the issuing authority in cities and counties the movement of a vehicle with an indivisible load or construction machinery which exceeds the maximum dimensions and weights will be unduly hazardous to public safety or will cause undue damage to streets, avenues, boulevards, thoroughfares, highways, curbs, sidewalks, trees, or other public or private property, the permit shall be denied and the reasons for denial endorsed on the application. Permits shall designate the days when and routes upon which loads and construction machinery may be moved within a county on other than primary roads.

Sec. 6. Section 321E.2, Code 1995, is amended to read as follows:

321E.2 PERMIT-ISSUING AUTHORITIES.

Annual ~~permits~~, multi-trip, and single-trip permits shall be issued by the authority responsible for the maintenance of the system of highways or streets. However, the department may issue permits on primary road extensions in cities in conjunction with movements on the rural primary road system. The department may issue an all-system permit under section 321E.8 which is valid for movements on all highways or streets under the jurisdiction of either the state or those local authorities which have indicated in writing to the department those streets or highways for which an all-system permit is not valid.

At the request of a local authority, the department shall issue annual, multi-trip, and single-trip permits that are under the jurisdiction of the local authority.

Sec. 7. Section 321E.7, subsection 2, Code 1995, is amended to read as follows:

2. Special mobile equipment, as defined in section 321.1, subsection 75, is not subject to the requirements for distance in feet between the extremes of any group of axles or the extreme axles of the vehicle or combination of vehicles as required by this chapter when being moved upon the highways~~, except the interstate road system, as defined in section 306.3, subsection 4~~.

Sec. 8. Section 321E.7, subsection 3, Code 1995, is amended by striking the subsection.

Sec. 9. NEW SECTION. 321E.9A MULTI-TRIP PERMITS.

Subject to the discretion and judgment provided for in section 321E.1, a multi-trip permit shall be issued for operation of vehicles, in accordance with the following:

1. Vehicles with indivisible loads having an overall length not to exceed one hundred feet, an overall width not to exceed eleven feet, and an overall height not to exceed fourteen feet, four inches, may be moved, provided the gross weight on any one axle shall not exceed the maximum prescribed in section 321.463.

2. Vehicles or combinations of vehicles consisting of construction machinery not exceeding the height, length, and width limitations of this section being temporarily moved on highways with a maximum total gross weight limitation and a single axle weight limitation in accordance with section 321E.7, may be moved.

3. The department shall adopt rules pursuant to chapter 17A governing the issuance of permits under this section.

Sec. 10. Section 321E.14, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department or local authorities issuing ~~the~~ permits shall charge a fee of twenty-five dollars for an annual permit, one hundred dollars for a multi-trip permit, and a fee of ten dollars for a single-trip permit and shall determine charges for special permits issued pursuant to section 321E.29 by rules adopted pursuant to chapter 17A. Fees for the movement of buildings, parts of buildings, or unusual vehicles or loads may be increased to cover the costs of inspections by the issuing authority. A fee not to exceed two hundred fifty dollars per day or a prorated fraction of that fee per person and car for escort service may be charged when requested or when required under this chapter. Proration of escort fees between state and local authorities when more than one governmental authority provides or is required to provide escort for a movement during the period of a day shall be determined by rule under section 321E.15. The department and local authorities may charge a permit applicant for the cost of trimming trees and removal and replacement of natural obstructions or official signs and signals or other public or private property required to be removed during the movement of a vehicle and load. In addition to the fees provided in this section, the annual fee for a permit for special mobile equipment, as defined in section 321.1, subsection 75, operated pursuant to section 321E.7, subsection 2, with a combined gross weight up to and including eighty thousand pounds shall be twenty-five dollars and for a combined gross weight exceeding eighty thousand pounds, fifty dollars.

Sec. 11. Section 321E.28, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department and local authorities may, upon application and with good cause shown, issue single-trip, multi-trip, or annual permits for the movement of mobile homes or factory-built structures of widths including appurtenances exceeding twelve feet five inches subject to the following conditions:

Sec. 12. EFFECTIVE DATE. Section 4 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 15, 1996

CHAPTER 1090

MISCELLANEOUS TRANSPORTATION-RELATED SANCTIONS

S.F. 2186

AN ACT relating to transportation-related sanctions by increasing penalties for certain offenses, providing for the issuance of temporary restricted licenses for certain offenses, providing scheduled fines for various violations, and prohibiting certain activities of motor vehicle dealers.

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

Section 1. Section 123.48, subsection 1, Code 1995, is amended to read as follows:

1. If a liquor control licensee or wine or beer permittee or an employee of the licensee or permittee has a reasonable belief based on factual evidence that a motor vehicle license as defined in section 321.1, subsection 43, or nonoperator identification card issued pursuant to section 321.190 offered by a person who wishes to purchase an alcoholic beverage at the licensed premises is altered or falsified or belongs to another person, the licensee, permittee, or employee may retain the motor vehicle license or nonoperator identification card. Within twenty-four hours, the card shall be delivered to the appropriate city or county law enforcement agency of the jurisdiction in which the licensed premises is located. When the card is delivered to the appropriate law enforcement agency, the licensee shall file a written report of the circumstances under which the card was retained. The local law enforcement agency may investigate whether a violation of section ~~321.190,~~ 321.216, 321.216A, or 321.216B has occurred. If an investigation is not initiated or a probable cause is not established by the local law enforcement agency, the motor vehicle license or nonoperator identification card shall be delivered to the person to whom it was issued. The local law enforcement agency may forward the card with the report to the department of transportation for investigation, in which case, the department may investigate whether a violation of section ~~321.190,~~ 321.216, 321.216A, or 321.216B has occurred. The department of transportation shall return the card to the person to whom it was issued if an investigation is not initiated or a probable cause is not established.

Sec. 2. Section 321.190, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 3. Section 321.216, Code 1995, is amended to read as follows:

321.216 UNLAWFUL USE OF LICENSE AND NONOPERATOR'S IDENTIFICATION CARD – 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 a canceled, revoked, suspended, fictitious, or fraudulently altered motor vehicle license or nonoperator's identification card.

2. To lend that person's motor vehicle license or nonoperator's identification card to another person or knowingly permit the use of the license by another.

3. To display or represent as one's own a motor vehicle license or nonoperator's identification card not issued to that person.

4. To fail or refuse to surrender to the department upon its lawful demand a motor vehicle license or nonoperator's identification card which has been suspended, revoked, or canceled.

~~5. To use a false or fictitious name in an application for a motor vehicle license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in the application.~~

~~6.~~ 5. To permit an unlawful use of a motor vehicle license or nonoperator's identification card 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. 4. Section 321.216A, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

321.216A FALSIFYING MOTOR VEHICLE LICENSES AND NONOPERATOR'S IDENTIFICATION CARDS AND FORMS.

It is a serious misdemeanor for a person to do any of the following:

1. Make a motor vehicle license, a nonoperator's vehicle identification card, or a blank motor vehicle license form if the person has no authority or right to make the license, card, or form.

2. Obtain, possess, or have in the person's control or on the person's premises motor vehicle license or nonoperator's identification card forms.

3. Obtain, possess, or have in the person's control or on the person's premises, a motor vehicle license or a nonoperator's identification card, or blank motor vehicle license or nonoperator's identification card form which has been made by a person having no authority or right to make the license, card, or form.

4. Use a false or fictitious name in any application for a motor vehicle license or nonoperator's identification card or to knowingly make a false statement or knowingly conceal a material fact or otherwise commit fraud on an application.

Sec. 5. Section 321.216B, Code 1995, is amended to read as follows:

321.216B USE OF MOTOR VEHICLE LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

A person who is under the age of twenty-one, who alters or displays or has in the person's possession a fictitious or fraudulently altered motor vehicle license or nonoperator's identification card and who uses the license to violate or attempt to violate section 123.47 or 123.47A, commits a simple misdemeanor. The court shall forward a copy of the conviction or order of adjudication under section 232.47 to the department.

Sec. 6. Section 321.218, subsections 1, 4, and 5, Code Supplement 1995, are amended to read as follows:

1. A person whose motor vehicle license or operating privilege has been denied, canceled, suspended, or revoked as provided in this chapter or as provided in section 252J.8, and who operates a motor vehicle upon the highways of this state while the license or privilege is denied, canceled, suspended, or revoked, commits a serious misdemeanor.

4. The department, upon receiving the record of the conviction of a person under this section upon a charge of operating a motor vehicle while the license of the person is suspended or revoked, shall, except for licenses suspended under section 252J.8, 321.210, subsection 1, paragraph "c", 321.210A, 321.210B, 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.

If the department receives a record of a conviction of a person under this section but the person's driving record does not indicate what the original grounds of suspension were, the period of suspension under this subsection shall be for a period not to exceed six months.

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~~ serious misdemeanor if a commercial driver's license is required for the person to operate the commercial motor vehicle.

Sec. 7. Section 321.218, subsection 2, Code Supplement 1995, is amended by striking the subsection.

Sec. 8. Section 321E.16, Code 1995, is amended to read as follows:

321E.16 VIOLATIONS - PENALTIES.

~~Any~~ A person who ~~is convicted of a violation of any~~ violates a provision of a permit issued pursuant to this chapter or ~~of~~ rules adopted under section 321E.15, other than ~~length, height, width, or~~ a provision relating to weight ~~allowed by any permit issued under this chapter~~ shall be ~~punished by a~~ subject to a scheduled fine ~~of 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~~ under section 805.8, subsection 2. The fine for violation of the ~~length, height, width, and~~ weight allowed by a 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 an 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~~ section 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. 9. Section 321J.4, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

If a defendant is convicted of a violation of section 321J.2 and the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12 for the occurrence from which the arrest arose, the department shall revoke the defendant's motor vehicle license or nonresident operating privilege for one hundred eighty days if the defendant has had no previous conviction or revocation under this chapter within the previous six years and the defendant shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained, and for at least ninety days if a test was refused. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

Sec. 10. Section 321J.4, subsection 2, Code Supplement 1995, is amended to read as follows:

2. If the court defers judgment pursuant to section 907.3 for a violation of section 321J.2, and if the defendant's motor vehicle license or nonresident operating privilege has not been revoked under section 321J.9 or 321J.12, or has not otherwise been revoked for the occurrence from which the arrest arose, the department shall revoke the defendant's motor vehicle license or nonresident operating privilege for a period of not less than thirty days nor more than ninety days. The defendant shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation if a test was obtained and for at least ninety days if a test was refused. If the defendant is under the age of twenty-one, the defendant shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation.

Sec. 11. Section 321J.4, subsection 8, Code Supplement 1995, 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 upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under this section or section 321J.9, 321J.12, or 321J.20 for an order to the department to require the department to issue a temporary

restricted license to the person notwithstanding section 321.560. Upon the filing of a petition for a temporary restricted license under this section, the clerk of the district court in the county where the violation that resulted in the revocation occurred shall send notice of the petition to the department and the prosecuting attorney. The department and the prosecuting attorney shall each be given an opportunity to respond to and request a hearing on the petition. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. However, a temporary restricted license shall not be ordered or issued for ~~violations~~ a violation of section 321J.2A or to ~~persons~~ a person under the age of twenty-one ~~who commit violations under section 321J.2~~ whose license is revoked under section 321J.4, 321J.9, or 321J.12. If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, and that the minimum period of ineligibility for receipt of a temporary license has expired, 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. 12. Section 321J.12, subsection 2, Code Supplement 1995, is amended to read as follows:

2. A person whose motor vehicle license or nonresident operating privileges have been revoked under subsection 1, paragraph "a", shall not be eligible for any temporary restricted license for at least thirty days after the effective date of the revocation. If the person is under the age of twenty-one, the person shall not be eligible for a temporary restricted license for at least sixty days after the effective date of the revocation. A person whose license or privileges have been revoked under subsection 1, paragraph "b", for one year shall not be eligible for any temporary restricted license for one year after the effective date of the revocation.

Sec. 13. Section 322.3, Code 1995, is amended to read as follows:

322.3 PROHIBITED ACTS.

1. ~~No~~ A person shall not engage in this state in the business of selling at retail new motor vehicles of any make or represent or advertise that the person is engaged or intends to engage in such business in this state unless the person is authorized to do so by a contract in writing with the manufacturer or distributor of such make of new motor vehicles ~~to so dispose thereof in this state~~ and unless the department has licensed the person as a motor vehicle dealer in this state in motor vehicles of such make and has issued to the person a license in writing as provided in this chapter ~~provided~~.

2. ~~No~~ A person, other than a licensed dealer in new motor vehicles, shall not engage in this state in the business of selling at retail used motor vehicles or represent or advertise that the person is engaged or intends to engage in such business in this state unless and until the department has licensed ~~such~~ the person as a used motor vehicle dealer in the state and has issued to the person a license in writing as provided in this chapter ~~provided~~.

3. ~~Nothing contained in subsections~~ Subsections 1 and 2 ~~hereof~~ shall not be construed ~~as requiring~~ to require the separate licensing of persons employed as salespersons of motor vehicles by a retail motor vehicle dealer ~~hereunder, but~~. However, the department ~~is hereby authorized and empowered to make, publish, and~~ may promulgate ~~such~~ reasonable

rules ~~and regulations~~ as ~~it may deem~~ necessary for the proper identification of persons ~~so~~ employed as salespersons ~~by any such licensee~~.

4. ~~No~~ A person, who is engaged in the business of selling at retail motor vehicles, shall not enter into any contract, agreement, or understanding, express or implied, with any manufacturer or distributor of any such motor vehicles that the person will sell, assign, or transfer any retail installment contracts arising from the retail installment sale of such motor vehicles ~~or any one or more thereof~~ only to a designated person or class of persons. ~~Any such~~ A condition, agreement, or understanding between any manufacturer or distributor and a motor vehicle dealer in this state of this nature is hereby declared to be against the public policy of this state and to be unlawful and void.

5. ~~No~~ A manufacturer or distributor of motor vehicles or any agent or representative of ~~such~~ a manufacturer or distributor, shall not terminate or threaten to terminate, or fail to renew any contract, agreement, or understanding for the sale of new motor vehicles to any motor vehicle dealer in this state without just, reasonable and lawful cause ~~therefor~~ or because ~~such~~ the motor vehicle dealer failed to sell, assign, or transfer any retail installment contract arising from the retail sale of such motor vehicles or any one or more of them to a person or a class of persons designated by ~~such~~ the manufacturer or distributor. ~~Provided, however, that the provisions of this subsection relating to "failure to renew" shall not apply to any contract, agreement, or understanding, which is for a term of five or more years.~~

6. ~~No~~ A person, who is engaged in the business of selling at retail motor vehicles, shall not make and enter into a retail installment contract unless ~~such~~ the contract meets the following requirements:

a. Every retail installment contract shall be in writing, shall be signed by both the buyer and the seller and shall be completed as to all essential provisions prior to the signing of the contract by the buyer except that, if delivery of the motor vehicle is not made at the time of the execution of the contract, the identifying numbers or marks of the motor vehicle or similar information and the due date of the first installment may be inserted in the contract after its execution.

b. The contract shall comply with the Iowa consumer credit code, where applicable.

7. ~~Nothing contained herein~~ This section shall not be construed to require that a place of business as defined in this chapter shall be maintained by a person selling motor vehicles at retail solely for the purpose of disposing of motor vehicles acquired or repossessed by such person in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations.

8. ~~No~~ A manufacturer or distributor of motor vehicles or agent or representative of ~~such~~ a manufacturer or distributor shall not coerce or attempt to coerce any motor vehicle dealer to accept delivery of any motor vehicle or vehicles, parts, or accessories ~~thereof~~, or any other commodity or commodities which ~~shall not~~ have not been ordered by ~~such~~ the dealer.

9. ~~No~~ A person licensed under this chapter shall not, either directly or through an agent, salesperson or employee, engage in this state, or represent or advertise that the person is engaged or intends to engage in this state, in the business of buying or selling at retail new or used motor vehicles, other than mobile homes more than eight feet in width or more than thirty-two feet in length as defined in section 321.1, on the first day of the week, commonly known and designated as Sunday.

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.

11. A person who is engaged in the business of selling motor vehicles at retail shall not sell, offer for sale, represent, or advertise that the person intends to sell motor vehicles from a location other than the person's place of business, except as provided in section 322.5.

Sec. 14. Section 805.8, subsection 2, paragraph h, Code Supplement 1995, is amended to read as follows:

h. For operating, passing, turning and standing violations under sections 321.236, subsections 3, 4, 9 and 12, 321.275, subsections 1 through 8, 321.295, 321.297, 321.299, 321.303, 321.304, subsections 1 and 2, 321.305, 321.306, 321.311, 321.312, 321.314, 321.315, 321.316, 321.318, 321.323, 321.340, ~~321.344,~~ 321.353, 321.354, 321.363, 321.365, 321.366, 321.368, 321.382, and 321.395, the scheduled fine is fifteen dollars.

Sec. 15. Section 805.8, subsection 2, paragraph l, Code Supplement 1995, is amended to read as follows:

l. For violations of traffic signs and signals, and for failure to obey an officer under sections 321.229, 321.236, subsections 2 and 6, 321.256, 321.257, subsection 2, 321.294, 321.304, subsection 3, 321.322, ~~321.341, 321.342, 321.343~~ and 321.415, the scheduled fine is twenty dollars.

Sec. 16. Section 805.8, subsection 2, Code Supplement 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. z. For violations of section 321.460 prohibiting spilling loads on the highway, the scheduled fine is one hundred dollars.

NEW PARAGRAPH. aa. For violations of length, height, width, and other provisions of a permit, except weight provisions, under section 321E.16, the scheduled fine is one hundred dollars.

NEW PARAGRAPH. bb. For violations of importing fuel in the supply tank of a motor vehicle under section 452A.52, the scheduled fine is one hundred dollars.

NEW PARAGRAPH. cc. For violations of sections 321.341, 321.342, 321.343, and 321.344, the scheduled fine is fifty dollars.

Sec. 17. Section 805.8, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. VIOLATIONS OF TITLE LAWS. For violations under sections 321.25, 321.45, 321.46, 321.48, 321.52, 321.67, and 321.104, the scheduled fine is fifty dollars.

Sec. 18. Section 805.8, subsection 2, paragraph u, Code Supplement 1995, is amended to read as follows:

u. For ~~obtaining, possessing, or having in one's control or one's premises~~ unlawful use of a motor vehicle license~~,~~ or a nonoperator's identification card~~, or a blank motor vehicle license form~~ in violation of section 321.216, ~~subsection 7 or 8,~~ the scheduled fine is ~~fifty~~ seventy-five dollars.

Approved April 15, 1996

CHAPTER 1091

RESTITUTION - CONTRIBUTIONS TO LOCAL ANTICRIME ORGANIZATIONS
H.F. 210

AN ACT authorizing a court to require a criminal offender as part of a restitution order to make financial contributions to a local anticrime organization.

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

Section 1. Section 910.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Local anticrime organization" means an entity organized for the primary purpose of crime prevention which has been officially recognized by the chief of police of the city in which the organization is located or the sheriff of the county in which the organization is located.

Sec. 2. Section 910.1, subsection 3, Code 1995, is amended to read as follows:

3. "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 also includes fines, penalties, and surcharges, the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender's case, the payment of crime victim compensation program 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. 3. Section 910.2, Code Supplement 1995, 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, to the clerk of court for fines, penalties, surcharges, and, to the extent that the offender is reasonably able to pay, for crime victim assistance reimbursement, court costs, court-appointed attorney's fees, or the expense of a public defender when applicable, or contribution to a local anticrime organization. However, victims shall be paid in full before fines, penalties, and surcharges, crime victim compensation program reimbursement, court costs, court-appointed attorney's fees, ~~or~~ the expenses of a public defender, or contribution to a local anticrime organization are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim compensation program reimbursement, court costs, ~~and~~ court-appointed attorney's fees, or the expense of a public defender, and contribution to a local anticrime organization.

PARAGRAPH DIVIDED. When the offender is not reasonably able to pay all or a part of the crime victim compensation program reimbursement, court costs, court-appointed attorney's fees, ~~or~~ the expense of a public defender, or contribution to a local anticrime organization, the court may require the offender in lieu of that portion of the crime victim compensation program reimbursement, court costs, court-appointed attorney's fees, ~~or~~ expense of a public defender, or contribution to a local anticrime organization 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.

Approved April 15, 1996

CHAPTER 1092

ILLEGAL DRUGS IN PARENTS AND CHILDREN

S.F. 2410

AN ACT relating to juvenile justice chapter provisions involving medically relevant tests for the presence of illegal drugs in a child or parent, parent visitations with a child who has been removed from the child's home, voiding related administrative rules, and providing an effective date.

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

Section 1. Section 232.2, subsection 6, paragraph o, Code Supplement 1995, is amended to read as follows:

o. ~~Who is described by any other paragraph of this subsection and in~~ In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian ~~which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body~~. The presence of the drug shall be determined in accordance with a medically relevant test as defined in section 232.73.

Sec. 2. Section 232.68, subsection 2, paragraph f, Code Supplement 1995, is amended to read as follows:

f. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the person responsible for the care of the child ~~which a reasonable and prudent person knew or should have known is likely to lead to the drug's presence in the child's body~~.

Sec. 3. Section 232.73, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

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. ~~The Iowa department of public health, in consultation with the department of human services and the council on chemically exposed infants and children created in chapter 235C, shall adopt rules specifying minimum standards for reliable results of medically relevant tests. The rules shall include but are not limited to standards which minimize the incidence of false positive test results. The Iowa department of public health shall maintain a list of laboratories which are approved to perform medically relevant tests in accordance with the standards adopted in administrative rules.~~

Sec. 4. Section 232.77, subsection 2, Code 1995, is amended to read as follows:

2. If a health practitioner discovers in a child 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. The department shall begin an investigation pursuant to section 232.71 upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

Sec. 5. Section 232.106, subsection 2, Code Supplement 1995, is amended to read as follows:

2. If a parent, guardian, or custodian is required to have a chemical test of blood or urine for the purpose of determining the presence of an illegal drug, the test shall be a

medically relevant test as defined in section 232.73. ~~The parent, guardian, or custodian may select the laboratory which processes the test from among the laboratories approved pursuant to section 232.73. A positive test result shall not be used for the criminal prosecution of a parent, guardian, or custodian for the presence of an illegal drug.~~

Sec. 6. NEW SECTION. 232.107 PARENT VISITATION.

If a child is removed from the child's home in accordance with an order entered under this division based upon evidence indicating the presence of an illegal drug in the child's body, unless the court finds that substantial evidence exists to believe that reasonable visitation or supervised visitation would cause an imminent risk to the child's life or health, the order shall allow the child's parent reasonable visitation or supervised visitation with the child.

Sec. 7. ADMINISTRATIVE RULES VOID. Administrative rules adopted by the Iowa department of public health pursuant to section 232.73, unnumbered paragraph 2, Code Supplement 1995, are void on the effective date of this Act.

Sec. 8. PARENTAL SUBSTANCE ABUSE STUDY. The director of public health shall utilize the commission on substance abuse to study the effects of fetal alcohol syndrome on children and the issues associated with removal of a child from the child's home based upon substance abuse by the child's parent. The process used to perform the study shall include statewide hearings and consultation with the maternal and child health division of the Iowa department of public health, the council on chemically exposed infants and children, the departments of human services and education, and juvenile court judges and other juvenile court officials. The director shall present the findings of the study to the legislative council and to any legislative interim committee which reviews substance abuse issues and shall submit a written report to the general assembly on or before January 2, 1997.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 15, 1996

CHAPTER 1093

BURIAL TRUST FUNDS

S.F. 2101

AN ACT relating to the disbursement of the remaining funds in a nonguaranteed irrevocable burial trust fund following satisfaction of payment in accordance with an agreement for funeral merchandise and funeral services.

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

Section 1. Section 523A.8, subsection 1, paragraph k, Code Supplement 1995, is amended to read as follows:

k. State that if, after all payments are made in accordance with the conditions and terms of the agreement for funeral merchandise or funeral services, any funds ~~remaining~~ remain in ~~an~~ the nonguaranteed irrevocable burial trust fund ~~from which the costs of funeral merchandise and funeral services are paid shall be returned to the estate of the deceased individual for purposes of probate pursuant to chapter 633 or if the estate is not~~

~~subject to probate and if the deceased was a recipient of medical assistance and a debt is due the department of human services pursuant to section 249A.5, the remaining funds shall be available for payment of the debt~~, the seller shall disburse the remaining funds to a personal representative of the deceased as defined in section 633.3, or to the deceased's surviving next-of-kin, or to the director of human services, in accordance with section 523A.8A.

Sec. 2. NEW SECTION. 523A.8A DISBURSEMENT OF REMAINING FUNDS IN NONGUARANTEED IRREVOCABLE BURIAL TRUST FUND.

1. As used in this section:

a. "Burial trust fund" means a nonguaranteed irrevocable burial trust fund.

b. "Director" means the director of human services.

c. "Next-of-kin" means the surviving spouse and heirs at law of the deceased.

d. "Personal representative" means personal representative as defined in section 633.3.

2. If funds remain in a nonguaranteed irrevocable burial trust fund after all payments are made in accordance with the conditions and terms of the agreement for funeral merchandise or funeral services, the seller shall comply with all of the following:

a. The seller shall provide written notice by mail to the director in accordance with subsection 3.

b. Following a period of at least sixty days after the mailing of the notice to the director, the seller shall disburse any remaining funds from the burial trust fund as follows:

(1) If within the sixty-day period the seller receives a claim from the personal representative of the deceased, any remaining funds shall be disbursed to the personal representative, notwithstanding any claim by the director.

(2) If within the sixty-day period the seller has not received a claim from the personal representative of the deceased but receives a claim from the director, the seller shall disburse the remaining funds up to the amount of the claim to the director.

(3) Any remaining funds not disposed of pursuant to subparagraphs (1) and (2) shall be disbursed to any person who is identified as the next-of-kin of the deceased in an affidavit submitted in accordance with subsection 6.

3. The notice mailed to the director shall meet all of the following requirements and is subject to all of the following conditions:

a. The notice shall be mailed with postage prepaid.

b. If the notice is sent by regular mail, the sixty-day period for receipt of a response is deemed to commence three days following the date of mailing.

c. If the notice is sent by certified mail, the sixty-day period for receipt of a response is deemed to commence on the date of mailing.

d. The notice shall provide all of the following information:

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

(2) The full name of the deceased.

(3) The date of the deceased's death.

(4) The amount of the funds remaining in the burial trust fund.

(5) A statement that any claim by the director shall be received by the seller within sixty days of the date of mailing of the notice.

e. A notice in substantially the following form complies with this subsection:

"To: The Director of Human Services

From: (Seller's Name, Current Address, and Telephone Number)

You are hereby notified that (name of deceased), who had an irrevocable burial trust fund, has died, that final payment for funeral merchandise and funeral services has been made, and that (remaining amount) remains in the irrevocable burial trust fund.

The above-named seller must receive a written response regarding any claim by the director within sixty days of the mailing of this notice to the director.

If the above-named seller does not receive a written response regarding a claim by the director within sixty days of the mailing of this notice, the seller may dispose of the remaining funds in accordance with section 523A.8A, Code of Iowa."

4. Upon receipt of the seller's written notice, the director shall determine if a debt is due the department of human services pursuant to section 249A.5. If the director determines that a debt is owing, the director shall provide a written response to the seller within sixty days of the mailing of the seller's notice. If the director does not respond with a claim within the sixty-day period, any claim made by the director shall not be enforceable against the seller, the trust, or a trustee.

5. A personal representative who wishes to make a claim shall send written notice of the claim to the seller. If the seller does not receive any claim from a personal representative within the sixty-day period provided for response by the director regarding a claim, the claim of the personal representative shall not be enforceable against the seller, the trust, or a trustee.

6. Any person other than a personal representative or the director claiming an interest in the remaining funds shall submit all of the following in an affidavit claiming an interest:

a. The full name, current address, and telephone number of the claimant.

b. The claimant's relationship to the deceased.

c. The name of any surviving next-of-kin of the deceased, and the relationship of any named surviving next-of-kin.

d. That the claimant has no knowledge of the existence of a personal representative for the deceased's estate.

7. The seller may retain not more than fifty dollars of the remaining funds in the burial trust fund for the administrative expenses associated with the requirements of this section.

8. If the funds remaining in a burial trust fund are disbursed in accordance with the requirements of this section, the seller, the burial trust fund, and any trustee shall not be liable to the director, the estate of the deceased, any personal representative, or any other interested person for the remaining funds and any lien imposed by the director shall be unenforceable against the seller, the burial trust fund, or any trustee.

Sec. 3. Section 523E.8, subsection 1, paragraph k, Code Supplement 1995, is amended to read as follows:

k. State that if, after all payments are made in accordance with the conditions and terms of the agreement for cemetery merchandise, any funds ~~remaining~~ remain in ~~an~~ the nonguaranteed irrevocable burial trust fund ~~from which cemetery merchandise costs are paid shall be returned to the estate of the deceased individual for purposes of probate pursuant to chapter 633 or if the estate is not subject to probate and if the deceased was a recipient of medical assistance and a debt is due the department of human services pursuant to section 249A.5, the remaining funds shall be available for payment of the debt~~, the seller shall disburse the remaining funds to a personal representative of the deceased as defined in section 633.3, or to the deceased's surviving next-of-kin, or to the director of human services, in accordance with section 523A.8A.

Approved April 15, 1996

CHAPTER 1094

SATELLITE TERMINALS

S.F. 2353

AN ACT relating to satellite terminals and establishing certain requirements for such terminals of a financial institution with a principal place of business in another state.

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

Section 1. Section 527.5, subsection 2, paragraph d, Code Supplement 1995, is amended to read as follows:

d. Paragraph "a" applies to a financial institution whose licensed or principal place of business is located in a state other than Iowa, whether or not the financial institution has a business location in this state, if all satellite terminals or other similar type terminals owned, controlled, operated, or maintained by the financial institution, wherever located, are available on a reciprocal basis to ~~any~~ each financial institution ~~whose licensed or~~ with a principal place of business ~~is located~~ in this state and to each financial institution with a business location in this state which complies with this paragraph, and to all customers who have been designated by ~~a~~ any such financial institution using the satellite terminal and who have been provided with an access device.

Sec. 2. Section 527.5, subsection 8, Code Supplement 1995, is amended by striking the subsection.

Approved April 15, 1996

CHAPTER 1095

REGULATION OF TOXICS IN PACKAGING

S.F. 2287

AN ACT relating to the limitations on the use of toxic materials in packaging and providing additional exemptions.

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

Section 1. Section 455D.19, Code 1995, is amended to read as follows:

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~~ one or more packages or packaging components purchased for promotional purposes or resale. A person involved solely in delivering packages or packaging components on behalf of third parties is not a distributor.

b. "Incidental presence" means the presence of a regulated metal as an unintended or undesired ingredient of a package or packaging component.

c. "Intentional introduction" means an act of deliberately utilizing a regulated metal in the formulation of a package or packaging component where its ~~combined~~ continued presence is desired in the final package or packaging component to provide a specific characteristic, appearance, or quality. Intentional introduction does not include the use of a regulated metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, if the incidental presence of a residue of the metal in the final package or packaging component is neither desired nor deliberate, and if the final package or packaging component is in compliance with subsection ~~5~~ 4, paragraph "c". Intentional introduction also does not include the use of ~~posteonsumer~~ recycled materials as feedstock for the manufacture of new packaging materials, if the recycled materials contain amounts of a regulated metal and if the new package or packaging component is in compliance with subsection ~~5~~ 4, paragraph "c".

"Regulated metal" means any metal regulated under this section.

d. "Manufacturer" means a person who ~~offers for sale or sells products or packaging to a distributor~~ produces one or more packages or packing components.

e. "Manufacturing" means physical or chemical modification of one or more materials to produce packaging or packaging components.

~~e.~~ f. "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.

~~f.~~ g. "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, tin-plated steel that meets the American society for testing and materials specification A-623, electro-galvanized coated steel, or hot-dipped-coated galvanized steel that meets the American society for testing and materials specifications A-525 or A-879.

h. "Reusable entities" means packaging or packaging components having a controlled distribution and reuse subject to the exemption provided in subsection 5, paragraph "e".

3. ~~No later than July 1, 1992, a~~ 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.

~~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.~~ 4. 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.~~ 5. 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, and packaging or packaging components used by the alcoholic beverage industry or the wine industry prior to July 1, 1992.

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.

c. Packages and packaging components that would not exceed the maximum contaminant levels established but for the addition of ~~posteonsumer~~ recycled materials.

d. Packages or packaging components that are reused, but exceed contaminant levels set forth in subsection 4, paragraph "c", if all of the following criteria are met:

(1) The product being conveyed by the package, including any packaging component, is regulated under federal or state health or safety requirements.

(2) Transportation of the packaged product is regulated under federal or state transportation requirements.

(3) The disposal of the packages or packaging components is performed according to federal or state radioactive or hazardous waste disposal requirements.

The department may grant a two-year exemption if warranted by the circumstances and an exemption may, upon meeting the criteria of this paragraph, be renewed for additional two-year periods.

e. Packages or packaging components which qualify as reusable entities that exceed the contaminant levels set forth in subsection 4, paragraph "c", if the manufacturers or distributors of such packages or packaging components petition the department for an exemption and receive approval from the department according to the following standards based upon a satisfactory demonstration that the environmental benefit of the controlled distribution and reuse is significantly greater than if the same package is manufactured in compliance with the contaminant levels set forth in subsection 4, paragraph "c". The department may grant a two-year exemption, if warranted by the circumstances, and an exemption may, upon meeting the four criteria listed in subparagraphs (1) through (4), be renewed for additional two-year periods.

In order to receive an exemption, the application must ensure that reusable entities are used, transported, and disposed of in a manner consistent with the following criteria:

(1) A means of identifying in a permanent and visible manner those reusable entities containing regulated metals for which an exemption is sought.

(2) A method of regulatory and financial accountability so that a specified percentage of the reusable entities manufactured and distributed to another person are not discarded by that person after use, but are returned to the manufacturer or the manufacturer's designee.

(3) A system of inventory and record maintenance to account for the reusable entities placed in, and removed from, service.

(4) A means of transforming returned entities, that are no longer reusable, into recycled materials for manufacturing or into manufacturing wastes which are subject to existing federal or state laws or regulations governing manufacturing wastes to ensure that these wastes do not enter the commercial or municipal waste stream.

The application for an exemption must document the measures to be taken by the applicant as set out in subparagraphs (1) through (4).

~~7.~~ 6. 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.~~ 7. The commission shall adopt rules to ~~implement~~ administer this section ~~and report to the general assembly on the effectiveness of this section no later than forty-two months following July 1, 1990,~~ 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.~~ 8. A manufacturer or distributor who does not comply with the requirements of this section is guilty of a simple misdemeanor.

Approved April 15, 1996

CHAPTER 1096

AGRICULTURAL LIMING MATERIAL

S.F. 2348

AN ACT relating to agricultural limestone, and providing penalties, fees, and an effective date.

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

Section 1. Section 8.60, subsection 6, Code 1995, is amended to read as follows:

6. Fertilizer fund created in section 200.9, Code Supplement 1993, and moneys collected for the administration of chapter 201A relating to the regulation of limestone products which were deposited in the fertilizer fund pursuant to section 201.13, Code 1993 and Code 1995.

Sec. 2. Section 200.8, subsection 3, Code 1995, is amended to read as follows:

3. If there is an unencumbered balance of funds from the amount of the fees deposited in the general fund pursuant to sections 200.9 and ~~201.13~~ 201A.11 on June 30 of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 and the annual license fee established pursuant to section ~~201.3~~ 201A.11* for the next fiscal year in such amount as will result in an ending estimated balance of such funds for June 30 of the next fiscal year of three hundred fifty thousand dollars.

* Section 201A.3 probably intended

Sec. 3. NEW SECTION. 201A.1 TITLE.

This chapter shall be known and may be cited as the "Iowa Agricultural Liming Material Act".

Sec. 4. NEW SECTION. 201A.2 DEFINITIONS.

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

1. "Agricultural liming material" means a product having calcium and magnesium compounds capable of neutralizing soil acidity.

2. "Brand" means the term, designation, trade name, product name, or other specific designation under which individual agricultural liming material is offered for sale.

3. "Bulk" means material which is in a nonpackaged form.

4. "Effective calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material.

Sec. 5. NEW SECTION. 201A.3 LICENSE REQUIRED.

Agricultural liming material shall not be distributed in this state unless the manufacturer of the agricultural liming material obtains a license for each facility owned by the manufacturer for distribution in this state. The manufacturer shall obtain the license prior to the facility's manufacture of the agricultural liming material. The license shall expire on January 1 of each year, and may be renewed for a period expiring on January 1 of the following year. The manufacturer shall apply for the license on forms prescribed and according to procedures required by the department. An application for a license, including a license renewal, must be accompanied by a license fee established by the department, which shall not exceed forty dollars.

Sec. 6. NEW SECTION. 201A.4 LABELING AND ADVERTISING.

1. Agricultural liming material shall not be sold, offered for sale, or exposed for sale in this state unless a label accompanies the agricultural liming material which provides the following information:

a. The name and address of the principal office of the manufacturer or distributor.

b. The brand or trade name of the agricultural liming material.

c. The identification of the type of the agricultural liming material.

d. The undried net weight of the agricultural liming material.

e. The effective calcium carbonate equivalent of the agricultural liming material as determined according to rules adopted by the department.

2. The label must be plainly readable. If the agricultural liming material is in packaged form, the label must be affixed to the outside of the package in a conspicuous manner. The label shall be printed, stamped, or otherwise marked in a manner required by the department. If the agricultural liming material is in bulk form, the label may be contained on a delivery slip.

3. The label or advertising which provides information regarding the agricultural liming material shall not be false or misleading to the purchaser, including information relating to the quality, analysis, type, or composition of the agricultural liming material.

4. If the agricultural liming material is adulterated after it has been packaged, labeled, or loaded, but prior to delivery to a purchaser, the vendor shall provide a notice of the adulteration, which shall be placed on the agricultural liming material as an additional label as provided in this section.

5. For each brand of agricultural liming material sold in bulk, a statement shall be conspicuously posted at the location where the agricultural liming material is delivered for resale or where purchase orders for deliveries of the agricultural liming material are placed. The statement shall include the effective calcium carbonate equivalent of the agricultural liming material as determined according to rules adopted by the department.

Sec. 7. NEW SECTION. 201A.5 INSPECTION AND INVESTIGATION.

The department shall inspect agricultural liming material distributed in this state and investigate persons engaged in the business of manufacturing, distributing, selling, offering

for sale, or exposing for sale agricultural liming material in this state. Inspections and investigations shall be performed as determined necessary or practicable by the department, in order to ensure compliance with this chapter. The inspection may include the sampling, analysis, and testing of agricultural liming material, as provided by rules adopted by the department. The department may enter premises of a business engaged in the manufacture, distribution, sale, offer for sale, or exposure for sale of agricultural liming material in this state. The business shall provide timely, convenient, and free access to its agricultural liming material and to its books, records, accounts, papers, documents, and any computer or other recordings relating to the business, during normal business hours. The business shall facilitate the examination and aid in the examination to every extent feasible.

Sec. 8. NEW SECTION. 201A.6 CERTIFICATION OF EFFECTIVE CALCIUM CARBONATE EQUIVALENT – REPORTING.

The department shall certify the effective calcium carbonate equivalent for all agricultural liming material, as provided by rules adopted by the department. The department may establish a fee for analyzing samples of agricultural liming material. The department shall issue a report at least once every three months which lists the agricultural liming material certified by the department. The report shall list the manufacturers of the agricultural liming material, the locations of facilities used to manufacture the agricultural liming material, and the identification of the type of the agricultural liming material produced by the manufacturer.

Sec. 9. NEW SECTION. 201A.7 TOXIC MATERIALS PROHIBITED.

A person shall not sell, offer for sale, or expose for sale agricultural liming material which includes material which is toxic to plants, animals, human, or aquatic life, or which causes soil or water contamination, as provided by rules adopted by the department.

Sec. 10. NEW SECTION. 201A.8 RULES.

The department shall adopt rules pursuant to chapter 17A required to administer and enforce the provisions of this chapter.

Sec. 11. NEW SECTION. 201A.9 ENFORCEMENT ACTIONS.

If the department finds that agricultural liming material is being manufactured, used, sold, offered for sale, or exposed for sale in violation of this chapter, the department may enforce the provisions of this chapter by doing any of the following:

1. Issuing and enforcing a stop order to prevent the manufacture, sale, or removal of agricultural liming material. The order may require that the owner or custodian hold the agricultural liming material at a place designated in the order. The stop order shall be in writing and served upon the person owning or controlling the manufacture or sale of the agricultural liming material. The department shall provide for the termination of the stop order upon compliance with the provisions of this chapter. The termination of the stop order shall be in writing and served upon the person as provided for in the stop order. The department may place conditions upon the termination of the stop order, including the payment of reasonable expenses incurred by the department in issuing and enforcing the stop order.

2. Obtaining a court order upon petition filed in district court for the county where the agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale. The court may be petitioned by the department, or, upon request by the department, the attorney general or the county attorney. The court shall hear from all parties in the case. The court may issue an order for any of the following:

a. The seizure of the agricultural liming material. The court shall issue an order, if the court finds that the petition is supported by facts that agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale in violation of this chapter, and the agricultural liming material must be condemned because it fails to meet standards required in this chapter. If warranted, the court shall order that the agricultural liming

material be disposed of in a manner provided by rules adopted by the department, which may include reprocessing or relabeling the agricultural liming material in order to ensure that it complies with this chapter. The court may provide that any party to the case dispose of the agricultural liming material.

b. A temporary or permanent injunction against a person violating the provisions of this chapter. The court shall issue an order, if the court finds that the petition is supported by facts that agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale in violation of this chapter. In order to obtain injunctive relief, the department shall not be required to post a bond or prove the absence of an adequate remedy at law, unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity.

Sec. 12. NEW SECTION. 201A.10 VIOLATIONS.

1. A person violating this chapter or rules adopted by the department under this chapter is guilty of a simple misdemeanor.

2. The department shall provide for the prosecution of a violation of this chapter by referring the violation to the county attorney in the county where the violation occurs. The department shall compile evidence of the violation for prosecution. The county attorney shall prosecute any case determined by the county attorney to be meritorious without delay. The department shall not refer a violation to the county attorney until the department provides the person subject to the violation with an opportunity to be heard by the department according to procedures adopted by the department. A right to a hearing is not a contested case proceeding as provided in chapter 17A. The department is not required to refer a minor violation to a county attorney, and may instead issue a warning to the person subject to the minor violation.

Sec. 13. NEW SECTION. 201A.11 FEES AND APPROPRIATION.

Fees collected under this chapter shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. Moneys deposited under this section to the general fund shall be used only by the department for the purpose of administering and enforcing the provisions of this chapter, including inspection, sampling, analysis, and the preparation and publishing of reports.

Sec. 14. REPEAL. Chapter 201, Code and Code Supplement 1995, is repealed.

Sec. 15. EFFECTIVE DATE AND APPLICABILITY.

1. Except as provided in subsection 2, this Act takes effect on January 1, 1997. However, until January 1, 1998, a person holding an inventory of packaged agricultural liming material on January 1, 1997, may continue to sell that inventory as labeled under chapter 201 as the chapter existed on December 31, 1997.*

2. The department may adopt rules to provide for the administration and enforcement of this Act prior to January 1, 1997. However, the rules must take effect not earlier than January 1, 1997.

Approved April 15, 1996

*See chapter 1219, §34 herein

CHAPTER 1097

HOMEOWNERS' ASSOCIATION SWIMMING POOLS

H.F. 111

AN ACT exempting from regulation certain homeowners' association swimming pools.

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

Section 1. Section 135I.2, Code 1995, is amended to read as follows:

135I.2 APPLICABILITY.

This chapter applies to all swimming pools and spas owned or operated by local or state government, or commercial interests or private entities including, but not limited to, facilities operated by cities, counties, public or private school corporations, hotels, motels, camps, apartments, condominiums, and health or country clubs. This chapter does not apply to facilities intended for single family use or to a swimming pool or spa operated by a homeowner's association representing seventy-two or fewer dwelling units if the association's bylaws, which also apply to a rental agreement relative to any of the dwelling units, include an exemption from the requirements of this chapter, provide for inspection of the swimming pool or spa by an entity other than the department or local board of health, and assume any liability associated with operation of the swimming pool or spa. To avoid duplication and promote coordination of inspection activities, the department may enter into agreements pursuant to chapter 28E with a local board of health to provide for inspection and enforcement in accordance with this chapter.

Approved April 15, 1996

CHAPTER 1098

PUBLICATION OF CITY AND COUNTY LEGISLATION – NEWSPAPER PUBLICATION FEES

H.F. 2190

AN ACT relating to the publication of certain notices, ordinances, and amendments by the superintendent of printing.

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

Section 1. Section 331.302, subsections 7, 8, and 10, Code 1995, are amended to read as follows:

7. A resolution becomes effective upon passage and an ordinance or amendment becomes a law when a summary of the ordinance or the complete text of the ordinance is published, unless a subsequent effective date is provided within the measure. As used in this paragraph, "summary" shall mean a narrative description of the terms and conditions of an ordinance setting forth the main points of the ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the ordinance. The description shall include the title of the ordinance, an accurate and intelligible abstract or synopsis of the essential elements or* the ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the ordinance may be inspected, when the ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes.

*The word "of" probably intended

Legal descriptions of property set forth in ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

8. The auditor shall promptly record each measure, publish a summary of all ordinances or a complete text of the ordinances and amendments as provided in section 331.305, authenticate all measures except motions with signature and certification as to time and manner of publication, if any, and maintain for public use copies of all effective ordinances and codes. A copy of the complete text of an ordinance or amendment shall also be available for distribution to the public at the office of the county auditor. The auditor's certification is presumptive evidence of the facts stated therein.

10. The compensation paid to a newspaper for a publication required by this section shall not exceed ~~three-fourths of~~ the fee provided in section 618.11. The compensation paid to a newspaper for publication of the complete text of an ordinance shall not exceed three-fourths of the fee provided in section 618.11.

Sec. 2. Section 380.7, subsection 2, Code 1995, is amended to read as follows:

2. Publish a summary of all ordinances or the complete text of ordinances and amendments in the manner provided in section 362.3. As used in this paragraph, "summary" shall mean a narrative description of the terms and conditions of an ordinance setting forth the main points of the ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the ordinance. The description shall include the title of the ordinance, an accurate and intelligible abstract or synopsis of the essential elements or* the ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the ordinance may be inspected, when the ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

Sec. 3. Section 380.9, Code 1995, is amended to read as follows:

380.9 FEE FOR PUBLICATION.

The compensation paid to a newspaper for any publication required by this chapter may not exceed ~~three-fourths of~~ the fee provided in section 618.11. The compensation paid to a newspaper for publication of the complete text of an ordinance shall not exceed three-fourths of the fee provided in section 618.11.

Sec. 4. Section 618.11, Code 1995, is amended to read as follows:

618.11 FEES FOR PUBLICATION.

The compensation, when not otherwise fixed, for the publication in a newspaper of any notice, order, citation, or other publication required or allowed by law, ~~shall not exceed twenty-six cents for one insertion, and seventeen cents for each subsequent insertion, for each line of eight-point type two inches in length, or its equivalent~~ shall be as established by the superintendent of printing, pursuant to chapter 17A, who shall annually review, and adjust when necessary, compensation rates to reflect changes in economic conditions

*The word "of" probably intended

within the newspaper industry and the general economy of the state. ~~Publication of matter which may be photographically reproduced for printing instead of typeset shall be compensated at a rate not to exceed the lowest available earned rate for any similar advertising matter. Statements of itemized financial and other like columnar matter shall be published in tabular form without additional compensation. In case of controversy or doubt regarding measurements, style, manner, or form, the controversy shall be referred to the executive council, and its decision is final.~~ Prior to establishing or adjusting any rate the superintendent of printing shall consult with representatives of the daily and weekly newspaper industry and with representatives of affected units of local government.

Approved April 15, 1996

CHAPTER 1099

LEGAL PUBLICATIONS, RELATED PRODUCTS, AND GOVERNMENTAL DATA PROCESSING SOFTWARE

H.F. 2407

AN ACT relating to legal publications and related products prepared and distributed under the authority of the general assembly.

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

Section 1. Section 2.42, subsection 11, Code 1995, is amended to read as follows:

11. To approve the appointment of the Iowa Code editor and the administrative code editor~~,~~ and establish the salaries of the persons employed in that office ~~and~~.

11A. To establish policies for the distribution of information which is stored by the general assembly in an electronic format, including the contents of statutes or rules, other than electronic publications as provided in section 7A.22. The legislative council shall establish payment rates that encourage the distribution of such information to the public, including private vendors reselling that information. The legislative council shall not establish a price that attempts to recover more than is attributable to costs related to reproducing and delivering the information.

11B. To establish policies with regard to the ~~printing and~~ publishing of printed and electronic versions of the Iowa administrative code ~~and~~, the Iowa administrative bulletin, ~~and~~ the Iowa Code, the Code Supplement, and the session laws, ~~including~~ or any part of those publications. The publishing policies may include, but are not limited to: the style and format to be used; ~~in those publications,~~ the frequency of ~~publishing~~, publication; the contents of the publications~~,~~; the numbering system to be used in the Iowa Code, the Code Supplement, and the session laws~~,~~; the preparation of editorial comments or notations~~,~~; the correction of errors~~,~~; the type of print or electronic media and data processing software to be used~~,~~; the number of printed volumes to be published~~,~~; recommended revisions of the Iowa Code, the Code Supplement, and the session laws~~,~~; the letting of contracts for the publication of the Iowa Code, Code Supplement, and session laws~~,~~; the pricing of ~~these~~ the publications~~,~~ to which section 22.3 does not apply; access to, and the use, reproduction, legal protection, sale or distribution, and pricing of related data processing software consistent with chapter 22; and any other matters deemed necessary to the publication of uniform and understandable publications.

Sec. 2. Section 2B.13, subsection 7, Code Supplement 1995, is amended to read as follows:

7. The effective date of all editorial changes in an edition of the Iowa Code or a Code Supplement is the effective date ~~the legislative council approves~~ of the selling price for that publication as established by the legislative council or the legislative council's designee. The effective date of all editorial changes for the Iowa administrative code is the date those changes are published in the Iowa administrative code.

Sec. 3. Section 2B.17, subsections 1 and 3, Code 1995, are amended to read as follows:

1. The permanent and official printed versions of the Iowa Codes and Code Supplements published subsequent to the adjournment of the 1982 regular session of the Sixty-ninth General Assembly shall be known and may be cited as "Iowa Code chapter (or section) ..", or "Iowa Code Supplement chapter (or section) ..", inserting the appropriate chapter or section number. If the year of edition is needed, it may be inserted before or after the words "Iowa Code" or "Iowa Code Supplement". In Iowa publications, the word "Iowa" may be omitted if the meaning is clear.

3. The official printed versions of the Iowa Code, Code Supplement, and session laws published under authority of the state are the only authoritative publications of the statutes of this state. No other publications of the statutes of the state shall be cited in the courts or in the reports or rules of the courts.

Sec. 4. Section 2B.17, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The printed version of the Iowa administrative code is the permanent publication of administrative rules in this state and the Iowa administrative bulletin and the Iowa administrative code published pursuant to chapter 17A are the official publications of the administrative rules of this state, and are the only authoritative publications of the administrative rules of this state. Other publications of the administrative rules of this state shall not be cited in the courts or in the reports or rules of the courts.

Sec. 5. Section 7A.11, subsection 3, Code 1995, is amended to read as follows:

3. The chief clerk of the house of representatives and the secretary of the senate shall transmit a list of the documents received, and a list of the documents and materials available to the general assembly to the legislative service bureau, which shall maintain the lists, as well as a list of addresses where copies of the documents may be ordered. The legislative service bureau shall periodically distribute copies of these lists to members of the general assembly ~~weekly when the general assembly is in session, and monthly during the legislative interim~~. The chief clerk of the house of representatives and the secretary of the senate may transmit the actual documents received to the legislative service bureau for temporary storage.

Sec. 6. Section 7A.21, Code 1995, is amended to read as follows:

7A.21 PRINTED LEGAL PUBLICATIONS.

The official versions of the Iowa Code, Iowa Code Supplement, ~~or~~ and other supplements, the Iowa administrative code and its supplements, ~~rules of civil procedure, rules of appellate procedure, and supreme~~ the Iowa administrative bulletin, Iowa court rules, session laws, annotations, tables of corresponding sections, and reports of the supreme court, unless otherwise specifically provided by law, shall be printed and paid for in the same manner as other public printing.

Sec. 7. Section 7A.22, subsection 3, Code 1995, is amended by striking the subsection.

Sec. 8. Section 7A.22, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The legislative council may establish policies for producing, editing, distributing, and pricing electronic publications which contain information stored by the general assembly in an electronic format, including information contained in publications described in this section together with programming not originally

part of the stored information. As part of those policies, the council may provide for electronic publications containing specialized search and retrieval functions, and shall ensure the widest possible dissemination of versions of electronic publications containing search and retrieval functions at the lowest price practicable which shall not be more than costs attributable to producing, editing, and disseminating those versions.

Sec. 9. Section 17A.6, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The administrative code editor shall cause the "Iowa Administrative Bulletin" to be published in ~~pamphlet~~ a printed form at least every other week ~~containing~~, unless the administrative code editor and the administrative rules review committee determine that an alternative publication schedule is preferable. An electronic version of the Iowa administrative bulletin may also be published as provided in section 2.42. The Iowa administrative bulletin shall contain all of the following:

Sec. 10. Section 17A.6, subsection 2, Code Supplement 1995, is amended to read as follows:

2. Subject to the direction of the administrative rules coordinator, the administrative code editor shall cause the "Iowa Administrative Code" to be compiled, indexed, and published in a printed loose-leaf form containing all rules adopted and filed by each agency. The administrative code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published as determined by the administrative rules coordinator and the administrative rules review committee, containing all rules filed for publication in the prior time period. The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation. The administrative rules coordinator shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system. An electronic version of the Iowa administrative code may also be published as provided in section 2.42.

Sec. 11. Section 18.97, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The superintendent of printing shall make free distribution of the printed versions of the Code, supplements to the Code, rules of civil procedure, rules of appellate procedure, rules of criminal procedure, supreme court rules, the Acts of each general assembly, and, upon request, the Iowa administrative code, its supplements, the Iowa administrative bulletin and the state roster pamphlet as follows:

Sec. 12. Section 18.97, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a version of a publication provided under this section is available in an electronic format, the superintendent of printing and the legislative council may establish policies providing for the substitution of an electronic version for the printed version of the publication, and for the amount of payment, if any, required for the electronic publication. The payment amount shall not be more than established pursuant to section 7A.22 for the same publication. For the Iowa administrative code and its supplements, the superintendent of printing and the legislative council may provide that the distribution requirement of this section is met by distributing relevant portions of the Iowa administrative code or its supplements in either a printed or electronic format, according to policies established by the superintendent of printing and the legislative council.

Sec. 13. NEW SECTION. 18.97A RESTRICTIONS ON FREE DISTRIBUTIONS.

Notwithstanding any section of this chapter to the contrary, the superintendent of printing and the legislative council may review the publication costs and offsetting sales revenues relating to legal publications in printed and electronic formats, as prepared by the legislative service bureau. In order to distribute these legal publications in the most efficient manner possible to persons entitled to receive these publications pursuant to section 18.97, the superintendent of printing and the legislative council may establish policies requiring

payment from such persons. The payment amount shall not be more than established pursuant to section 7A.22 for the same publication.

Sec. 14. Section 22.2, subsection 3, Code 1995, is amended to read as follows:

3. However, notwithstanding subsections 1 and 2, a government body ~~which maintains a geographic computer data base~~ is not required to permit access to or use of the following:

a. A geographic computer data base by any person except upon terms and conditions acceptable to the governing body. The governing body shall establish reasonable rates and procedures for the retrieval of specified records, which are not confidential records, stored in the data base upon the request of any person.

b. Data processing software developed by the government body, as provided in section 22.3A.

Sec. 15. NEW SECTION. 22.3A ACCESS TO DATA PROCESSING SOFTWARE.

1. As used in this section:

a. "Access" means the instruction of, communication with, storage of data in, or retrieval of data from a computer.

b. "Computer" means an electronic device which performs logical, arithmetical, and memory functions by manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, and communication facilities which are connected or related to the computer including a computer network. As used in this paragraph, "computer" includes any central processing unit, front-end processing unit, miniprocessor, or microprocessor, and related peripheral equipment such as data storage devices, document scanners, data entry terminal controllers, and data terminal equipment and systems for computer networks.

c. "Computer network" means a set of related, remotely connected devices and communication facilities including two or more computers with capability to transmit data among them through communication facilities.

d. "Data" means a representation of information, knowledge, facts, concepts, or instructions that has been prepared or is being prepared in a formalized manner and has been processed, or is intended to be processed, in a computer. Data may be stored in any form including, but not limited to a printout, magnetic storage media, disk, compact disc, punched card, or as memory of a computer.

e. "Data processing software" means an ordered set of instructions or statements that, when executed by a computer, causes the computer to process data, and includes any program or set of programs, procedures, or routines used to employ and control capabilities of computer hardware. As used in this paragraph "data processing software" includes but is not limited to an operating system, compiler, assembler, utility, library resource, maintenance routine, application, or computer networking program.

2. A government body may provide, restrict, or prohibit access to data processing software developed by the government body, regardless of whether the data processing software is separated or combined with a public record. A government body shall establish policies and procedures to provide access to public records which are combined with its data processing software. A public record shall not be withheld from the public because it is combined with data processing software. A government body shall not acquire any electronic data processing system for the storage, manipulation, or retrieval of public records that would impair the government body's ability to permit the examination of a public record and the copying of a public record in either written or electronic form. If it is necessary to separate a public record from data processing software in order to permit the examination or copying of the public record, the government body shall bear the cost of separation of the public record from the data processing software. The electronic public record shall be made available in a format useable with commonly available data processing or data base management software. The cost chargeable to a person receiving a public record separated from data processing software under this subsection shall not be in excess of the charge under this chapter unless the person receiving the public record requests that the public record be specially processed. A government body may establish

payment rates and procedures required to provide access to data processing software, regardless of whether the data processing software is separated from or combined with a public record. Proceeds from payments may be considered repayment receipts, as defined in section 8.2. The payment amount shall be calculated as follows:

a. If access to the data processing software is provided to a person solely for the purpose of accessing a public record, the amount shall be not more than that required to recover direct publication costs, including but not limited to editing, compilation, and media production costs, incurred by the government body in developing the data processing software, and preparing the data processing software for transfer to the person. The amount shall be in addition to any other fee required to be paid under this chapter for the examination and copying of a public record. The government body shall, if requested, provide documentation which explains and justifies the amount charged. This paragraph shall not apply to any publication for which a price has been established pursuant to another section, including section 7A.22.

b. If access to the data processing software is provided to a person for a purpose other than provided in paragraph "a", the amount may be established according to the discretion of the government body, and may be based upon competitive market considerations as determined by the government body.

3. A government body is granted and may apply for and receive any legal protection necessary to secure a right to or an interest in data processing software developed by the government body, including but not limited to federal copyright, patent, and trademark protections, and any trade secret protection available under chapter 550. The government body may enter into agreements for the sale or distribution of its data processing software, including marketing and licensing agreements. The government body may impose conditions upon the use of the data processing software that is otherwise consistent with state and federal law.

Sec. 16. Section 22.7, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 33. Data processing software, as defined in section 22.3A, which is developed by a government body.

Approved April 15, 1996

CHAPTER 1100

STATE EMPLOYEE DISCLOSURES OF INFORMATION

H.F. 2324

AN ACT relating to state employee disclosures of information and making penalties applicable and providing an effective date.

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

Section 1. Section 19A.19, unnumbered paragraph 4, Code 1995, is amended to read as follows:

A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a merit system administered by, or subject to approval of, the director as a reprisal for a failure by that employee to inform the person that the employee made a disclosure of information permitted by this section, or for a disclosure of any information by that employee to a member or employee of the general assembly, or for a disclosure of information to any other public official or law enforcement agency if

the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer. ~~However, this~~ This paragraph does not apply if the disclosure of the information is prohibited by statute.

Sec. 2. Section 70A.28, subsection 1, Code 1995, is amended to read as follows:

1. A person who serves as the head of a state department or agency or otherwise serves in a supervisory capacity within the executive or legislative branch of state government shall not require an employee of the state to inform the person that the employee made a disclosure of information permitted by this section and shall not prohibit an employee of the state from disclosing any information to a member or employee of the general assembly or from disclosing information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer.

Sec. 3. Section 70A.28, subsection 2, Code 1995, is amended to read as follows:

2. A person shall not discharge an employee from or take or fail to take action regarding an employee's appointment or proposed appointment to, promotion or proposed promotion to, or any advantage in, a position in a state employment system administered by, or subject to approval of, a state agency as a reprisal for a failure by that employee to inform the person that the employee made a disclosure of information permitted by this section, or for a disclosure of any information by that employee to a member or employee of the general assembly, or a disclosure of information to any other public official or law enforcement agency if the employee reasonably believes the information evidences a violation of law or rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. However, an employee may be required to inform the person that the employee made a disclosure of information permitted by this section if the employee represented that the disclosure was the official position of the employee's immediate supervisor or employer.

Sec. 4. Section 70A.28, subsection 7, Code 1995, is amended to read as follows:

7. The director of the department of personnel or, for employees of the general assembly or of the state board of regents, the legislative council or the state board of regents, respectively, shall provide procedures for notifying new state employees of the provisions of this section and shall periodically conduct promotional campaigns to provide similar information to ~~all~~ state employees. The information shall include the toll-free telephone number of the citizens' aide.

Sec. 5. Section 70A.28, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For purposes of this section, "state employee" and "employee" includes, but is not limited to, persons employed by the general assembly and persons employed by the state board of regents.

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

Approved April 16, 1996

CHAPTER 1101

RECIPROCAL SHIPMENT OF WINES

H.F. 2315

AN ACT authorizing small quantities of wine to be shipped in and out of this state for consumption or use by persons twenty-one years of age or older.

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

Section 1. NEW SECTION. 123.187 RECIPROCAL SHIPMENT OF WINES.

1. "Equal reciprocal shipping privilege" means allowing wineries located in this state to ship into another state, wine, not for resale, but for consumption or use by a person twenty-one years of age or older.

2. A winery licensed or permitted pursuant to laws regulating alcoholic beverages in a state which affords this state an equal reciprocal shipping privilege may ship into this state by private common carrier, to a person twenty-one years of age or older, not more than eighteen liters of wine per month, for consumption or use by the person. Such wine shall not be resold. Shipment of wine pursuant to this subsection is not subject to sales tax under section 422.43, use tax under section 423.2, or the wine gallonage tax under section 123.183, and does not require a refund value for beverage container control purposes under chapter 455C.

3. The holder of a class "A" or "B" wine permit in this state may ship out of this state by private common carrier, to a person twenty-one years of age or older, not more than eighteen liters of wine per month, for consumption or use by the person.

Approved April 16, 1996

CHAPTER 1102

PUBLIC ACCESS TO TRANSPORTATION RECORDS

H.F. 2462

AN ACT relating to public access to motor vehicle records and providing a conditional repeal and an effective date.

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

Section 1. Section 321.11, Code 1995, is amended to read as follows:

321.11 RECORDS OF DEPARTMENT.

All records of the department~~, other than those declared by law to be confidential for the use of the department~~ other than those made confidential or not permitted to be open in accordance with 18 U.S.C. § 2721 et seq., adopted as of a specific date by rule of the department, shall be open to public inspection during office hours.

Personal information shall be disclosed to a requestor if the individual whose personal information is requested has not elected to prohibit disclosure of the information to the general public. The department shall give notice in a clear and conspicuous manner on forms for issuance or renewal of driver's licenses, titles, registrations, or nonoperator's identification cards that personal information collected by the department may be disclosed to any person. The department shall provide in a clear and conspicuous manner on these forms an opportunity for an individual to prohibit disclosure of personal information to the general public. As used in this paragraph, "personal information" means information

that identifies a person, including a person's photograph, social security number, driver's license number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status or a person's zip code.

Notwithstanding other provisions of this section to the contrary, the department shall not release personal information to a person, other than to an officer or employee of a law enforcement agency, if the information is requested by the presentation of a registration plate number. However, a law enforcement agency may release the name, address, and telephone number of a motor vehicle registrant to a person requesting the information by the presentation of a registration plate number if the law enforcement agency believes that the information is necessary to prevent an unlawful act. A person seeking the information shall state in writing the nature of the unlawful act that the person is attempting to prevent.

Sec. 2. CONDITIONAL REPEAL. In the event that the requirements to provide for closure of records of the state department of transportation as contained in 18 U.S.C. § 2721 et seq., are repealed, or are declared to be unconstitutional by a federal court of competent jurisdiction, the amendment to section 321.11, as contained in this Act, is repealed. The director of the state department of transportation shall make a determination that the federal law has been repealed or declared unconstitutional and in that event shall provide for immediate implementation of section 321.11, as it existed prior to the enactment of this Act, through the rulemaking procedures of chapter 17A. The director shall also propose to the general assembly pursuant to section 2.16 necessary changes of the Code. The Code editor may also include such necessary changes in the next Code editor's bill.

Sec. 3. EFFECTIVE DATE. This Act takes effect September 13, 1997.

Approved April 16, 1996

CHAPTER 1103

SECONDARY ROADS - AREA SERVICE CLASSIFICATION

H.F. 419

AN ACT providing for class "C" area service system roads and providing a penalty.

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

Section 1. Section 309.57, Code 1995, is amended to read as follows:

309.57 AREA SERVICE CLASSIFICATION.

The county board of supervisors, after consultation with the county engineer, and for purposes of specifying levels of maintenance effort and access, may classify the area service system into ~~two~~ three classifications termed area service "A", ~~and~~ area service ~~"B."~~ "B", and area service "C". The area service "A" classification shall be maintained in conformance with applicable statutes. ~~Roads on the area~~ Area service "B" classification roads may have a lesser level of maintenance as specified by the county board of supervisors, after consultation with the county engineer. Area service "C" classification roads may have restricted access and a minimal level of maintenance as specified by the county board of supervisors after consultation with the county engineer.

Roads within area service "B" ~~classification~~ and "C" classifications shall have appropriate signs, conforming to the Iowa state sign manual, installed and maintained by the county at

all access points to roads on this system from other public roads, to adequately warn the public they are entering a section of road which has a lesser level of maintenance effort than other public roads. In addition, area service "C" classification roads shall adequately warn the public that access is limited.

Roads may only be classified as area service "C" by ordinance or resolution upon petition signed by all landowners adjoining the road. The ordinance or resolution shall specify the level of maintenance effort and the persons who will have access rights to the road. The county shall only allow access to the road to the owner, lessee, or person in lawful possession of any adjoining land, or the agent or employee of the owner, lessee, or person in lawful possession, or to any peace officer, magistrate, or public employee whose duty it is to supervise the use or perform maintenance of the road. Access to the road shall be restricted by means of a gate or other barrier.

Notwithstanding section 716.7, subsection 4, entering or remaining upon an area service "C" road without justification after being notified or requested to abstain from entering or to remove or vacate the road by any person lawfully allowed access shall be a trespass as defined in section 716.7.

A road with an area service "C" classification shall retain the classification until such time as a petition for reclassification is submitted to the board of supervisors. The petition shall be signed by adjoining landowners. The board of supervisors shall approve or deny the request for reclassification within sixty days of receipt of the petition.

The county and officers, agents, and employees of the county are not liable for injury to any person or for damage to any vehicle or equipment, or contents of any vehicle or equipment, which occurs proximately as a result of the maintenance of a road which is classified as area service ~~"B,"~~ "B" or "C" if the road has been maintained to the level required for roads classified as area service ~~"B."~~ "B" or "C".

Approved April 16, 1996

CHAPTER 1104

CONTINUING APPROPRIATIONS FOR CITY PUBLIC IMPROVEMENTS

S.F. 2131

AN ACT relating to a continuing appropriation for city public improvements.

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

Section 1. Section 384.20, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Continuing appropriation means the unexpended portion of the cost of public improvements, as defined in section 384.95, which cost was adopted through a public hearing pursuant to section 384.102 and was included in an adopted or amended budget of a city. A continuing appropriation does not expire at the conclusion of a fiscal year. A continuing appropriation continues until the public improvement is completed, but expenditures under the continuing appropriation shall not exceed the resources available for paying for the public improvement.

Approved April 16, 1996

CHAPTER 1105

IMPLEMENTATION OF NEW OR REVISED FEDERAL BLOCK GRANTS

H.F. 2256

AN ACT providing requirements for implementation of new or revised federal block grant provisions which affect local governments and providing an effective date and applicability provision.

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

Section 1. Section 8.41, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. If, in any federal fiscal year, the federal government provides for a block grant which requires a new or revised program than was required in the prior fiscal year, each state agency required to administer the block grant program shall develop a block grant plan detailing program changes.

b. To the extent allowed by federal law, the block grant plan shall be developed in accordance with the following:

(1) The primary goal of the plan shall be to attain savings for taxpayers and to avoid shifting costs from the federal government to state and local governments.

(2) State agency planning meetings shall be held jointly with officials of the affected political subdivision and affected members of the public.

(3) The plan shall address proposed expenditures and accountability measures and shall be published so as to provide reasonable opportunity for public review and comment.

(4) (a) Preference shall be given to any existing service delivery system capable of delivering the required service. If an existing service delivery system is not used, the plan shall identify those existing delivery systems which were considered and the reasons those systems were rejected. This subparagraph subdivision applies to any service delivered pursuant to a federal block grant, including, but not limited to any of the following block grant areas: health, human services, education, employment, community and economic development, and criminal justice.

(b) If a service delivered pursuant to a federal block grant and implemented by a political subdivision was previously provided for by a categorical grant, the state agency shall allow the political subdivision adequate transition time to accommodate related changes in federal and state policy. Transition activities may include, but are not limited to, revision of the political subdivision's laws, budgets, and administrative procedures.

(c) The state agency shall allow the political subdivision the flexibility to implement a service in a manner so as to address identifiable needs within the context of meeting broad national objectives.

(5) State administrative costs shall not exceed the limits allowed for under the federal law enacting the block grant.

(6) A federal mandate that is eliminated or waived for the state shall be eliminated or waived for a political subdivision.

(7) Federal block grants shall not be used to supplant existing funding efforts by the state.

c. The state agency shall send copies of the proposed block grant plan to the legislative fiscal committee and to the appropriate appropriations subcommittee chairpersons and ranking members of the general assembly. The plan and any program changes contained within the plan shall be adopted as rules in accordance with chapter 17A.

Sec. 2. EFFECTIVE DATE - APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and applies to new or revised federal block grant provisions which take effect on or after the effective date of this Act.

Approved April 16, 1996

CHAPTER 1106

MISCELLANEOUS PUBLIC ASSISTANCE PROVISIONS AND RELATED MATTERS

S.F. 2324

AN ACT relating to public assistance and certain associated state tax provisions involving the family investment program, family development and self-sufficiency council, individual development accounts, fraudulent practices involving the food stamp program, and child support obligations of minors, making penalties applicable, and providing applicability provisions and effective dates.

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

Division I – Family Investment Program Waiver Request

Section 1. WAIVER REQUEST. The department of human services shall submit a waiver request to the United States department of health and human services as necessary to implement the policy change proposed by this section in the family investment program under chapter 239 and the job opportunities and basic skills (JOBS) program under chapter 249C. The waiver request shall be for the purpose of simplifying administration of the programs. The policy change applies to the family investment agreement of a family investment program participant. Under the policy to be changed on the effective date of this Act, a family investment agreement ends at the point cash assistance under the program is not provided to the participant and a new agreement is required if the participant reapplies for cash assistance. Under the policy change adopted pursuant to this Act, if the period without cash assistance is one month or less and the participant has not become exempt from JOBS program participation at the time the participant reapplies for cash assistance, the participant's family investment agreement would be reinstated at the time the participant reapplies. The reinstated agreement may be revised to accommodate circumstances at the time of reapplication. For the purposes of this section, "participant" means a participant in the family investment program under chapter 239 and includes an individual whose income is considered in making eligibility and benefit determinations by the department of human services under the family investment program.

Sec. 2. CONTINGENCY PROVISION. The waiver request submitted by the department of human services pursuant to section 1 of this Act to the United States department of health and human services shall be to apply the provisions of section 1 statewide. If federal waiver approval of a provision of section 1 of this Act is granted, the department of human services shall implement the provision in accordance with the federal approval. If implementing a provision of section 1 of this Act is in conflict with a provision of chapter 239 or 249C, notwithstanding that provision in chapter 239 or 249C, the provision of section 1 shall be implemented. The department shall propose an amendment for the 1997 legislative session in accordance with the provisions of section 2.16 to chapter 239 or 249C to resolve the conflict and, as necessary to place the provisions of this division of this Act before the public in a codified statute.

Sec. 3. EMERGENCY RULES. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. If necessary to conform with federal waiver terms or to efficiently administer the provisions, the rules may apply additional policies and procedures which are consistent with the provisions of section 1 of this Act. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 4. APPLICABILITY. The effective date of the waiver provisions in section 1 of this Act granted by the federal government shall be July 1, 1996, unless federal approval is

granted after that date, in which case the effective date shall be the beginning of either the first or second month following the month in which the federal approval is granted, as specified in administrative rules adopted by the department. If federal law is amended to permit the state to initiate any of the provisions in section 1 of this Act without a federal waiver before July 1, 1996, the department of human services shall proceed to implement the provisions on July 1, 1996.

Sec. 5. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Division II – Family Development and Self-Sufficiency Council

Sec. 6. Section 217.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Two persons representing the business community, selected by the other members of the council.

Division III – Individual Development Accounts

Sec. 7. Section 422.7, subsection 28, Code Supplement 1995, is amended to read as follows:

28. If the taxpayer is owner of an individual development account certified under chapter 541A at any time during the tax year, deductions of all of the following ~~adjustments~~ shall be ~~made~~ allowed:

~~a. Subtract, to the extent included, all of the following:~~

~~(1)~~ a. Contributions made to the account by persons and entities, other than the taxpayer, as authorized in chapter 541A.

~~(2)~~ b. The amount of any savings refund authorized under section 541A.3, subsection 1.

~~(3)~~ c. Earnings from the account ~~to the extent not withdrawn~~.

~~b. Add, to the extent not included, all of the following:~~

~~(1) Earnings from the account which are withdrawn.~~

~~(2) Amounts withdrawn which are not authorized by section 541A.2, subsection 4, paragraphs "a" and "b" and which are attributable to contributions by persons and entities, other than the taxpayer, as provided in section 541A.2, subsection 4.~~

~~(3) If the account is closed, amounts received by the taxpayer which have not previously been taxed under this division, except amounts that are redeposited in another individual development account, or the state human investment reserve pool as provided in section 541A.2, subsection 5, and including the total amount of any savings refund authorized under section 541A.3.~~

Sec. 8. Section 450.4, subsection 6, Code 1995, is amended to read as follows:

6. On property in an individual development account in the name of the decedent that passes to another individual development account~~, up to ten thousand dollars,~~ or the state human investment reserve pool created in section 541A.4. For purposes of this subsection, "individual development account" means an account that has been certified as an individual development account pursuant to chapter 541A.

Sec. 9. Section 541A.2, subsection 2, paragraph d, Code 1995, is amended to read as follows:

d. A deposit made on behalf of the account holder by an individual or a charitable contributor. This type of deposit may include but is not limited to moneys to match the account holder's deposits. ~~A deposit made under this paragraph shall be held in trust for the account holder and shall only be used to earn income in the account or to be withdrawn by the account holder for a purpose provided in subsection 4.~~

Sec. 10. Section 541A.2, subsections 4, 5, 6, 7, and 8, Code 1995, are amended to read as follows:

4. During a calendar year, an account holder may withdraw ~~without penalty~~ from the account holder's account the sum of the following:

a. With the approval of the operating organization, amounts withdrawn for any of the following approved purposes:

(1) Educational costs at an accredited institution of higher education.

(2) Training costs for an accredited or licensed training program.

(3) Purchase of a primary residence.

(4) Capitalization of a small business start-up.

(5) An improvement to a primary residence which increases the tax basis of the property.

(6) Emergency medical costs for the account holder or for a member of the account holder's family. However, a withdrawal for this purpose is limited to once during the life of the account and the amount of the withdrawal shall not exceed ten percent of the account balance at the time of the withdrawal. ~~Amounts withdrawn for purposes of this paragraph shall be charged to the source of principal on a prorated basis. Moneys transferred from another individual development account shall be considered to be a deposit made by the account holder for purposes of charges to the source of principal.~~

~~b. At the adult account holder's discretion any income earned by the account. An account holder who is ten or more but less than eighteen years of age may withdraw any income earned by the account with the approval of the account holder's parent or guardian and of the operating organization. If the account holder is less than ten years of age, any income earned by the account may be withdrawn by the account holder's parent or guardian with the approval of the operating organization.~~

~~c.~~ b. At the account holder's discretion, if the account holder is at least fifty-nine and one-half years of age, any amount.

5. ~~If an~~ An account holder ~~is less than eighteen years of age, moneys~~ shall not ~~be withdrawn~~ withdraw moneys from the holder's account unless the withdrawal is authorized under subsection 4. ~~If an account holder is eighteen or more years of age, any amount of the adjusted account holder deposits withdrawn during a calendar year which is not authorized under subsection 4, is subject to a penalty of fifteen percent. In addition, if at any time the cumulative amount withdrawn by the account holder over the life of the account that is not authorized under subsection 4 exceeds fifty percent of the amount of the adjusted account holder deposits, the contributions made by a charitable or individual contributor held in trust in the account holder's account shall be removed from the account and redeposited in another individual development account or the reserve pool as directed by the contributor and deposits made by the state of a savings refund authorized under section 541A.3, subsection 1, shall be withdrawn and deposited in the reserve pool. The amount of the adjusted account holder deposits is the amount remaining after subtracting from the cumulative moneys deposited by the account holder all amounts withdrawn pursuant to subsection 4, paragraph "a". At the time a charitable or individual contributor contributes moneys to an account the contributor shall indicate the contributor's directions for disposition of moneys which are removed. If the designated choice of the contributor does not exist the contributed moneys shall be withdrawn and deposited in the reserve pool.~~

~~6. Penalty amounts collected pursuant to subsection 5 shall be deposited in the reserve pool.~~

~~7.~~ 6. An adult account holder may transfer all or part of the assets ~~the adult account holder has deposited~~ in the account to any other account holder's account. ~~However, an~~ An account holder who is less than eighteen years of age is prohibited from transferring account assets to any other account holder. ~~Moneys contributed by a charitable or individual contributor are not subject to transfer except as authorized by the contributor. Amounts transferred in accordance with this subsection are not subject to a penalty.~~

7. An individual development account closed in accordance with this subsection is not subject to the limitations and benefits provided by this chapter but is subject to state tax in

accordance with the provisions of section 422.7, subsection 28, and section 450.4, subsection 6. An individual development account may be closed for any of the following reasons:

a. The account's operating organization determines that the account holder has withdrawn moneys from the account for a purpose other than authorized under subsection 4.

b. The account's operating organization determines there has been no activity in the account during the preceding twelve months.

c. The account holder changes the account holder's place of primary residence to a new location outside the general geographic area served by the operating organization and an operating organization is not available in the new location.

d. The account's operating organization withdraws from involvement with the individual development account project and another operating organization is not available to operate the account.

8. ~~If approved by the~~ Subject to obtaining any necessary federal ~~government~~ waivers, the department of human services shall not consider moneys in an individual development account and any earnings on the moneys ~~shall not be considered by the department of human services for~~ in determining the eligibility or need of an individual for benefits or assistance or the amount of benefits or assistance under the family investment program under chapter 239, ~~or~~ the JOBS program under chapter 249C, or any other program administered by the department of human services.

Sec. 11. Section 541A.3, subsections 1 and 2, Code 1995, are amended to read as follows:

1. Payment by the state of a savings refund on amounts of up to two thousand dollars per calendar year that an account holder deposits in the account holder's account. Moneys transferred to an individual development account from another account shall not be considered an account holder deposit for purposes of determining a savings refund. Payment shall be made directly to the account in the most appropriate manner as determined by the administrator. The state savings refund shall be the indicated percentage of the amount deposited:

a. For an account holder with a household income, as defined in section 425.17, subsection 6, which is ~~less than~~ one hundred fifty percent or less of the federal poverty level, ~~twenty~~ twenty-five percent.

b. For an account holder with a household income which is more than one hundred fifty percent ~~or more~~ but less than one hundred ~~sixty~~ seventy-five percent of the federal poverty level, ~~eighteen~~ twenty percent.

c. For an account holder with a household income which is one hundred ~~sixty~~ seventy-five percent or more but ~~less~~ not more than ~~one~~ two hundred ~~seventy~~ percent of the federal poverty level, ~~sixteen~~ fifteen percent.

~~d. For an account holder with a household income which is one hundred seventy percent or more but less than one hundred eighty percent of the federal poverty level, fourteen percent.~~

~~e. For an account holder with a household income which is one hundred eighty percent or more but less than one hundred ninety percent of the federal poverty level, twelve percent.~~

~~f. For an account holder with a household income which is one hundred ninety percent or more but less than two hundred percent of the federal poverty level, ten percent.~~

~~g.~~ d. For an account holder with a household income which is more than two hundred percent ~~or more~~ of the federal poverty level, zero percent.

2. Income earned by an individual development account is not subject to state tax ~~until withdrawn~~, in accordance with the provisions of section 422.7, subsection 28.

Sec. 12. Section 541A.4, subsection 1, Code 1995, is amended to read as follows:

1. ~~For~~ During the five-year ~~pilot phase~~ period beginning January 1, 1995, the total number of individual development accounts shall be limited to ten thousand accounts, with not

more than five thousand new accounts opened in ~~the first~~ any one calendar year of the period, and to individuals with a household income which does not exceed two hundred percent of the federal poverty level. ~~The administrator shall ensure that the family income status of account holders at the time an account is opened proportionately reflects the distribution of the household income status of the state's population up to two hundred percent of the federal poverty level.~~

Sec. 13. Section 541A.4, subsection 2, paragraph g, subparagraph (3), Code 1995, is amended by striking the subparagraph.

Sec. 14. Section 541A.5, Code 1995, is amended to read as follows:

541A.5 RULES.

The administrator, in consultation with the department of revenue and finance, ~~may~~ shall adopt administrative rules to ~~implement the provisions of~~ administer this chapter. The rules adopted by the administrator shall include but are not limited to provision for transfer of an individual development account to a different financial institution than originally approved by the administrator, if the different financial institution has an agreement with the account's operating organization.

Division IV – Food Stamp Program

Sec. 15. Section 234.13, Code 1995, is amended to read as follows:

234.13 FRAUDULENT PRACTICES RELATING TO FOOD PROGRAMS.

For the purposes of this section, unless the context otherwise requires, "benefit transfer instrument" means a food stamp coupon, authorization-to-purchase card, or electronic benefits transfer card. A person ~~is guilty of~~ commits a fraudulent practice if that person does any of the following:

1. With intent to gain financial assistance to which that person is not entitled, knowingly makes or causes to be made a false statement or representation or knowingly fails to report to an employee of the department of human services any change in income, resources or other circumstances affecting that person's entitlement to such financial assistance~~; or~~.

2. As a beneficiary of the food programs, transfers any food stamp ~~coupons or an authorization to purchase card~~ benefit transfer instrument to any other individual with intent that ~~such coupons or card~~ the benefit transfer instrument be used for the benefit of someone other than persons within the beneficiary's food stamp household as certified by the department of human services~~; or~~.

3. Knowingly acquires, uses or attempts to use any food stamp ~~coupon or authorization to purchase card~~ benefit transfer instrument which was not issued for the benefit of that person's food stamp household by the department of human services, or by an agency administering food programs in another state.

4. Acquires, alters, transfers, or redeems a food stamp ~~coupons~~ benefit transfer instrument or possesses ~~coupons~~ a benefit transfer instrument, knowing that the ~~coupons have~~ benefit transfer instrument has been received, transferred, or used in violation of this section or the provisions of the federal food stamp program under 7 U.S.C. ch. 51 or the federal regulations issued pursuant to that chapter.

Division V – Family Investment Program – Immunization

Sec. 16. NEW SECTION. 239.10 IMMUNIZATION.

1. To the extent feasible, the department shall determine the immunization status of children receiving assistance under this chapter. The status shall be determined in accordance with the immunization recommendations adopted by the Iowa department of public health under section 139.9, including the exemption provisions in section 139.9, subsection 4. If the department determines a child is not in compliance with the immunization

recommendations, the department shall refer the child's parent or guardian to a local public health agency for immunization services for the child and other members of the child's family.

2. The department of human services shall cooperate with the Iowa department of public health to establish an interagency agreement allowing the sharing of pertinent client data, as permitted under federal law and regulation, for the purposes of determining immunization rates of recipients of assistance, evaluating family investment program efforts to encourage immunizations, and developing strategies to further encourage immunization of recipients of assistance.

Division VI – Child Support

Sec. 17. Section 598.21, subsection 4, paragraph e, subparagraph (2), unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

Failure to provide proof of compliance under this subparagraph or proof of compliance under section 598.21A is grounds for modification of the support order using the uniform child support guidelines and imputing an income to the parent equal to a forty-hour work week at the state minimum wage, unless the parent's education, experience, or actual earnings justify a higher income.

Sec. 18. NEW SECTION. 598.21A MINOR PARENT – PARENTING CLASSES.

In any order or judgment entered under chapter 234, 252A, 252C, 252F, 598, or 600B or under any other chapter which provides for temporary or permanent support payments, if the parent ordered to pay support is less than eighteen years of age, one of the following shall apply:

1. If the child support recovery unit is providing services pursuant to chapter 252B, the court, or the administrator as defined in section 252C.1, shall order the parent ordered to pay support to attend parenting classes which are approved by the department of human services.

2. If the child support recovery unit is not providing services pursuant to chapter 252B, the court may order the parent ordered to pay support to attend parenting classes which are approved by the court.

Sec. 19. EFFECTIVE DATE. This division of this Act takes effect July 1, 1997.

Approved April 16, 1996

CHAPTER 1107

MEDICAL ASSISTANCE

S.F. 2303

AN ACT relating to the medical assistance program including provisions relating to personal liability of personal representatives of medical assistance recipients, nursing facility fines, and transfers of assets.

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

Section 1. Section 249A.5, subsection 2, paragraph f, Code Supplement 1995, is amended to read as follows:

f. (1) If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility, intermediate care facility for the mentally retarded, or mental

health institute in which the recipient resided at the time of the recipient's death, and the personal representative of the recipient, if applicable, shall report the death to the department within ten days of the death of the recipient. ~~For the purposes of this paragraph, "personal representative" means a person who filed a medical assistance application on behalf of the recipient or who manages the financial affairs of the recipient.~~

(2) If a personal representative or executor of an estate makes a distribution either in whole or in part of the property of an estate to the heirs, next of kin, distributees, legatees, or devisees without having executed the obligations pursuant to section 633.425, the personal representative or executor may be held personally liable for the amount of medical assistance paid on behalf of the recipient, to the full value of any property belonging to the estate which may have been in the custody or control of the personal representative or executor.

(3) For the purposes of this paragraph, "executor" means executor as defined in section 633.3, and "personal representative" means a person who filed a medical assistance application on behalf of the recipient or who manages the financial affairs of the recipient.

Sec. 2. Section 249A.19, Code 1995, is amended to read as follows:

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~~ 42 C.F.R. § 488.438 for health care facility violations. Any moneys collected by the department pursuant to this section 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.

Sec. 3. Section 249F.1, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. However, transfer of assets does not include the following:

(1) Transfers to or for the sole benefit of the transferor's spouse, including a transfer to a spouse by an institutionalized spouse pursuant to section 1924(f)(1) of the federal Social Security Act.

(2) Transfers~~, other than the transfer of a dwelling,~~ to or for the sole benefit of the transferor's child who is blind or disabled as defined in section 1614 of the federal Social Security Act.

(3) Transfer of a dwelling, which serves as the transferor's home as defined in 20 C.F.R. § 416.1212, to a child of the transferor under twenty-one years of age.

(4) Transfer of a dwelling, which serves as the transferor's home as defined in 20 C.F.R. § 416.1212, after the transferor is institutionalized, to either of the following:

(a) A sibling of the transferor who has an equity interest in the dwelling and who was residing in the dwelling for a period of at least one year immediately prior to the date the transferor became institutionalized.

(b) A child of the transferor who was residing in the dwelling for a period of at least two years immediately prior to the date the transferor became institutionalized and who provided care to the transferor which permitted the transferor to reside at the dwelling rather than in an institution or facility.

(5) Transfers of less than two thousand dollars. ~~For purposes of this chapter,~~ However, all transfers by the same transferor during a calendar year ~~will~~ shall be aggregated. If a transferor transfers property to more than one transferee during a calendar year, the two

thousand dollar exemption shall be divided equally between the transferees.

(6) Transfers ~~of property~~ that would, at the time of the transferor's application for medical assistance, have been exempt from consideration as a resource if it had been retained by the transferor, pursuant to 42 U.S.C. § 1382b(a), as implemented by regulations adopted by the secretary of the United States department of health and human services~~, and pursuant to section 561.16 and chapter 627~~.

(7) Transfers to a trust established solely for the benefit of the transferor's child who is blind or permanently and totally disabled as defined in the federal Social Security Act, section 1614, as codified in 42 U.S.C. § 1382b.

(8) Transfers to a trust established solely for the benefit of an individual under sixty-five years of age who is disabled, as defined in the federal Social Security Act, section 1614, as codified in 42 U.S.C. § 1382b.

(9) Transfer of a homestead, as defined in sections 561.1, 561.2, and 561.3.

Sec. 4. Section 249F.2, Code 1995, is amended to read as follows:

249F.2 CREATION OF DEBT.

A transfer of assets creates a debt due and owing to the department of human services from the transferee in an amount equal to medical assistance provided to or on behalf of the transferor, on or after the date of the transfer of assets, but not exceeding the fair market value of the assets ~~which are not exempt under section 249F.1~~ at the time of the transfer.

Approved April 16, 1996

CHAPTER 1108

COMMUNITY HEALTH MANAGEMENT INFORMATION SYSTEM

S.F. 2218

AN ACT relating to the community health management system by extending the date for implementation of phase I of the system.

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

Section 1. Section 144C.8, subsection 1, Code 1995, is amended to read as follows:

1. Phase I of the system shall be operational no later than July 1, ~~1996~~ 1997. For purposes of this chapter, "phase I" means the collection and submission of data including a patient identifier; a provider identification number; data elements included in the uniform billing-1992 form for hospitals; data elements included in the federal health care financing administration's 1500 form for physicians; an outpatient pharmacy code as determined by the board; data on all currently required discharges provided to the health data commission; and severity of illness and outcomes measurement, a measure of consumer health behavior, health status, and satisfaction with services provided as determined by the board.

Sec. 2. The community health management information system governing board shall review the policies and procedures for ensuring the confidentiality of information in the system and the penalties applicable to unauthorized release of the information. The board, in consultation with the insurance division, shall develop options for enactment of appropriate penalties for unauthorized release of information. The review by the board and penalty options developed shall be included in the board's annual report submitted to the Seventy-seventh General Assembly, 1997 Session, under section 144C.4.

Approved April 16, 1996

CHAPTER 1109

HEALTH CARE PEER REVIEW COMMITTEES
H.F. 2061

AN ACT relating to the immunity from civil liability for health care peer review committee members.

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

Section 1. Section 147.1, subsection 5, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A health care entity, including but not limited to a group medical practice, that provides health care services and follows a formal peer review process for the purpose of furthering quality health care.

Approved April 16, 1996

CHAPTER 1110

RIGHTS OF VICTIMS OF DELINQUENT ACTS
S.F. 2430

AN ACT requiring the juvenile court to provide certain information to a victim of a delinquent act committed by a juvenile.

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

Section 1. Section 232.28, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If a complaint is filed under this section, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court containing the information specified for a victim impact statement under section 910A.5. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint.

Sec. 2. NEW SECTION. 232.28A VICTIM RIGHTS.

1. If a complaint is filed alleging that a child has committed a delinquent act, the alleged victim, as defined in section 910A.1, has all of the following rights:

a. To be notified of the names and addresses of the child and of the child's custodial parent or guardian.

b. To be notified of the specific charge or charges filed in a petition resulting from the complaint and regarding any dispositional orders or informal adjustments.

c. To be informed of the person's rights to restitution under section 232.52 and chapter 232A.

d. To be notified of the person's right to offer a victim impact statement under sections 232.28 and 910A.5.

e. To be informed of the availability of assistance through the crime victim compensation program under chapter 912.

2. The notification of the alleged victim shall be made by a juvenile court officer. The juvenile court and the county attorney shall coordinate efforts so as to prevent a notification under this section from duplicating a notification by the county attorney under section 910A.6.

Sec. 3. Section 232.147, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Release of official juvenile court records to a victim of a delinquent act are subject to the provisions of section 232.28A, notwithstanding contrary provisions of this chapter.

Sec. 4. Section 910A.5, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a complaint is filed under section 232.28, alleging a child has committed a delinquent act, the alleged victim may file a signed victim impact statement with the juvenile court as provided by section 232.28. The victim impact statement shall be considered by the court and the juvenile court officer handling the complaint in any proceeding or informal adjustment associated with the complaint.

Approved April 16, 1996

CHAPTER 1111

RIGHTS OF VICTIMS OF CRIMINAL ACTS AND RELATED MATTERS

H.F. 2456

AN ACT relating to the rights of victims of criminal acts.

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

Section 1. Section 331.653, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 65A. Carry out the duties imposed under section 910A.8.

Sec. 2. Section 331.756, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 83A. Carry out the duties imposed under sections 910A.2, 910A.5, and 910A.6.

Sec. 3. Section 904.108, subsection 6, Code 1995, is amended to read as follows:

6. The director or the director's designee, having probable cause to believe that a person has escaped from a state correctional institution or a person convicted of a forcible felony who is released on work release has absconded from a work release facility, ~~may make~~ shall:

a. Make a complaint before a judge or magistrate. If it is determined from the complaint or accompanying affidavits that there is probable cause to believe that the person has escaped from a state correctional institution or that the forcible felon has absconded from a work release facility, the judge or magistrate shall issue a warrant for the arrest of the person.

b. Issue an announcement regarding the fact of the escape of the person or the abscondence of the forcible felon to the law enforcement authorities in, and to the news media covering, communities in a twenty-five mile radius of the point of escape or abscondence.

Sec. 4. Section 910A.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Victim impact statement" means a written or oral

presentation to the court by the victim or the victim's representative that indicates the physical, emotional, financial, or other effects of the offense upon the victim.

Sec. 5. Section 910A.5, Code 1995, is amended to read as follows:

910A.5 VICTIM IMPACT STATEMENT.

1. A victim may present a victim impact statement to the court using one or more of the following methods:

a. A victim may file a signed victim impact statement with the county attorney, and a filed impact statement shall be included in the presentence investigation report. If a presentence investigation report is not ordered by the court, a filed victim impact statement shall be provided to the court prior to sentencing.

~~The court shall consider a filed victim impact statement in determining the appropriate sentence and in entering any order of restitution to the victim pursuant to chapter 910.~~

b. A victim may orally present a victim impact statement at the sentencing hearing, in the presence of the defendant.

c. If the victim is unable to make an oral or written statement because of the victim's age, or mental, emotional, or physical incapacity, the victim's attorney or a designated representative shall have the opportunity to make a statement on behalf of the victim.

2. ~~The~~ A victim impact statement shall:

~~1. Identify~~ include the identification of the victim of the offense~~.~~, and may include the following:

~~2.~~ a. ~~Itemize~~ Itemization of any economic loss suffered by the victim as a result of the offense. For purposes of this paragraph, a pecuniary damages statement prepared by a county attorney pursuant to section 910.3, may serve as the itemization of economic loss.

~~3.~~ b. ~~Identify~~ Identification of any physical injury suffered by the victim as a result of the offense with detail as to its seriousness and permanence.

~~4.~~ c. ~~Describe~~ Description of any change in the victim's personal welfare or familial relationships as a result of the offense.

~~5.~~ d. ~~Describe~~ Description of any request for psychological services initiated by the victim or the victim's family as a result of the offense.

~~6.~~ e. ~~Contain any~~ Any other information related to the impact of the offense upon the victim.

Sec. 6. Section 910A.6, subsection 1, Code 1995, is amended to read as follows:

1. The scheduled date, time, and place of trial, and the cancellation or postponement of a court proceeding that was expected to require the victim's attendance, in any criminal case relating to the crime for which the person is a registered victim.

Sec. 7. Section 910A.6, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 6. Except where the prosecuting attorney determines that disclosure of such information would unreasonably interfere with the investigation, at the request of the registered victim, notice of the status of the investigation, to be provided by law enforcement authorities investigating the case, until the alleged assailant is apprehended or the investigation is closed.

NEW SUBSECTION. 7. The right to be informed of any plea agreements related to the crime for which the person is a registered victim.

NEW SUBSECTION. 8. The victim's right to make an oral victim impact statement, in the presence of the defendant, as well as notification of the time and place for such statement.

Sec. 8. Section 910A.7A, Code 1995, is amended to read as follows:

910A.7A NOTIFICATION BY DEPARTMENT OF JUSTICE.

The department of justice shall notify a registered victim of ~~all dispositional orders of a case currently on appeal~~ the filing of an appeal, the expected date of decision on the

appeal as the information becomes available to the department, all dispositional orders in the appeal, and the outcome of the appeal of a case in which the victim was involved.

Sec. 9. Section 910A.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The offender's transfer from local custody to custody in another locality.

Sec. 10. Section 910A.9, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The transfer of custody of the offender to another state or federal jurisdiction.

NEW SUBSECTION. 7. The procedures for contacting the department to determine the offender's current institution of residence.

Approved April 16, 1996

CHAPTER 1112

INSTRUCTIONAL SUPPORT PROGRAM - HEARINGS AND ELECTIONS

H.F. 334

AN ACT relating to the hearing and election provisions of the instructional support program of school districts.

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

Section 1. Section 257.18, subsection 1, Code Supplement 1995, is amended to read as follows:

1. An instructional support program that provides additional funding for school districts is established. A board of directors that wishes to consider participating in the instructional support program shall hold a public hearing on the question of participation. The board shall set forth its proposal, including the method that will be used to fund the program, in a resolution and shall publish the notice of the time and place of a public hearing on the resolution. Notice of the time and place of the public hearing shall be published ~~in one or more newspapers~~ not less than ten nor more than twenty days before the public hearing. ~~For the purpose of establishing and giving assured circulation to the proceedings, only~~ in a newspaper which is a newspaper of general circulation ~~issued at a regular frequency, distributed in the school district's area, and regularly delivered or mailed through the post office during the preceding two years may be used for the publication~~ in the school district. ~~In addition, the newspaper must have a list of subscribers who have paid, or promised to pay, at more than a nominal rate, for copies to be received during a stated period.~~ At the hearing, ~~the board shall announce a date certain,~~ or no later than thirty days after the date of the hearing, ~~that it will~~ the board shall take action to adopt a resolution to participate in the instructional support program for a period not exceeding five years or to direct the county commissioner of elections to ~~call an election to~~ submit the question of participation in the program for a period not exceeding ten years to the registered voters of the school district at the next ~~following~~ regular school election ~~in the base year~~ or at a special election ~~held not later than December 1 of the base year~~. If the board ~~calls~~ submits the question at an election ~~on the question of participation, if~~ and a majority of those voting on the question favors participation in the program, the board shall adopt a

resolution to participate and certify the results of the election to the department of management.

Sec. 2. Section 257.18, subsection 2, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

If the board does not provide for an election and adopts a resolution to participate in the instructional support program, the district shall participate in the instructional support program unless within twenty-eight days following the action of the board, the secretary of the board receives a petition containing the required number of signatures, asking that an election be called to approve or disapprove the action of the board in adopting the instructional support program. The petition must be signed by eligible electors equal in number to not less than one hundred or thirty percent of the number of voters at the last preceding regular school election, whichever is greater. The board shall either rescind its action or direct the county commissioner of elections to submit the question to the registered voters of the school district at the next following regular school election or a special election ~~held not later than December 1 of the base year~~. If a majority of those voting on the question at the election favors disapproval of the action of the board, the district shall not participate in the instructional support program. If a majority of those voting on the question favors approval of the action, the board shall certify the results of the election to the department of management and the district shall participate in the program.

Approved April 16, 1996

CHAPTER 1113

TEXTBOOKS

S.F. 2158

AN ACT relating to textbooks.

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

Section 1. Section 301.1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Textbooks adopted and purchased by a school district may, and shall to the extent funds are appropriated by the general assembly, be made available to pupils attending nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools. As used in this paragraph, "textbooks" means books~~; book substitutes, including reusable workbooks;~~ and loose-leaf or bound manuals~~; and~~, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software ~~materials used as book substitutes~~, applications using computer-assisted instruction, interactive videodisc, and other computer courseware and magnetic media.

Approved April 16, 1996

CHAPTER 1114

CREDIT CARDS – MISCELLANEOUS PROVISIONS

H.F. 511

AN ACT relating to open-end credit pursuant to a credit card, including the permissible over-limit or delinquency charges, the offering of credit unemployment insurance, and the time requirements for making certain payments.

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

Section 1. Section 537.2501, subsection 1, paragraph f, unnumbered paragraph 1, Code 1995, is amended to read as follows:

With respect to open-end credit pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the parties may contract for an over-limit charge ~~not to exceed ten~~ up to fifteen dollars if the balance of the account exceeds the credit limit established pursuant to the agreement. The over-limit charge under this paragraph shall not be assessed again in a subsequent billing cycle unless in a subsequent billing cycle the account balance has been reduced below the credit limit.

Sec. 2. Section 537.2501, subsection 2, paragraph b, subparagraph (2), Code 1995, is amended to read as follows:

(2) The insurance shall be sold separately and shall be separately priced from any other insurance offered or sold at the same time. The credit unemployment insurance need not be sold separately or separately priced from other insurance offered if it is included as part of ~~a mailed~~ an insurance offering by a credit card issuer to its credit cardholders. ~~However, credit unemployment insurance shall not be sold in conjunction with an application for a credit card or for the renewal of a credit card.~~

Sec. 3. Section 537.2502, subsection 4, Code 1995, is amended to read as follows:

4. With respect to open-end credit obtained pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the parties may contract for a delinquency charge on any payment not paid in full ~~within ten days after its~~ when due ~~date~~, as originally scheduled or as deferred, in an amount ~~not to exceed ten~~ up to fifteen dollars.

Sec. 4. Section 537.2502, subsection 5, Code 1995, is amended to read as follows:

5. A delinquency charge under subsection 4 may be collected only once on a payment however long it remains in default. ~~No~~ A delinquency charge ~~may~~ shall not be collected with respect to a deferred payment unless the payment is not paid in full ~~within ten days after~~ on or before its deferred due date. A delinquency charge may be collected at the time it accrues or at any time afterward.

Sec. 5. Section 537.2502, subsection 6, Code 1995, is amended to read as follows:

6. ~~No~~ A delinquency charge ~~may~~ shall not be collected under subsection 4 on a payment which is paid in full ~~within ten days after~~ on or before its scheduled or deferred due date even though an earlier maturing payment or a delinquency or deferred charge on an earlier payment has not been paid in full. For purposes of this subsection, payments are applied first to amounts due for the current billing cycle and then to delinquent payments.

Approved April 16, 1996

CHAPTER 1115

COOPERATIVE ASSOCIATIONS - MISCELLANEOUS PROVISIONS

S.F. 2283

AN ACT relating to voting, the distribution of earnings, and the bylaws of a cooperative association.

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

Section 1. Section 499.29, Code 1995, is amended to read as follows:

499.29 MANNER OF VOTING.

Votes shall be cast in person, and not by proxy. The vote of a member-association shall be cast only by its representative duly authorized in writing. If the articles or bylaws permit, ~~an absent~~ a member may cast that member's ~~signed written~~ vote, in advance of the meeting, upon any proposition of which the member has been previously notified in writing~~, and of which a copy accompanies the member's vote~~.

Sec. 2. Section 499.30, subsection 2, paragraph b, Code Supplement 1995, is amended to read as follows:

b. To the extent that the cooperative association is not operating on a pooling basis as provided in this subsection, at least ten percent of the remaining earnings must be added to surplus until surplus equals either thirty percent of the total of all capital paid in for stock or memberships, plus all unpaid patronage dividends, plus certificates of indebtedness payable upon liquidation, earnings from nonmember business, and earnings arising from the earnings of other cooperative organizations of which the association is a member, or one thousand dollars, whichever is greater. No additions shall be made to surplus when it exceeds either fifty percent of the total, or one thousand dollars, whichever is greater, without the approval of the membership by a majority of votes cast.

Sec. 3. Section 499.46, Code 1995, is amended to read as follows:

499.46 BYLAWS.

The directors, by a vote of seventy-five percent of the directors, may adopt, alter, amend, or repeal bylaws for the association, which shall remain in force until altered, amended, or repealed by a vote of seventy-five percent of the members present or represented having voting privileges, at any annual meeting or special meeting of the membership, ~~or as otherwise provided in the articles of incorporation or bylaws~~ provided that at least ten days' prior written notice of the impending membership vote has been mailed to all members of the association with a copy or summary of the proposed adoption, alteration, amendment, or repeal of the bylaws. Proposals by members to adopt, alter, amend, or repeal bylaws by vote of the membership shall be presented to the association's registered office for mailing to the membership by the association at least twenty days prior to the meeting at which the proposed change is to be considered. Bylaws shall be kept by the secretary subject to inspection by any member at any time. Bylaws may deal with the fiscal or internal affairs of the association or any subject of this chapter in any manner not inconsistent with this chapter or the articles.

Approved April 16, 1996

CHAPTER 1116

MOTORBOAT OPERATION ON BIG CREEK LAKE

H.F. 2306

AN ACT relating to the regulation of motorboats on certain artificial lakes, and providing an effective date and applicability dates.

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

Section 1. MOTORBOATS OPERATING ON BIG CREEK LAKE - TEMPORARY.

1. Notwithstanding section 462A.31, subsection 1, paragraph "b", a motorboat equipped with any power unit mounted or carried aboard the vessel may be operated at a no-wake speed on Big Creek lake. However, the use of jet skis and the towing of flotation recreational equipment are prohibited on Big Creek lake.

2. This section applies to artificial lakes from May 24, 1996, through September 2, 1996, both dates inclusive.

3. This section is repealed effective September 3, 1996.

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

Approved April 16, 1996

CHAPTER 1117

WASTE TIRES

H.F. 2433

AN ACT relating to the management of waste tires by providing for the establishment of a waste tire management fund, allocation of moneys to facilitate elimination of waste tires and the establishment of future markets for waste tires, providing for the redirection of the existing fee on certificates of title of motor vehicles, and providing a repeal.

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

Section 1. Section 321.52A, Code Supplement 1995, is amended to read as follows:

321.52A CERTIFICATE OF TITLE SURCHARGE.

1. In addition to the fee required for the issuance of a certificate of title under section 321.20, 321.20A, 321.23, 321.42, 321.46, 321.47, 321.48, 321.50, or 321.52, a surcharge of five dollars shall be required. Of each surcharge collected under those sections, the county treasurer shall remit five dollars to the office of treasurer of state for deposit ~~in the general fund of the state~~ as set forth in subsection 2.

2. For the fiscal year beginning July 1, 1996, the treasurer of state shall deposit one million five hundred thousand dollars of moneys received under subsection 1 in the waste tire management fund created in section 455D.11C, and deposit the remainder in the general fund of the state. For the fiscal year beginning July 1, 1997, the treasurer of state shall deposit two million five hundred thousand dollars of moneys received under subsection 1 in the waste tire management fund, and deposit the remainder in the general fund of the state. For the fiscal year beginning July 1, 1998, and the fiscal year beginning July 1, 1999, the treasurer of state shall deposit three million five hundred thousand dollars of moneys received under subsection 1 in the waste tire management fund, and deposit the remainder in the general fund of the state. For the fiscal year beginning July 1, 2000, the treasurer of

state shall deposit two million five hundred thousand dollars of the moneys received under subsection 1 in the waste tire management fund, and one million dollars in the road use tax fund, with the remainder deposited in the general fund of the state. For the fiscal year beginning July 1, 2001, the treasurer of state shall deposit one million five hundred thousand dollars of moneys received under subsection 1 in the waste tire management fund, and three million dollars in the road use tax fund, with the remainder deposited in the general fund of the state. For the fiscal year beginning July 1, 2002, and each subsequent fiscal year, the treasurer of state shall deposit the entire amount of moneys received under subsection 1 in the road use tax fund.

Sec. 2. Section 455D.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The department shall adopt rules relating to the storage and disposal of nonpneumatic tires and processed tires.

Sec. 3. NEW SECTION. 455D.11C WASTE TIRE MANAGEMENT FUND.

1. A waste tire management fund is created within the state treasury. Moneys received from each five dollar surcharge on the issuance of a certificate of title shall be deposited as provided in section 321.52A, subsection 2. Notwithstanding section 8.33, any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Notwithstanding section 12C.7, any interest or earnings on investments from moneys in the fund shall be credited to the fund. Moneys from the fund that are expended by the department in closing or bringing into compliance a waste tire collection site pursuant to section 455D.11A and later recouped by the department shall be credited to the fund.

2. Moneys in the waste tire management fund are appropriated and shall be used for the following purposes:

a. Fifty thousand dollars shall be allocated each fiscal year to the department to administer the waste tire management fund. This amount shall be allocated to the department each fiscal year before other moneys from the waste tire management fund are awarded pursuant to this subsection.

b. The awarding of contracts by the department for bringing waste tire collection sites or existing stockpiles of waste tires into compliance with section 455D.11, or processing waste tires from existing waste tire collection sites or existing stockpiles of waste tires.

c. The awarding of moneys to boards of supervisors of counties pursuant to section 455D.11D.

d. The awarding of moneys to state board of regents institutions pursuant to section 455D.11E.

e. The awarding of moneys to tire processors pursuant to section 455D.11F.

3. Notwithstanding any other provision of law, three hundred thousand dollars shall be transferred on August 1, 1996, from the hazardous substance remedial fund created in section 455B.423 to the waste tire management fund. Moneys received in the waste tire management fund pursuant to section 321.52A shall be paid quarterly beginning on July 1, 1997, to the hazardous substance remedial fund until the amount of three hundred thousand dollars has been paid to the hazardous substance remedial fund.

Sec. 4. NEW SECTION. 455D.11D WASTE TIRE MANAGEMENT - GRANT PROGRAM.

1. The department shall establish a waste tire management grant program to promote the safe collection and disposal of waste tires at the local community level. The program shall consist of all of the following:

a. Evaluation and approval or denial of grant applications in accordance with the criteria developed by the department for grants for local waste tire management programs.

b. Allocation of grant moneys from the waste tire management fund created in section 455D.11C to boards of supervisors of participating counties or to designees of each board including, but not limited to, public or private entities for which a grant is approved for use in establishing and administering local waste tire management programs.

2. Moneys, if available from the waste tire management fund shall be used in the waste tire management program in the following amounts: for the fiscal year beginning July 1,

1996, seven hundred thousand dollars; for each fiscal year during the fiscal period beginning July 1, 1997, and ending June 30, 2001, one million dollars; and for the fiscal year beginning July 1, 2001, seven hundred thousand dollars.

3. The department shall approve or deny grant applications submitted by boards of supervisors of participating counties.

a. Grant moneys shall be allocated to a participating county based upon the population of the county as documented in the 1990 census as follows:

(1) Participating counties with populations of less than sixty thousand shall each be allocated grant moneys not to exceed fifteen thousand dollars.

(2) Participating counties with populations of sixty thousand but less than one hundred ten thousand shall each be allocated grant moneys not to exceed thirty thousand dollars.

(3) Participating counties with populations of one hundred ten thousand one but less than two hundred thousand shall each be allocated grant moneys not to exceed fifty thousand dollars.

(4) Participating counties with populations of two hundred thousand or more shall each be allocated grant moneys not to exceed sixty-five thousand dollars.

The department may award additional grant moneys to a county with special waste tire concerns or problems.

b. The program shall require that boards of supervisors of participating counties submit an annual application for participation by August 14. Applications shall be approved or denied by October 1, in accordance with the criteria developed by the department, and moneys shall be allocated by January 1 of the subsequent year.

c. Grant moneys shall be allocated to the board of supervisors of a participating county for which an application has been approved for the establishment and implementation of local waste tire management programs.

d. Each county participating in the grant program shall designate a site or sites for the collection of waste tires, which shall accept waste tires without charge in accordance with local waste tire management programs.

e. Each county participating in the grant program is encouraged to promote local waste tire management programs, to encourage nonprofit organization and private entity participation, and to generate local funding for supplementation of the grant moneys awarded. The board of supervisors of a participating county or designees of the board may establish limitations regarding the numbers and types of waste tires collected and the entities from which a site is required to accept waste tires.

f. Each board of supervisors of a participating county shall submit an annual report to the department which shall include an itemization of expenditures, a report of the volume of waste tires collected, and recommendations for improvement in the grant program and other information requested by the department in the grant application form.

g. Moneys which are not expended but which are encumbered at the end of each year may be retained by the county if the county submits an application for continued grant approval. If a county does not receive continued approval of local waste tire management programs and unexpended and unencumbered moneys remain, the county shall remit the moneys to the treasurer of state for deposit in the waste tire management fund.

Sec. 5. NEW SECTION. 455D.11E USE BY REGENTS INSTITUTIONS OF WASTE TIRES TO PRODUCE TIRE-DERIVED FUELS AND FOR OTHER BENEFICIAL USES.

State board of regents institutions of higher education, defined in section 262.7, are encouraged to use, to the fullest extent practicable, waste tires for beneficial uses, such as, but not limited to, producing tire-derived fuels. Moneys shall be awarded from the waste tire management fund, pursuant to section 455D.11C, subsection 2, to such an institution by the department pursuant to section 455D.11C to offset additional fuel costs incurred in generating heat, electricity, or power on a British thermal unit equivalent basis. Moneys of not more than one hundred thousand dollars may be awarded in the aggregate in a fiscal year to such institutions to offset any increased fuel costs associated with assisting the state's program to dispose of waste tires in an environmentally sound manner, and shall be available only to the extent that such moneys help to reduce the number of waste tires in the state.

Sec. 6. NEW SECTION. 455D.11F TIRE PROCESSORS AWARDED MONEYS FOR PROCESSING WASTE TIRES.

1. As used in this section:

a. "Passenger tire equivalent" means the physical dimensions of a tire which has a rim diameter of sixteen and one-half inches or less.

b. "Site of end use" means a site where whole or processed waste tires are permanently legally disposed of, recycled, or reused.

c. "Tire processor" means a person who reduces waste tires into a processed form suitable for recycling or producing fuel for energy or heat, or uses whole waste tires in any other beneficial use as authorized by the department. "Tire processor" does not mean a person who retreads tires or processes and stores tires.

2. A tire processor who annually processes more than two hundred fifty thousand waste tires, as defined in section 455D.11, or the equivalent, at a processing site as defined in section 455D.11 located within the state may be awarded moneys pursuant to section 455D.11C, subsection 2, from the waste tire management fund of not more than twenty cents per passenger tire equivalent processed and delivered to the site of end use. Moneys of not more than three hundred thousand dollars for such tire processors shall be available in the aggregate in a fiscal year and shall be disbursed by the department upon application and approval to such tire processors. A tire processor shall not receive more than twenty thousand dollars from the waste tire management fund in a fiscal year. A tire processor with a pending enforcement action against the tire processor by the department is ineligible to receive moneys while the enforcement action is pending. A tire processor is encouraged to use moneys awarded under this subsection to lower the rates at which the tire processor sells processed materials.

Sec. 7. NEW SECTION. 455D.11G DISPOSAL FEE CHARGED BY RETAIL TIRE DEALER.

A retail tire dealer who currently charges a fee relating to disposal of used tires is encouraged to include the fee within the sales price of new tires. The practice by retail tire dealers of adding the fee as a separate charge on sales invoices is discouraged.

Sec. 8. NEW SECTION. 455D.11H REPEAL.

Sections 455D.11C, 455D.11D, 455D.11E, 455D.11F, 455D.11G, and this section are repealed effective July 1, 2002.

Sec. 9. RULES. The department shall adopt rules to allow beneficial uses of whole or processed waste tires in consultation with a committee consisting of a member of the Iowa society of solid waste operators, a member from a major farm organization, a member from the Iowa state association of counties, a member from the consulting engineers council, and two members who are actively engaged in tire processing. The rules shall include, but need not be limited to, the appropriate beneficial uses of whole or processed waste tires for the construction of erosion control structures, French drains, drainage structures, leachate recovery systems, septic system drainage fields, road bases, culverts, field crossings, or intakes, or agricultural or construction uses, including, but not limited to, weight or tie downs, fences, or waterways, or other uses where the intended purpose is to produce a beneficial product or an end use. The committee shall review and consider available scientific engineering research on methods of beneficially using whole or processed waste tires. This section is repealed effective June 30, 1998.

Sec. 10. SEVERABILITY. If any provision of this Act or any application of this Act to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Approved April 17, 1996

CHAPTER 1118

CONFINEMENT FEEDING OPERATIONS - NUISANCE DEFENSE

S.F. 2375

AN ACT relating to a limitation on qualifications for rebuttable presumptions for nuisance defenses for certain persons classified as chronic violators involved in confinement feeding operations.

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

Section 1. Section 657.11, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. The rebuttable presumption does not apply to a person during any period that the person is classified as a chronic violator under this subsection as to any confinement feeding operation in which the person holds a controlling interest, as defined by rules adopted by the department of natural resources. The rebuttable presumption shall apply to the person on and after the date that the person is removed from the classification of chronic violator. For purposes of this subsection, "confinement feeding operation" means an animal feeding operation in which animals are confined to areas which are totally roofed, and which are regulated by the department of natural resources or the environmental protection commission.

a. A person shall be classified as a chronic violator if the person has committed three or more violations as described in this subsection prior to, on, or after the effective date of this Act. In addition, in relation to each violation, the person must have been subject to either of the following:

(1) The assessment of a civil penalty by the department or the commission in an amount equal to three thousand dollars or more.

(2) A court order or judgment for a legal action brought by the attorney general after referral by the department or commission.

Each violation must have occurred within five years prior to the date of the latest violation, counting any violation committed by a confinement feeding operation in which the person holds a controlling interest. A violation occurs on the date the department issues an administrative order to the person assessing a civil penalty of three thousand dollars or more, or on the date the department notifies a person in writing that the department will recommend that the commission refer, or the commission refers the case to the attorney general for legal action, or the date of entry of the court order or judgment, whichever occurs first. A violation under this subsection shall not be counted if the civil penalty ultimately imposed is less than three thousand dollars, the department or commission does not refer the action to the attorney general, the attorney general does not take legal action, or a court order or judgment is not entered against the person. A person shall be removed from the classification of chronic violator on the date on which the person and all confinement feeding operations in which the person holds a controlling interest have committed less than three violations described in this subsection for the prior five years.

b. For purposes of counting violations, a continuing and uninterrupted violation shall be considered as one violation. Different types of violations shall be counted as separate violations regardless of whether the violations were committed during the same period. The violation must be a violation of a state statute, or a rule adopted by the department, which applies to a confinement feeding operation and any related animal feeding operation structure, including an anaerobic lagoon, earthen manure storage basin, formed manure storage structure, or egg washwater storage structure; or any related pollution control device or practice. The structure, device, or practice must be part of the confinement feeding operation. The violation must be one of the following:

(1) Constructing or operating a related animal feeding operation structure or installing or using a related pollution control device or practice, for which the person must obtain a permit, in violation of statute or rules adopted by the department, including the terms or conditions of the permit.

(2) Intentionally making a false statement or misrepresenting information to the department as part of an application for a construction permit for the related animal feeding operation structure, or the installation of the related pollution control device or practice, for which the person must obtain a construction permit from the department.

(3) Failing to obtain a permit or approval by the department for a permit to construct or operate a confinement feeding operation or use a related animal feeding operation structure or pollution control device or practice, for which the person must obtain a permit from the department.

(4) Operating a confinement feeding operation, including a related animal feeding operation structure or pollution control device or practice, which causes pollution to the waters of the state, if the pollution was caused intentionally, or caused by a failure to take measures required to abate the pollution which resulted from an act of God.

(5) Failing to submit a manure management plan as required, or operating a confinement feeding operation required to have a manure management plan without having submitted the manure management plan.

Approved April 17, 1996

CHAPTER 1119

BRANDING OF LIVESTOCK

H.F. 2390

AN ACT providing for the branding of livestock.

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

Section 1. Section 169A.4, Code 1995, is amended to read as follows:

169A.4 RECORDING - FEE.

~~Any~~ A person desiring to adopt a brand shall forward to the secretary ~~proper~~ a brand application on forms ~~of such~~ approved by the secretary and providing for the desired brand, together with a recording fee in an amount established by rule of the secretary pursuant to chapter 17A~~, which~~. The fee amount shall be based upon the administrative costs of maintaining the brand program provided for by this chapter. Upon receipt ~~of such~~, the secretary shall file the application and fee, ~~the secretary shall file the same and~~ unless ~~such~~ the brand is of record ~~as that~~ of ~~some other~~ another person or conflicts with or closely resembles the brand of another person~~, the secretary shall record the same~~. If the secretary determines that such brand is of record or conflicts with or closely resembles the brand of another person, the secretary shall not record it but shall return ~~such~~ the facsimile and fee to the forwarding person. However, the secretary shall renew a conflicting brand, if the brand was originally recorded prior to the effective date of this Act, and the brand is renewed as provided in section 169A.13. The department may notify each owner of a conflicting brand that the owner may record a nonconflicting brand. The power of examination, approval, acceptance, or rejection shall be vested in the secretary. ~~It shall be the duty of the~~ The secretary ~~to~~ shall file all brands offered for record pending the examination provided for in this section. The secretary shall make such examination as promptly as possible. If the brand is accepted, the brand's ownership ~~thereof~~ shall vest in the person recording it from the date of filing.

Sec. 2. Section 169A.16, Code Supplement 1995, is repealed.

Approved April 17, 1996

CHAPTER 1120

CITY SEWER OR WATER UTILITY CONNECTIONS

H.F. 2259

AN ACT relating to city sewer or water utility connections.

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

Section 1. Section 384.38, subsection 3, Code 1995, is amended to read as follows:

3. A city may establish, by ordinance or by resolution adopted as an ordinance after twenty days' notice published in accordance with section 362.3, and a public hearing ~~consistent with the requirements of section 384.50~~, one or more districts and schedules of fees for the connection of property to the city sewer or water utility. If the governing body directs that notice be made by mail, the notice shall be as required in section 384.50. Each person whose property will be served by connecting to the city sewer or water utility shall pay a connection fee to the city. The ordinance shall be certified by the city and recorded in the office of the county recorder of the county in which a district is located. The connection fees are due and payable when a utility connection application is filed with the city. A connection fee ~~shall not exceed~~ may include the equitable ~~part of the total original~~ cost ~~to the city~~ of extending the utility to the properties ~~within the district, less any part of the cost which has been previously assessed or paid to the city under this division IV~~, including reasonable interest from the date of construction to the date of payment. All fees collected under this subsection shall be paid to the city treasurer. The moneys collected as fees shall only be used for the purposes of operating the utility, or to pay debt service on obligations issued to finance improvements or extensions to the utility.

This subsection shall not apply when a city annexation plan includes annexation of an area adjoining the city and a petition has not been presented as provided in section 384.41 for a city sewer or water utility connection. Until annexation takes place, or the annexation plan is abandoned, the state mandate contained in section 455B.172, subsections 3, 4, and 5, shall not apply unless the individual property owner voluntarily pays the connection fee and requests to be connected to the city sewer or water utility.

Approved April 17, 1996

CHAPTER 1121

EMPLOYMENT SECURITY

H.F. 2229

AN ACT relating to the components of the unemployment insurance system concerning the job service advisory council, voluntary income tax withholding from unemployment benefits, relieving certain employers from certain unemployment insurance charges, employer contributions and liability for unemployment insurance benefits regarding successor employers, definitions of employment and wages for members of limited liability companies, and unemployment insurance tax liability for corporate officers, and providing an effective and applicability date.

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

Section 1. Section 96.3, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. VOLUNTARY INCOME TAX WITHHOLDING.

All payments of benefits made after December 31, 1996, are subject to the following:

a. An individual filing a new application for benefits shall, at the time of filing the application, be advised of the following:

(1) Benefits paid under this chapter are subject to federal and state income tax.

(2) Legal requirements exist pertaining to estimated tax payments.

(3) The individual may elect to have federal income tax deducted and withheld from the individual's payment of benefits at the amount specified in the Internal Revenue Code as defined in section 422.3.

(4) The individual may elect to have Iowa state income tax deducted and withheld from the individual's payment of benefits at the rate of five percent.

(5) The individual shall be permitted to change the individual's previously elected withholding status.

b. Amounts deducted and withheld from benefits shall remain in the unemployment compensation fund until transferred to the appropriate taxing authority as a payment of income tax.

c. The commissioner shall follow all procedures specified by the United States department of labor, the federal internal revenue service, and the department of revenue and finance pertaining to the deducting and withholding of income tax.

d. Amounts shall be deducted and withheld under this subsection only after amounts are deducted and withheld for any overpayment of benefits, child support obligations, and any other amounts authorized to be deducted and withheld under federal or state law.

Sec. 2. Section 96.5, subsection 1, paragraph i, Code Supplement 1995, is amended to read as follows:

i. The individual is unemployed as a result of the individual's employer selling or otherwise transferring a clearly segregable and identifiable part of the employer's business or enterprise to another employer which does not make an offer of suitable work to the individual as provided under subsection 3~~; however~~. However, if the individual does accept, and works in and is paid wages for, suitable work with the acquiring employer, the ~~acquiring employer immediately becomes chargeable for the~~ benefits paid which are based on the wages paid by the transferring employer shall be charged to the unemployment compensation fund provided that the acquiring employer has not received, or will not receive, a partial transfer of experience under the provisions of section 96.7, subsection 2, paragraph "b". Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 3. Section 96.7, subsection 2, paragraph e, Code Supplement 1995, is amended to read as follows:

e. The division shall fix the contribution rate for each employer and notify the employer of the rate by regular mail to the last known address of the employer. An employer may appeal to the division for a revision of the contribution rate within thirty days from the date of the notice to the employer. After providing an opportunity for a hearing, the division may affirm, set aside, or modify its former determination and may grant the employer a new contribution rate. The division shall notify the employer of its decision by regular mail. Judicial review of action of the division may be sought pursuant to chapter 17A.

If an employer's account has been charged with benefits as the result of a decision allowing benefits and the decision is reversed, the employer may appeal, within thirty days from the date of the next contribution rate notice, for a recomputation of the rate. If contributions become due at a disputed contribution rate prior to the employer receiving a decision reversing benefits, the employer shall pay the contributions at the disputed rate but shall be eligible for a refund pursuant to section 96.14, subsection 5. If a base period employer's account has been charged with benefits paid to an employee at a time when the employee was employed by the base period employer in the same employment as in

the base period, the employer may appeal, within thirty days from the date of the first notice of the employer's contribution rate which is based on the charges, for a recomputation of the rate.

Sec. 4. Section 96.7, subsection 7, paragraph e, Code Supplement 1995, is amended to read as follows:

e. If ~~an~~ the entire enterprise or business of a reimbursable ~~government~~ governmental entity is sold or otherwise transferred to a subsequent employing unit and the ~~successor~~ acquiring employing unit continues to operate the enterprise or business, the ~~successor~~ acquiring employing unit shall assume the position of the reimbursable ~~government~~ governmental entity with respect to the reimbursable ~~government~~ governmental entity's liability to pay the division for reimbursable benefits based on the governmental entity's payroll ~~and reimbursable benefits~~ to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the ~~successor employer~~ acquiring employing unit elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the ~~employer's~~ acquiring employing unit's own payroll prior to or after the ~~sale or transfer~~ acquisition of the governmental entity's enterprise or business.

Sec. 5. Section 96.7, subsection 8, paragraph b, subparagraph (6), Code Supplement 1995, is amended to read as follows:

(6) If ~~an~~ the entire enterprise or business of a reimbursable nonprofit organization is sold or otherwise transferred to a subsequent employing unit and the ~~successor~~ acquiring employing unit continues to operate the enterprise or business, the ~~successor~~ acquiring employing unit shall assume the position of the reimbursable nonprofit organization with respect to the nonprofit organization's liability to pay the division for reimbursable benefits based on the nonprofit organization's payroll ~~and reimbursable benefits~~ to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the ~~successor employer~~ acquiring employing unit elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the ~~employer's~~ acquiring employing unit's own payroll prior to or after the ~~sale or transfer~~ acquisition of the nonprofit organization's enterprise or business.

Sec. 6. Section 96.11, subsection 5, Code 1995, is amended by striking the subsection.

Sec. 7. Section 96.11, subsection 6, Code 1995, is amended to read as follows:

6. EMPLOYMENT STABILIZATION. The commissioner, with the advice and aid of ~~the advisory council, and through~~ the appropriate bureaus of the division, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the ~~re-employment~~ reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

Sec. 8. Section 96.14, subsection 5, Code 1995, is amended to read as follows:

5. REFUNDS, COMPROMISES AND SETTLEMENTS. If the division of job service finds that an employer has paid contributions, ~~or~~ interest on contributions, or penalties, which have been erroneously paid or ~~which have been paid~~ if the employer has overpaid contributions because the employer's contribution rate was subsequently reduced pursuant to section 96.7, subsection 2, paragraph "e", solely due to benefits initially charged against but later removed from an employer's account, and the employer has filed an application for ~~adjustment~~ refund, the division shall ~~make an adjustment, compromise, or~~

~~settlement, and, at the employer's option, shall either refund the payments or treat the payments as voluntary contributions with no limitation on the payments' effects on the employer's contribution rate~~ refund the erroneous payment or overpayment. Refunds so made shall be charged to the fund to which the collections have been credited, and shall be paid to the ~~claimant~~ employer without interest. A claim for refund shall be made within three years from the date of payment. For like cause, ~~adjustments~~ refunds, compromises, ~~or refunds~~ and settlements may be made by the division on its own initiative within three years of the date of the payment or assessment. If the division finds that the contribution that has been assessed against an employer is of doubtful collectibility or may not be collected in full, the division may institute a proceeding in the district court in the county in which the employer against which the tax is levied is located, requesting authority to compromise the contribution. Notice of the filing of an application shall be given to the interested parties as the court may prescribe. The court upon hearing may authorize the division to compromise and settle its claim for the contribution and shall fix the amount to be received by the division in full settlement of the claim and shall authorize the release of the division's lien for the contribution.

Sec. 9. Section 96.19, subsection 18, paragraph a, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) A member of a limited liability company. For such a member, the term "employment" shall not include any portion of such service that is performed in lieu of making a contribution of cash or property to acquire a membership interest in the limited liability company.

Sec. 10. Section 96.19, subsection 18, paragraph f, Code Supplement 1995, is amended to read as follows:

f. (1) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the division ~~of job service~~ that such individual has been and will continue to be free from control or direction over the performance of such services, both under the individual's contract of service and in fact.

(2) Services performed by an individual for two or more employing units shall be deemed to be employment to each employing unit for which the services are performed. However, an individual who concurrently performs services as a corporate officer for two or more related corporations and who is paid through a common paymaster that is one of the related corporations may, at the discretion of such related corporations, be considered to be in the employment of only the common paymaster.

Sec. 11. Section 96.19, subsection 41, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Any portion of the remuneration to a member of a limited liability company based on a membership interest in the company provided that the remuneration is allocated among members, and among classes of members, in proportion to their respective investments in the company. If the amount of remuneration attributable to a membership interest cannot be determined, the entire amount of remuneration shall be deemed to be based on services performed.

Sec. 12. EFFECTIVE AND APPLICABILITY DATE. The section of this Act which amends section 96.3 by enacting a new subsection 10, takes effect on January 1, 1997, and is applicable to unemployment compensation benefits paid on or after that date.

Approved April 17, 1996

CHAPTER 1122

INSURANCE - PAYMENT OF CLAIMS BY ADMINISTRATOR
S.F. 2123

AN ACT relating to the payment of claims by an administrator acting on behalf of an insurer.

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

Section 1. Section 510.18, Code 1995, is amended to read as follows:
510.18 PAYMENT OF CLAIMS.
A claim paid by the administrator from funds collected on behalf of the insurer shall be paid only on a draft ~~of and~~, check, or by electronic funds transfer as authorized by the insurer.

Approved April 17, 1996

CHAPTER 1123

TAXATION OF FOREIGN CORPORATIONS
H.F. 2166

AN ACT relating to the taxation of foreign corporations and providing an effective and retroactive applicability date provision.

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

Section 1. NEW SECTION. 422.34A EXEMPT ACTIVITIES OF FOREIGN CORPORATIONS.
A foreign corporation shall not be considered doing business in this state or deriving income from sources within this state for the purposes of this division by reason of carrying on in this state one or more of the following activities:
1. Holding meetings of the board of directors or shareholders or holiday parties or employee appreciation dinners.
2. Maintaining bank accounts.
3. Borrowing money, with or without security.
4. Utilizing Iowa courts for litigation.
5. Owning and controlling a subsidiary corporation which is incorporated in or which is transacting business within this state where the holding or parent company has no physical presence in the state as that presence relates to the ownership or control of the subsidiary.
6. Recruiting personnel where hiring occurs outside the state.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1996, for tax years beginning on or after that date.

Approved April 17, 1996

CHAPTER 1124

SALES, SERVICES, AND USE TAX EXEMPTION - STATE AND COUNTY FAIRS
H.F. 2422

AN ACT relating to state sales and services tax exemption for sales or services rendered, furnished, or performed by state and county fairs.

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

Section 1. Section 422.45, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 50. The gross receipts from sales or services rendered, furnished, or performed by the state fair organized under chapter 173 or a fair society organized under chapter 174.

Approved April 17, 1996

CHAPTER 1125

MOTOR VEHICLE LEASE TAX
H.F. 569

AN ACT relating to the motor vehicle leasing tax and providing an applicability provision.

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

Section 1. Section 331.557, subsection 3, Code 1995, is amended to read as follows:

3. Collect the use tax on vehicles subject to registration as provided in sections 423.6, ~~and~~ 423.7, and 423.7A.

Sec. 2. Section 423.2, Code 1995, is amended to read as follows:

423.2 IMPOSITION OF TAX.

An excise tax is imposed on the use in this state of tangible personal property purchased for use in this state, at the rate of five percent of the purchase price of the property. An excise tax is imposed on the use of leased vehicles at the rate of five percent of the amount otherwise subject to tax as calculated pursuant to section 423.7A. The excise tax is imposed upon every person using the property within this state until the tax has been paid directly to the county treasurer or the state department of transportation, to a retailer, or to the department. An excise tax is imposed on the use in this state of services enumerated in section 422.43 at the rate of five percent. This tax is applicable where services are rendered, furnished, or performed in this state or where the product or result of the service is used in this state. This tax is imposed on every person using the services or the product of the services in this state until the user has paid the tax either to an Iowa use tax permit holder or to the department.

Sec. 3. Section 423.4, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 16. Vehicles subject to registration under chapter 321, with a gross vehicle weight rating of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, when purchased for lease and titled by the lessor licensed pursuant to chapter 321F and actually leased for a period of twelve months or more if the lease of the vehicle is subject to taxation under section 423.7A.

Sec. 4. Section 423.6, subsection 1, Code 1995, is amended to read as follows:

1. The tax upon the use of all vehicles subject to registration or subject only to the

issuance of a certificate of title shall be collected by the county treasurer or the state department of transportation pursuant to ~~section~~ sections 423.7 and 423.7A. The county treasurer shall retain one dollar from each tax payment collected, to be credited to the county general fund.

Sec. 5. NEW SECTION. 423.7A MOTOR VEHICLE LEASE TAX.

1. The tax imposed upon the use of leased vehicles subject to registration under chapter 321, with gross vehicle weight ratings of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, which are leased by a lessor licensed pursuant to chapter 321F for a period of twelve months or more shall be paid by the owner of the vehicle to the county treasurer or state department of transportation from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or issuance of a certificate of title shall not be issued until the tax is paid in the initial instance.

2. The amount subject to tax shall be computed on each separate lease transaction by multiplying the number of months of the lease by the monthly lease payments, plus the downpayment, less any manufacturer's rebate. The county treasurer or the state department of transportation shall require every applicant for a registration receipt for a vehicle subject to tax under this section to supply information as the county treasurer or director deems necessary as to the date of the lease transaction, the lease price, and other information relative to the lease of the vehicle.

3. On or before the tenth day of each month the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

4. If the lease is terminated prior to the termination date contained in the lease agreement, no refund shall be allowed for tax previously paid on the monthly rental payments.

Sec. 6. Section 423.24, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

Eighty percent of all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7 and section 423.7A shall be deposited and credited as follows:

Sec. 7. APPLICABILITY. This Act applies to leases entered into on or after January 1, 1997.

Approved April 17, 1996

CHAPTER 1126

MISCELLANEOUS TRANSPORTATION PROVISIONS - RELEASE OF PUBLIC IMPROVEMENT FUNDS

H.F. 2419

AN ACT relating to transportation by granting the state department of transportation condemnation rights for utility facility replacement, requiring certain criteria be adopted by administrative rule, providing for entry onto private property for sounding and drilling, relating to the process for disposal of abandoned vehicles, and providing for release of retained funds for public improvements.

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

Section 1. Section 306.19, subsection 6, Code Supplement 1995, is amended to read as follows:

6. If the agency determines that it is necessary to relocate ~~an interstate hazardous liquid pipeline as defined by the federal Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. § 2001, et seq.~~ a utility facility, the agency shall have the authority to institute and maintain proceedings on behalf of the ~~pipeline company~~ owner of the utility facility for the condemnation of replacement property rights. The replacement property rights shall be equal in substance to the ~~pipeline company's~~ existing rights of the owner of the utility facility, except that ~~if the issue of width was not addressed,~~ the replacement property rights shall be for a width and location deemed appropriate and necessary for the needs of the ~~pipeline company~~ owner of the utility facility, as determined by the agency and the owner of the facility. The replacement property rights of the ~~pipeline company~~ owner of the utility facility shall be subordinate to the rights of the agency only to the extent necessary for the construction and maintenance of the designated road. Within a reasonable time after completion of the ~~pipeline replacement~~ relocation, all previously owned property rights of the ~~pipeline company~~ owner of the utility facility no longer required for operation and maintenance of the ~~pipeline~~ utility facility shall be released or conveyed to the appropriate parties. The authority of the agency under this subsection may only be exercised upon execution of a relocation agreement between the agency and the ~~pipeline company~~ owner of the utility facility. For purposes of this subsection, "utility facility" means an electric, gas, water, steam power, or materials transmission or distribution system; a transportation system; a communications system, including cable television; and fixtures, equipment, or other property associated with the operation, maintenance, or repair of the system. A utility facility may be publicly, privately, or cooperatively owned.

Sec. 2. Section 307A.2, subsection 13, Code 1995, is amended to read as follows:

13. The criteria used by the commission for allocating funds as a result of any long-range planning process shall be adopted in accordance with the provisions of chapter 17A. The commission shall adopt such rules and regulations in accordance with the provisions of chapter 17A as it may deem necessary to transact its business and for the administration and exercise of its powers and duties.

Sec. 3. Section 314.9, Code 1995, is amended to read as follows:

314.9 ENTERING PRIVATE ~~LAND~~ PROPERTY.

The agency in control of ~~any~~ a highway ~~or highway system or the engineer, or any other authorized person employed by said agency,~~ may after thirty days' written notice by restricted certified mail addressed to the owner and also to the occupant, enter upon private ~~land~~ property for the purpose of making surveys, soundings, drillings, appraisals, and examinations as ~~it~~ the agency deems appropriate or necessary to determine the advisability or practicability of locating and constructing a highway ~~thereon~~ on the property or for the purpose of determining whether gravel or other material exists on ~~said land~~ the property of suitable quality and in sufficient quantity to warrant the purchase or condemnation of ~~said land or part thereof~~ the property. ~~Such~~ The entry~~, after notice,~~ shall not be deemed a trespass, and the agency may be aided by injunction to insure peaceful entry. The agency shall pay actual damages caused by ~~such~~ the entry, surveys, soundings, drillings, appraisals, or examinations.

Any damage caused by ~~such~~ the entry, surveys, soundings, drillings, appraisals, or examinations shall be determined by agreement or in the manner provided for the award of damages in condemnation of ~~land~~ the property for highway purposes. ~~No such soundings~~ Soundings or drillings shall not be done within ~~twenty rods~~ one hundred fifty feet of the dwelling house or within fifty feet of other buildings ~~on said land~~ without written consent of the owner.

Sec. 4. Section 321.89, Code Supplement 1995, is amended to read as follows:

321.89 ABANDONED VEHICLES.

1. DEFINITIONS. As used in this section and sections 321.90 and 321.91 unless the context otherwise requires:

a. "Police authority" means the Iowa highway safety patrol, any law enforcement agency

of a county or city or any special security officer employed by the state board of regents under section 262.13.

b. "Abandoned vehicle" means any of the following:

(1) A vehicle that has been left unattended on public property for more than ~~forty-eight~~ twenty-four hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable~~, or~~.

(2) A vehicle that has remained illegally on public property for more than ~~seventy-two~~ twenty-four hours~~, or~~.

(3) A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours~~, or~~.

(4) A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten days~~, or~~. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process in subsection 3.

(5) Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

(6) A vehicle that has been impounded pursuant to section 321J.4B by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

~~However, a vehicle shall not be considered abandoned for a period of five days if its owner or operator is unable to move the vehicle and notifies the police authority responsible for the geographical location of the vehicle and requests assistance in the removal of the vehicle.~~

c. "Demolisher" means any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority ~~may, and on~~, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody ~~any~~ an abandoned vehicle on public property and may take into custody ~~any~~ an abandoned vehicle on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment, and facilities, ~~or~~ hire ~~other personnel~~ a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle. The owners, lienholders, or other claimants of the abandoned vehicle shall not have a cause of action against a private entity for action taken under this section, if the private entity provides notice as required by subsection 3, paragraph "a", to those persons whose names were provided by the police authority.

3. NOTIFICATION OF OWNER, LIENHOLDERS, AND OTHER CLAIMANTS.

a. A police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model, and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ~~twenty-one~~ ten days after the effective date of the notice upon payment of all towing, preservation, and storage charges

resulting from placing the vehicle in custody and upon payment of the costs of notice required pursuant to this subsection. The notice shall also state that the failure of the owner, ~~or~~ lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, ~~and all~~ lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ~~twenty-one-day~~ ten-day reclaiming period, the owner, ~~and~~ lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. ~~No~~ A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, ~~and~~ lienholders, or claimants, after the expiration of the ~~twenty-one-day~~ ten-day reclaiming period.

b. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under this section. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in ~~subsection 3,~~ paragraph "a" ~~of this section~~.

c. The owner, ~~or any~~ lienholders, or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ~~twenty-one-day~~ ten-day reclaiming period, obtain an additional ~~fourteen~~ five days within which the vehicle or personal property may be reclaimed.

4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided for in subsection 3, the police authority or private entity shall make a determination as to whether or not the vehicle shall be sold for use upon the highways. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap. The police authority or private entity shall sell the vehicle at public auction. Notwithstanding any other provision of this section, ~~any~~ a police authority or private entity, which has taken into possession any abandoned vehicle which lacks an engine, ~~or~~ two or more wheels, ~~or~~ another part which renders the vehicle totally inoperable, or which has a fair market value of less than five hundred dollars as determined by the police authority or private entity, may dispose of the vehicle to a demolisher for junk without public auction after complying with the notification procedures ~~enumerated~~ in subsection 3 ~~and without public auction~~. The purchaser of the vehicle takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority or private entity, and is entitled to register the vehicle and receive a certificate of title if sold for use upon the highways. If the vehicle is sold or disposed of to a demolisher for junk, the demolisher shall make application for a junking certificate to the county treasurer within fifteen days of purchase and shall surrender the sales receipt in lieu of the certificate of title.

From the proceeds of the sale of an abandoned vehicle the police authority, if the police authority did not hire a private entity, shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing which resulted from placing the abandoned vehicle in custody, all notice and publication costs incurred pursuant to subsection 3, the cost of inspection, and any other costs incurred except costs of bookkeeping and other administrative costs. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for ninety days, and shall then be deposited in the road use tax fund. The costs to police authorities of auction, towing, preserving, storage,

and all notice and publication costs, and all other costs which result from placing abandoned vehicles in custody, whenever the proceeds from a sale of the abandoned vehicles are insufficient to meet these expenses and costs, shall be paid from the road use tax fund and are the obligation of the last owner or owners, jointly and severally.

The director of transportation shall establish by rule a claims procedure to be followed by police authorities in obtaining expenses and costs from the fund. If a private entity has been hired, the police authority may file a claim with the department for reimbursement of towing fees which shall be paid from the road use tax fund.

Sec. 5. Section 321.285, subsection 6, Code 1995, is amended to read as follows:

6. Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic on fully controlled-access, divided, multilaned highways including the national system of interstate highways designated by the federal highway administration and this state (23 U.S.C. § 103(e)) is sixty-five miles per hour. However, the department or cities with the approval of the department may establish a lower speed limit upon such highways located within the corporate limits of a city. For the purposes of this subsection a fully controlled-access highway is a highway that gives preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. A minimum speed ~~of forty miles per hour, road conditions permitting, is~~ may be established by the department on the highways referred to in this subsection if warranted by engineering and traffic investigations.

It is further provided that any kind of vehicle, implement, or conveyance incapable of attaining and maintaining a speed of forty miles per hour shall be prohibited from using the interstate system.

Sec. 6. NEW SECTION. 573.15A EARLY RELEASE OF RETAINED FUNDS.

Notwithstanding section 573.14, a public corporation may release retained funds upon completion of ninety-five percent of the contract in accordance with the following:

1. Any person, firm, or corporation who has, under contract with the principal contractor or with subcontractors, performed labor, or furnished materials, service, or transportation, in the construction of the public improvement, may file with the public corporation an itemized, sworn, written statement of the claim for the labor, or materials, service, or transportation. The claim shall be filed with the public corporation either before the expiration of the thirty days after completion of ninety-five percent of the contract or at any time after the thirty-day period if the public corporation has not paid the full contract price and no action is pending to adjudicate rights in and to the unpaid portion of the contract price.

2. The fund, as provided in section 573.13, shall be retained by the public corporation for a period of thirty days after ninety-five percent of the contract has been completed. If at the end of the thirty-day period, a claim has been filed, in accordance with this section, the public corporation shall continue to retain from the unpaid funds, a sum equal to double the total amount of all claims on file. The remaining balance of the unpaid fund, or if there are no claims on file, the entire unpaid fund, may be released and paid to the contractor.

3. The public corporation, the principal contractor, or any claimant for labor or materials, service, or transportation, who has filed a claim or the surety on any bond given for performance of the contract, at any time after the expiration of thirty days, and not later than sixty days after the completion of ninety-five percent of the contract, may bring an action in equity in the county where the public improvement is located to determine rights to moneys contained in the fund or to enforce liability on the bond. The action shall be brought in accordance with sections 573.16 through 573.18, with the completion of ninety-five percent of the contract taking the place of the date of final acceptance.

4. A public corporation that releases funds at the completion of ninety-five percent of the contract, in accordance with this section, shall not be required to retain additional funds.

Approved April 17, 1996

CHAPTER 1127

VOCATIONAL REHABILITATION

S.F. 2204

AN ACT relating to the operation of the vocational rehabilitation division of the department of education and promoting consistency with the most recently amended version of federal law.

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

Section 1. Section 85.70, Code 1995, is amended to read as follows:

85.70 ADDITIONAL PAYMENT FOR ATTENDANCE.

An employee who has sustained an injury resulting in permanent partial or permanent total disability, for which compensation is payable under this chapter, and who cannot return to gainful employment because of such disability, shall upon application to and approval by the industrial commissioner be entitled to a twenty-dollar weekly payment from the employer in addition to any other benefit payments, during each full week in which the employee is actively participating in a vocational rehabilitation program recognized by the ~~state board for vocational education~~ vocational rehabilitation services division of the department of education. The industrial commissioner's approval of such application for payment may be given only after a careful evaluation of available facts, and after consultation with the employer or the employer's representative. Judicial review of the decision of the industrial commissioner may be obtained in accordance with the terms of the Iowa administrative procedure Act and in section 86.26. Such additional benefit payment shall be paid for a period not to exceed thirteen consecutive weeks except that the industrial commissioner may extend the period of payment not to exceed an additional thirteen weeks if the circumstances indicate that a continuation of training will in fact accomplish rehabilitation.

Sec. 2. Section 256.7, subsection 2, Code 1995, is amended to read as follows:

2. Constitute the state board for vocational education under ~~chapters~~ chapter 258 ~~and 259~~.

Sec. 3. Section 259.3, Code 1995, is amended to read as follows:

259.3 BOARD AND DIVISION.

~~The state board of education is the board for vocational education under this chapter.~~ The division of vocational rehabilitation services is established in the department of education. The director of the department of education shall cooperate with the United States secretary of education in carrying out the federal law cited in sections 259.1 and 259.2 providing for the vocational rehabilitation of individuals with disabilities. The board ~~for vocational~~ of education shall adopt rules under chapter 17A for the administration of this chapter.

Sec. 4. Section 259.4, subsections 3, 4, 5, 8, 9, 12, and 13, Code 1995, are amended by striking the subsections.

Sec. 5. Section 259.4, subsection 6, Code 1995, is amended to read as follows:

6. Utilize in the rehabilitation of individuals with disabilities existing educational and other facilities as are advisable and practicable, including public and private educational institutions, community rehabilitation programs, public or private establishments, plants, factories, and the services of individuals specially qualified for the instruction and vocational rehabilitation of individuals with disabilities.

Sec. 6. Section 259.4, subsection 11, Code 1995, is amended to read as follows:

11. Do those things necessary to secure the rehabilitation of those individuals entitled to the benefits of this chapter, including ~~but not limited to, the use of public agencies and~~

~~community rehabilitation programs as practicable in securing employment for~~ those individuals with severe disabilities.

Sec. 7. Section 259.4, subsection 15, Code 1995, is amended to read as follows:

15. Provide financial and other necessary assistance to public or private agencies in the development~~,~~ or expansion~~, operation, or maintenance~~ of community rehabilitation programs, or programs in other public agencies, needed for the rehabilitation of individuals with disabilities.

Sec. 8. Section 259.5, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

259.5 REPORT TO GOVERNOR.

The division shall report biennially to the governor the condition of vocational rehabilitation within the state, designating the educational institutions, establishments, plants, factories, and other agencies in which training is being given, and include a detailed statement of expenditures of the state and federal funds in the rehabilitation of individuals with disabilities.

Sec. 9. Section 259.7, Code 1995, is amended to read as follows:

259.7 FUND.

All the moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of individuals with disabilities, to be used by the ~~board~~ director of the department of education in carrying out the provisions of this chapter or for related purposes.

Sec. 10. Section 259.9, Code 1995, is amended to read as follows:

259.9 AGREEMENT CONTINUED.

The agreement between the ~~board for vocational education~~ director of the department of education and the ~~secretary of the United States department of health and human services~~ commissioner of the United States social security administration relating to making determinations of disability under Title II and Title XVI of the federal Social Security Act as amended, 42 U.S.C. ch. 7, completed prior to July 1, 1986 remains in effect.

Sec. 11. CENTER NAMED. The northwest section of the Jessie M. Parker vocational rehabilitation building at the capitol complex in Des Moines shall be named the Juliet Saxton Center.

Approved April 17, 1996

CHAPTER 1128

MISCELLANEOUS PUBLIC HEALTH ADMINISTRATION PROVISIONS

S.F. 2171

AN ACT relating to public health administration, including the duties of the director of public health, primary care recruitment and retention, professional licensure, and health data.

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

Section 1. Section 135.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 25. Establish ad hoc and advisory committees to the director in areas where technical expertise is not otherwise readily available. Members may be compensated for their actual and necessary expenses incurred in the performance of their duties. Expense moneys paid to the members shall be paid from funds appropriated to the department. A majority of the members of such a committee constitutes a quorum.

Sec. 2. Section 135.107, subsection 3, paragraph b, subparagraph (2), subparagraph subdivision (a), Code Supplement 1995, is amended to read as follows:

(a) Determination of eligibility requirements and qualifications of an applicant to receive loan repayment under the program, including but not limited to years of obligated service ~~which shall be for a minimum of ten years unless federal requirements for the program require differently~~, clinical practice requirements, and residency requirements. One year of obligated service shall be provided by the applicant in exchange for each year of loan repayment, unless federal requirements otherwise require. Loan repayment under the program shall not be approved for a health provider whose license or certification is restricted by a medical regulatory authority of any jurisdiction of the United States, other nations, or territories.

Sec. 3. Section 135.107, subsection 3, paragraph c, subparagraph (2), subparagraph subdivision (a), Code Supplement 1995, is amended to read as follows:

(a) Determination of eligibility requirements and qualifications of an applicant to receive scholarships under the program, including but not limited to years of obligated service ~~which shall be for a minimum of ten years unless federal requirements for the program require differently~~, clinical practice requirements, and residency requirements. One year of obligated service shall be provided by the applicant in exchange for each year of loan repayment, unless federal requirements otherwise require.

Sec. 4. Section 144C.4, subsection 6, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Facilitate, in cooperation with the health data commission established in section 145.2, the transfer of historic health data from the commission to the data repository.

Sec. 5. Section 147.8, Code 1995, is amended to read as follows:

147.8 RECORD OF LICENSES.

The name, location, number of years of practice of the person to whom a license is issued to practice a profession, the number of the certificate, and the date of registration thereof shall be ~~entered in a book kept in the office of the department to be known as the registry book, and the same shall be~~ kept and made available in a manner which is open to public inspection.

Sec. 6. Section 152B.13, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The members of the advisory committee shall include two licensed physicians with recognized training and experience in respiratory care, two respiratory care practitioners, and one public member. Not more than a simple majority of the advisory committee shall be of one gender. A majority of the members of the committee constitutes a quorum. Members shall be appointed by the governor, subject to confirmation by the senate, and shall serve three-year terms beginning and ending in accordance with section 69.19. Members shall be compensated for their actual and necessary expenses incurred in the performance of their duties. Expense moneys paid to the members shall be paid from funds appropriated to the department. Each member of the committee may also be eligible to receive compensation as provided in section 7E.6.

Sec. 7. Section 152C.2, Code 1995, is amended to read as follows:

152C.2 MASSAGE THERAPY ADVISORY BOARD CREATED - DUTIES.

The director of the department shall appoint members of the board, including four massage therapists and three persons who are not massage therapists and who shall represent the general public. A majority of the members of the board constitutes a quorum. Members shall be compensated for their actual and necessary expenses incurred in the performance of their duties. Expense moneys paid to the members shall be paid from funds appropriated to the department. The board shall advise the department regarding licensure and continuing education requirements, standards of practice and professional ethics, disciplinary actions, and other issues of concern to the board.

Sec. 8. Section 152D.7, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The members of the advisory board shall include three licensed athletic trainers, three physicians licensed to practice medicine in all its branches, and one public member. Not more than a simple majority of the advisory board shall be of one gender. A majority of the members of the board constitutes a quorum. Members shall be appointed by the governor, subject to confirmation by the senate, and shall serve three-year terms beginning and ending in accordance with section 69.19. Members shall be compensated for their actual and necessary expenses incurred in the performance of their duties. Expense moneys paid to the members shall be paid from funds appropriated to the department. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

Approved April 17, 1996

CHAPTER 1129

MENTAL AND PHYSICAL CONDITIONS - TERMINOLOGY CHANGES AND RELATED MATTERS

S.F. 2438

AN ACT relating to the terminology used to describe persons with certain mental and physical conditions, and providing for related matters concerning persons with mental illness.

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

Section 1. Section 4.1, subsections 15 and 39, Code Supplement 1995, are amended to read as follows:

15. ~~MENTALLY ILL~~ PERSONS WITH MENTAL ILLNESS. The words ~~"mentally ill person"~~ "persons with mental illness" include ~~mental retardates, psychotic~~ persons with psychosis, ~~severely depressed~~ persons who are severely depressed, and persons ~~of unsound mind~~ with any type of mental disease or mental disorder, except that mental illness does not refer to mental retardation as defined in section 222.2, or to insanity, diminished responsibility, or mental incompetency as defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules, 3d ed. A person who is hospitalized or detained for treatment of mental illness shall not be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section 229.27.

39. WRITTEN - IN WRITING - SIGNATURE. The words "written" and "in writing" may include any mode of representing words or letters in general use. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. If a person is unable due to a physical ~~handicap~~ disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

a. The ~~handicapped person's~~ name of the person with a disability written by another upon the request and in the presence of the ~~handicapped~~ person~~; or~~, with a disability.

b. A rubber stamp reproduction of the ~~handicapped person's~~ name or facsimile of the actual signature when adopted by the ~~handicapped~~ person with a disability for all purposes requiring a signature and then only when affixed by that person or another upon request and in the ~~handicapped person's~~ presence of the person with a disability.

Sec. 2. Section 7.14, subsection 3, Code 1995, is amended to read as follows:

3. Whenever a governor who is unable to discharge the duties of the office believes the disability to be removed, the governor may call a conference consisting of the three persons referred to as members of such a conference in subsection 1. The three members of the conference shall within ten days examine the ~~disabled~~ governor. Within seven days after the examination they shall conduct a secret ballot and by unanimous vote may find the disability removed.

Sec. 3. Section 15.225, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. A public service employment program for disadvantaged ~~and handicapped~~ youth and youth with disabilities attending school to be known as the "in-school program".

Sec. 4. Section 15.286, subsection 4, paragraph b, subparagraph (3), Code 1995, is amended to read as follows:

(3) Programs to assist persons of lower income, ~~the~~ persons who are disadvantaged, or ~~the disabled~~ persons with disabilities.

Sec. 5. Section 16.1, subsections 7 and 14, Code 1995, are amended by striking the subsections.

Sec. 6. Section 16.1, subsections 13 and 24, Code 1995, are amended to read as follows:

13. a. "Families" includes but is not limited to families consisting of a single adult person who is primarily responsible for the person's own support, is at least sixty-two years of age, is ~~disabled, is handicapped~~ a person with a disability, is displaced, or is the remaining member of a tenant family.

b. "Families" includes but is not limited to two or more persons living together who are at least sixty-two years of age, are ~~disabled, or are handicapped~~ persons with disabilities, or one or more such individuals living with another person who is essential to such individual's care or well-being.

24. "Low or moderate income families" means families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use, and also includes, but is not limited to, (1) elderly families, families in which one or more persons are ~~handicapped or disabled~~ persons with disabilities, lower income families and very low income families, and (2) families purchasing or renting qualified residential housing.

Sec. 7. Section 16.1, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 29A. "Person with a disability" means a person who is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment, or a person having a physical or mental impairment which is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of a nature that the ability to live independently could be improved by more suitable housing conditions.

Sec. 8. Section 16.1, subsection 32, paragraph c, Code 1995, is amended to read as follows:

c. Housing for low or moderate income families, elderly families, and families which include one or more persons ~~who are handicapped or disabled~~ with disabilities.

Sec. 9. Section 16.2, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The Iowa finance authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions, to undertake programs which assist in attainment of adequate housing for low or moderate income families, elderly families, and families which include one or more persons ~~who are handicapped or disabled~~ with disabilities, and to undertake the Iowa homesteading program, the small business loan program, the export business finance program, and other finance programs. The powers of the authority are vested in and shall be exercised by a board of nine members appointed by the governor subject to confirmation by the senate. No more than five members shall belong to the same political party. As far as possible the governor shall include within the membership persons who represent community and housing development industries, housing finance industries, the real estate sales industry, elderly families, minorities, lower income families, very low income families, ~~handicapped and disabled~~ families which include persons with disabilities, average taxpayers, local government, business and international trade interests, and any other person specially interested in community housing, finance, small business, or export business development.

Sec. 10. Section 16.3, subsection 13, Code 1995, is amended to read as follows:

13. There is a need in areas of the state for new construction of certain group homes of fifteen beds or less licensed as health care facilities or child foster care facilities to provide adequate housing and care for elderly ~~and handicapped~~ Iowans and Iowans with disabilities, and to provide adequate housing and foster care for children.

Sec. 11. Section 16.100, subsection 2, paragraph b, Code 1995, is amended to read as follows:

b. A home maintenance and repair program providing repair services to ~~elderly, handicapped, or disabled~~ families which include persons who are elderly or persons with disabilities and which qualify as lower income or very low income families.

Sec. 12. Section 19B.2, unnumbered paragraph 2, Code 1995, is amended to read as follows:

It is the policy of this state to permit special appointments by bypassing the usual testing procedures for any applicant for whom the division of vocational rehabilitation services of the department of education or the department for the blind has certified the applicant's disability and competence to perform the job. The department of personnel, in cooperation with the department for the blind and the division of vocational rehabilitation services, shall develop appropriate certification procedures. This paragraph should not be interpreted to bar promotional opportunities for ~~blind and physically or mentally disabled~~ persons who are blind or persons with physical or mental disabilities. If this paragraph conflicts with any other provisions of this chapter, the provisions of this paragraph govern.

Sec. 13. Section 34.2, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A 911 system shall be capable of transmitting requests for law enforcement, fire fighting, and emergency medical and ambulance services to a public safety agency or agencies that provide the requested service at the place where the call originates. A 911 system may also provide for transmitting requests for emergency management, poison control, suicide prevention, and other emergency services. The public safety answering point shall be capable of receiving calls from deaf and hard-of-hearing persons through a telecommunications device for the deaf. Conferencing capability with counseling, aid to ~~handicapped~~ persons with disabilities, and other services as deemed necessary for identifying appropriate emergency response services may be provided by the 911 service.

Sec. 14. Section 48A.2, subsection 3, Code 1995, is amended to read as follows:

3. ~~"Mentally incompetent person"~~ "Person who is mentally incompetent" means a person who has been legally determined to be severely or profoundly mentally retarded, or has been found incompetent in a proceeding held pursuant to section 229.27.

Sec. 15. Section 49.21, unnumbered paragraph 4, Code 1995, is amended to read as follows:

In the selection of polling places, preference shall also be given to the use of buildings accessible to ~~elderly and physically disabled~~ persons who are elderly and persons with disabilities.

Sec. 16. Section 49.90, Code 1995, is amended to read as follows:

49.90 ASSISTING VOTER.

Any voter who may declare upon oath that the voter is blind, cannot read the English language, or is, by reason of any physical disability other than intoxication, unable to cast a vote without assistance, shall, upon request, be assisted by ~~said~~ the two officers as provided in section 49.89, or alternatively by any other person the voter may select in casting the vote. ~~Said~~ The officers, or the person selected by the voter, shall cast the vote of the voter requiring assistance, and shall thereafter give no information regarding the vote cast. If any elector because of a ~~handicap~~ disability cannot enter the building where the polling place for the elector's precinct of residence is located, the two officers shall take a paper ballot to the vehicle occupied by the ~~handicapped~~ elector with a disability and allow the elector to cast the ballot in the vehicle. If ~~a handicapped~~ an elector with a disability cannot cast a ballot on a voting machine the elector shall be allowed to cast a paper ballot, which shall be opened immediately after the closing of the polling place by the two precinct election officials designated under section 49.89, who shall register the votes cast thereon on a voting machine in the polling place before the votes cast there are tallied pursuant to section 52.21. To preserve so far as possible the confidentiality of each ~~handicapped elector's~~ ballot of an elector with a disability, the two officers shall proceed substantially in the same manner as provided in section 53.24. In precincts where all voters use paper ballots, those cast by ~~handicapped~~ voters with disabilities shall be deposited in the regular ballot box and counted in the usual manner.

Sec. 17. Section 70A.20, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

A state employees disability insurance program is created, which shall be administered by the director of the department of personnel and which shall provide disability benefits in an amount and for the employees as provided in this section. The monthly disability benefits shall provide twenty percent of monthly earnings if employed less than one year, forty percent of monthly earnings if employed one year or more but less than two years, and sixty percent of monthly earnings thereafter, reduced by primary and family social security determined at the time social security disability payments commence, railroad retirement disability income, workers' compensation if applicable, and any other state-sponsored sickness or disability benefits payable. However, the amount of benefits payable under the Iowa public employees' retirement system pursuant to chapter 97B shall not reduce the benefits payable pursuant to this section. Subsequent social security or railroad retirement increases shall not be used to further reduce the insurance benefits payable. As used in this section, "primary and family social security" shall not include social security benefits awarded to ~~a disabled~~ an adult child with a disability of the ~~disabled~~ state employee with a disability who does not reside with the ~~disabled~~ state employee with a disability if the social security benefits were awarded to the ~~disabled~~ adult child with a disability prior to the approval of the state employee's benefits under this section, regardless of whether the United States social security administration records the benefits to the social security number of the ~~disabled~~ adult child with a disability, the ~~disabled~~ state employee with a disability, or any other family member, and such social security benefits shall not reduce the benefits payable pursuant to this section. As used in

this section, unless the context otherwise requires, "adult" means a person who is eighteen years of age or older. State employees shall receive credit for the time they were continuously employed prior to and on July 1, 1974. The following provisions apply to the employees disability insurance program:

Sec. 18. Section 85.38, subsection 2, Code 1995, is amended to read as follows:

2. CREDIT FOR BENEFITS PAID UNDER GROUP PLANS. In the event the ~~disabled~~ employee with a disability shall receive any benefits, including medical, surgical or hospital benefits, under any group plan covering nonoccupational disabilities contributed to wholly or partially by the employer, which benefits should not have been paid or payable if any rights of recovery existed under this chapter, chapter 85A or chapter 85B, then ~~such~~ the amounts so paid to ~~said~~ the employee from ~~any such~~ the group plan shall be credited to or against any compensation payments, including medical, surgical or hospital, made or to be made under this chapter, chapter 85A or chapter 85B. ~~Such~~ The amounts so credited shall be deducted from the payments made under these chapters. Any nonoccupational plan shall be reimbursed in the amount ~~so~~ deducted. This section shall not apply to payments made under any group plan which would have been payable even though there was an injury under this chapter or an occupational disease under chapter 85A or an occupational hearing loss under chapter 85B. Any employer receiving such credit shall keep ~~such~~ the employee safe and harmless from any and all claims or liabilities that may be made against them by reason of having received ~~such~~ the payments only to the extent of ~~such~~ the credit.

Sec. 19. Section 85.45, subsection 4, Code 1995, is amended to read as follows:

4. When a person seeking a commutation is a surviving spouse, ~~a permanently and totally disabled~~ an employee with a permanent and total disability, or a dependent who is entitled to benefits as provided in section 85.31, subsection 1, paragraphs "c" and "d", the future payments which may be commuted shall not exceed the number of weeks which shall be indicated by probability tables designated by the industrial commissioner for death and remarriage, subject to the provisions of chapter 17A.

Sec. 20. Section 85.49, Code 1995, is amended to read as follows:

85.49 TRUSTEES FOR ~~INCOMPETENT~~ MINORS AND DEPENDENTS.

When a minor or ~~mentally incompetent~~ a dependent who is mentally incompetent is entitled to weekly benefits under this chapter, or chapter 85A or 85B, payment shall be made to the parent, guardian, or conservator, who shall act as trustee, and the money coming into the trustee's hands shall be expended for the use and benefit of the person entitled to it under the direction and orders of a district judge. The trustee shall qualify and give bond in an amount as the district judge directs, which may be increased or diminished from time to time.

If the domicile or residence of ~~such~~ the minor or ~~mentally incompetent~~ dependent ~~be~~ who is mentally incompetent is outside the state of Iowa the industrial commissioner may order and direct that benefits to ~~such~~ the minors or ~~incompetents~~ dependents be paid to a guardian, conservator, or legal representative duly qualified under the laws of the jurisdiction wherein the minors or ~~incompetents~~ dependents shall be domiciled or reside. Proof of the identity and qualification of ~~such~~ the guardian, conservator, or other legal representative shall be furnished to the industrial commissioner.

Sec. 21. Section 85.68, Code 1995, is amended to read as follows:

85.68 ACTIONS.

The treasurer of state, on behalf of the second injury fund created under this division, shall have a cause of action under section 85.22 to the same extent as an employer against any person not in the same employment by reason of whose negligence or wrong the subsequent injury of the ~~previously disabled~~ person with the previous disability was caused. The action shall be brought by the treasurer of state on behalf of the fund, and any recovery,

less the necessary and reasonable expenses incurred by the treasurer of state, shall be paid to the treasurer of state and credited to the fund.

Sec. 22. Section 85.69, Code 1995, is amended to read as follows:

85.69 FEDERAL CONTRIBUTIONS.

The treasurer of state is hereby authorized to receive and credit to ~~said~~ the second injury fund any sum or sums that may at any time be contributed to the state by the United States or any agency thereof, under any Act of Congress or otherwise, to which the state may be or become entitled by reason of any payments made to any ~~previously disabled~~ person with a previous disability out of ~~said~~ the fund.

Sec. 23. Section 135.11, subsection 19, Code 1995, is amended to read as follows:

19. Administer the statewide maternal and child health program and the ~~crippled children's~~ program for children with disabilities 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 which may cause disabilities and children with 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. 24. Section 135C.1, subsections 6, 8, and 9, Code 1995, are amended to read as follows:

6. "Health care facility" or "facility" means a residential care facility, a nursing facility, an intermediate care facility for ~~the mentally ill~~ persons with mental illness, or an intermediate care facility for ~~the mentally retarded~~ persons with mental retardation.

8. "Intermediate care facility for ~~the mentally ill~~ persons with mental illness" 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.

9. "Intermediate care facility for ~~the mentally retarded~~ persons with mental retardation" 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~~ persons with mental retardation 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. 25. Section 135C.2, subsection 3, paragraph b, Code Supplement 1995, is amended to read as follows:

b. The department may also establish by administrative rule special classifications within the residential care facility, intermediate care facility for ~~the mentally ill~~ persons with mental illness, intermediate care facility for ~~the mentally retarded~~ persons with mental retardation, or 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. The rules may grant special variances or considerations to facilities licensed within the special classification.

Sec. 26. Section 135C.2, subsection 5, paragraph g, Code Supplement 1995, is amended to read as follows:

g. The facilities licensed under this subsection shall be eligible for funding utilized by other licensed residential care facilities for ~~the mentally retarded~~ persons with mental retardation, or licensed residential care facilities for ~~the mentally ill~~ persons with mental illness, including but not limited to funding under or from the federal social services block grant, the state supplementary assistance program, state mental health and developmental disabilities services funds, and county funding provisions.

Sec. 27. Section 216.6, subsection 1, paragraph c, unnumbered paragraph 2, Code 1995, is amended to read as follows:

An employer, employment agency, or their employees, servants or agents may offer employment or advertise for employment to only ~~the disabled~~ persons with disabilities, when other applicants have available to them, other employment compatible with their ability which would not be available to ~~the disabled~~ persons with disabilities because of their ~~handicap~~ disabilities. Any such employment or offer of employment shall not discriminate among ~~the disabled~~ persons with disabilities on the basis of race, color, creed, sex or national origin.

Sec. 28. Section 216.8A, subsection 3, paragraph d, Code 1995, is amended to read as follows:

d. Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for ~~physically handicapped people~~ persons with disabilities, commonly cited as "ANSI A 117.1", satisfies the requirements of paragraph "c", subparagraph (3), subparagraph subdivision (c).

Sec. 29. Section 216.14, Code 1995, is amended to read as follows:

216.14 PROMOTION OR TRANSFER.

After a ~~handicapped individual~~ person with a disability is employed, the employer shall not be required under this chapter to promote or transfer ~~such handicapped~~ the person to another job or occupation, unless, prior to ~~such~~ the transfer, ~~such handicapped~~ the person with the disability, by training or experience, is qualified for ~~such~~ the job or occupation. Any collective bargaining agreement between an employer and labor organization shall contain this section as part of ~~such~~ the agreement.

Sec. 30. Section 216B.3, subsection 9, Code Supplement 1995, is amended to read as follows:

9. Provide library services to ~~blind and physically handicapped~~ persons who are blind and persons with physical disabilities.

Sec. 31. Section 216B.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The administrator may accept financial aid from the government of the United States for carrying out rehabilitation and physical restoration of the blind and for providing library services to ~~the blind and physically handicapped~~ persons who are blind and persons with physical disabilities.

Sec. 32. Section 216C.1, Code 1995, is amended to read as follows:

216C.1 PARTICIPATION BY PERSONS WITH DISABILITIES.

It is the policy of this state to encourage and enable ~~the~~ persons who are blind~~, the~~ or partially blind and ~~the physically disabled~~ persons with physical disabilities to participate fully in the social and economic life of the state and to engage in remunerative employment.

To encourage participation by ~~the disabled~~ persons with disabilities, it is the policy of this state to ensure compliance with federal requirements concerning persons with disabilities.

Sec. 33. Section 216C.2, Code 1995, is amended to read as follows:

216C.2 PUBLIC EMPLOYMENT.

~~The~~ Persons who are blind~~, the~~ or partially blind and ~~the physically disabled~~ persons with physical disabilities shall be employed in the state service, the service of the political subdivisions of the state, the public schools, and all other employment supported in whole or in part by public funds, on the same terms and conditions as ~~the able bodied~~ other persons, unless it is shown that the particular disability prevents the performance of the work required.

Sec. 34. Section 216C.3, Code 1995, is amended to read as follows:

216C.3 FREE USE OF PUBLIC FACILITIES.

~~The~~ Persons who are blind~~, the~~ or partially blind and ~~the physically disabled~~ persons with physical disabilities have the same right as ~~the able bodied~~ other persons to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public elevators, public facilities and other public places.

Sec. 35. Section 216C.4, Code 1995, is amended to read as follows:

216C.4 ACCOMMODATIONS.

~~The~~ Persons who are blind~~, the~~ or partially blind and ~~the physically disabled~~ persons with physical disabilities are entitled to full and equal accommodations, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, other public conveyances or modes of transportation, hotels, lodging places, eating places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

Sec. 36. Section 216C.8, Code 1995, is amended to read as follows:

216C.8 WHITE CANE SAFETY DAY.

The governor shall annually take suitable public notice of October 15 as white cane safety day. The governor shall issue a proclamation commenting upon the significance of the white cane; calling upon the citizens to observe the provisions of this chapter and sections 321.332 and 321.333 and to take precautions necessary for the safety of ~~the disabled~~ persons with disabilities; reminding the citizens of the policies herein declared and urging the citizens to ~~co-operate~~ cooperate in giving effect to them; and emphasizing the need of the citizens to be aware of the presence of ~~disabled~~ persons with disabilities in the community and to offer assistance to ~~disabled~~ persons with disabilities upon appropriate occasions.

Sec. 37. Section 216C.9, subsection 1, Code 1995, is amended to read as follows:

1. Curbs constructed along any public street in this state, when the street is paralleled or intersected by sidewalks, or when city ordinances or other lawful regulations will require the construction of sidewalks parallel to or intersecting the street, shall be constructed with not less than two curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty inches wide, shall be sloped at not greater than one inch of rise per twelve inches lineal distance, except that a slope no greater than one inch of rise per eight inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for ~~physically handicapped~~ persons with physical disabilities using the sidewalk.

Sec. 38. Section 217.1, Code 1995, is amended to read as follows:

217.1 PROGRAMS OF DEPARTMENT.

There is established a department of human services to administer programs designed to improve the well-being and productivity of the people of the state of Iowa. The department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child, and adult welfare, economic assistance including costs of medical care, rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of juvenile offenders, care and treatment of ~~the mentally ill and mentally retarded~~ persons with mental illness or mental retardation, and other related programs as provided by law.

Sec. 39. Section 218.95, Code 1995, is amended to read as follows:

218.95 SYNONYMOUS TERMS.

For purposes of construing the provisions of this and the following subtitles of this title and chapters 16, 35B, 347B, 709A, 904, 913, and 914 relating to ~~the mentally ill~~ persons with mental illness and reconciling ~~same~~ these provisions with other former and present provisions of statute, the following terms shall be considered synonymous:

1. "Mentally ill" and "insane", except that the hospitalization or detention of any person for treatment of mental illness shall not constitute a finding or create a presumption that the individual is legally insane in the absence of a finding of incompetence made pursuant to section 229.27;

~~2. "Mental defectives" and "mentally retarded";~~

~~3. "Feeble-minded" and "mentally retarded";~~

~~4. "Defectiveness" and "retardation";~~

~~5.~~ 2. "Parole" and "convalescent leave";

~~6.~~ 3. "Resident" and "patient";

~~7.~~ 4. "Escape" and "depart without proper authorization";

~~8.~~ 5. "Warrant" and "order of admission";

~~9.~~ 6. "Escapee" and "patient";

~~10.~~ 7. "Sane" and "in good mental health";

~~11. "Commissioners of insanity" and "commissioners of hospitalization";~~

~~12. "Idiot" and "mental retardate";~~

~~13. "Recapture" and "take into protective custody";~~

~~14.~~ 8. "Asylum" and "hospital";

~~15.~~ 9. "Commitment" and "admission".

It is hereby declared to be the policy of the general assembly that words which have come to have a degrading meaning shall not be employed in institutional records having reference to ~~the mentally afflicted~~ persons with various mental conditions and that in all ~~such~~ records pertaining to persons with various mental conditions the less discriminatory of the foregoing synonyms shall be employed.

Sec. 40. Section 220A.1, Code 1995, is amended to read as follows:

220A.1 PURPOSE.

The purpose of this chapter is to permit information concerning persons who are believed to ~~be mentally handicapped~~ have mental disabilities to be efficiently used by and exchanged among the state and local governments, their departments and agencies, and with other public or private agencies, where the use or exchange of the information is for the purpose of assisting any of the agencies in providing care, evaluation, services, assistance, education, or habilitation to such persons.

Sec. 41. Section 220A.4, Code 1995, is amended to read as follows:

220A.4 AGENCIES INVOLVED.

The service shall receive from and make available to the following state agencies case information on persons who are believed to ~~be mentally handicapped~~ have mental disabilities: ~~The~~ the Iowa department of public health, the department of education, the state board of regents, and the department of human services.

Sec. 42. Section 220A.6, Code 1995, is amended to read as follows:

220A.6 INFORMATION TO OTHERS.

The state agencies designated in section 220A.4 may receive from and disseminate to other public agencies or private agencies such information as is necessary or proper for the purpose of providing evaluation services, treatment services, education, support or habilitation services to the ~~mentally handicapped~~ person with a mental disability. The enumerated state agencies or their designated staff shall be authorized to make determination of the proper receipt or dissemination of information to other public or private agencies.

Sec. 43. Section 220A.7, Code 1995, is amended to read as follows:

220A.7 RESTRICTIONS NOT APPLICABLE.

Any law or departmental rule of the state of Iowa which restricts or declares confidential information concerning persons who are believed to ~~be mentally handicapped~~ have mental disabilities shall not apply to information exchanged through the service for the purposes of this chapter. Information supplied under a restriction by the government of the United States, its departments or agencies, or by other state government, its departments and agencies, shall be processed in compliance with such restrictions. Any case information restricted by any order of court shall be processed in compliance with the order.

Sec. 44. Section 222.16, Code 1995, is amended to read as follows:

222.16 PETITION FOR ADJUDICATION OF MENTAL RETARDATION.

A petition for the adjudication of the mental retardation of a person within the meaning of this chapter may, with the permission of the court be filed without fee against ~~such~~ a person with the clerk of the district court of the county or city in which ~~such alleged mentally retarded~~ the person who is alleged to have mental retardation resides or is found. The petition may be filed by any relative of ~~such~~ the person, by a guardian, or by any reputable citizen of the county ~~of such residence or of such place of finding~~ where the person who is alleged to have mental retardation resides or is found.

Sec. 45. Section 222.18, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Upon the filing of the petition, the court shall enter an order directing the county attorney of the county in which the ~~allegedly mentally retarded~~ person who is alleged to have mental retardation resides to make a full investigation regarding the financial condition of that person and of those persons legally liable for that person's support under section 222.78.

Sec. 46. Section 222.21, Code 1995, is amended to read as follows:

222.21 ORDER REQUIRING ATTENDANCE.

If the person alleged to ~~be mentally retarded~~ have mental retardation is not before the court, the court may issue an order requiring the person, who has the care, custody, and control of the ~~alleged mentally retarded~~ person who is alleged to have mental retardation to bring ~~said alleged mentally retarded~~ the person into court at the time and place stated in ~~said~~ the order.

Sec. 47. Section 222.22, Code 1995, is amended to read as follows:

222.22 TIME OF APPEARANCE.

The time of appearance shall not be less than five days after completed service unless the court orders otherwise. Appearance on behalf of ~~such alleged mentally retarded~~ the person who is alleged to have mental retardation may be made by any citizen of the county or by any relative. The district court shall assign counsel for the ~~alleged mentally retarded~~ person who is alleged to have mental retardation. Counsel shall prior to proceedings personally consult with ~~such~~ the person who is alleged to have mental retardation unless the

judge appointing ~~such~~ counsel certifies that in the judge's opinion, ~~such~~ consultation shall serve no useful purpose. ~~Such~~ The certification shall be made a part of the record. An attorney ~~so~~ assigned by the court shall receive ~~such~~ compensation as the district court shall fix to be paid in the first instance by the county.

Sec. 48. Section 222.25, Code 1995, is amended to read as follows:

222.25 CUSTODY PENDING HEARING.

Pending final hearing, the court may at any time after the filing of the petition and on satisfactory showing that it is in the best interest of the ~~alleged mentally retarded~~ person who is alleged to have mental retardation and of the community that ~~such~~ the person be at once taken into custody, or that service of notice will be ineffectual if the person is not taken into custody, issue an order for the immediate production of ~~such~~ the person before the court. In such case, the court may make any proper order for the custody or confinement of ~~such~~ the person as will protect the person and the community and insure the presence of ~~such~~ the person at the hearing. ~~Such~~ The person shall not be confined with those accused or convicted of crime.

Sec. 49. Section 222.50, Code 1995, is amended to read as follows:

222.50 COUNTY OF LEGAL SETTLEMENT TO PAY.

When the proceedings are instituted in a county in which the ~~alleged mentally retarded~~ person who is alleged to have mental retardation was found but which is not the county of legal settlement of the person, and the costs are not taxed to the petitioner, the county which is the legal settlement of ~~such~~ the person shall, on presentation of a properly itemized bill for such costs, repay the ~~same~~ costs to the former county. When the person's legal settlement is outside the state or is unknown, the costs shall be paid out of money in the state treasury not otherwise appropriated, itemized on vouchers executed by the auditor of the county which paid the costs, and approved by the administrator.

Sec. 50. Section 222.80, Code 1995, is amended to read as follows:

222.80 LIABILITY TO COUNTY.

~~Any~~ A person admitted or committed to a county institution or home or admitted or committed at county expense to ~~any~~ a private hospital, sanitarium, or other facility for treatment, training, instruction, care, habilitation, and support as a ~~mentally retarded~~ patient ~~thereof~~ with mental retardation shall be liable to the county for the reasonable cost of ~~such~~ the support as provided in section 222.78.

Sec. 51. Section 222.88, subsection 1, Code 1995, is amended to read as follows:

1. Psychiatric and related services to ~~mentally retarded~~ children with mental retardation and adults who are also emotionally disturbed or otherwise mentally ill.

Sec. 52. Section 225C.21, subsection 1, Code 1995, is amended to read as follows:

1. As used in this section, "community, supervised apartment living arrangement" means the provision of a residence in a noninstitutional setting to ~~mentally ill, mentally retarded, or developmentally disabled adults~~ adult persons with mental illness, mental retardation, or developmental disabilities who are capable of living semi-independently but require minimal supervision.

Sec. 53. Section 227.2, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The director of inspections and appeals shall make, or cause to be made, at least one licensure inspection each year of every county care facility. Either the administrator of the division or the director of inspections and appeals, in ~~co-operation~~ cooperation with each other, upon receipt of a complaint or for good cause, may make, or cause to be made, a review of a county care facility or of any other private or county institution where ~~mentally ill or mentally retarded~~ persons with mental illness or mental retardation reside. A licensure inspection or a review shall be made by a competent and disinterested person who is

acquainted with and interested in the care of ~~mentally ill and mentally retarded~~ persons with mental illness and persons with mental retardation. The objective of a licensure inspection or a review shall be an evaluation of the programming and treatment provided by the facility. After each licensure inspection of a county care facility, the person who made the inspection shall consult with the county authorities on plans and practices that will improve the care given patients and shall make recommendations to the administrator of the division and the director of public health for ~~co-ordinating~~ coordinating and improving the relationships between the administrators of county care facilities, the administrator of the division, the director of public health, the superintendents of state mental health institutes and hospital-schools, community mental health centers, and other ~~co-operating~~ cooperating agencies, to cause improved and more satisfactory care of patients. A written report of each licensure inspection of a county care facility under this section shall be filed with the administrator of the division and the director of public health and shall include:

Sec. 54. Section 227.2, subsection 1, paragraph g, Code 1995, is amended to read as follows:

g. Any failure to comply with standards adopted under section 227.4 for care of ~~mentally ill and mentally retarded~~ persons with mental illness and persons with mental retardation in county care facilities, which is not covered in information submitted pursuant to paragraphs "a" to "f", and any other matters which the director of public health, in consultation with the administrator of the division, may require.

Sec. 55. Section 227.2, subsection 4, paragraphs a and b, Code 1995, are amended to read as follows:

a. It is the responsibility of the state to secure the annual evaluation for each person who is on convalescent leave or who has not been discharged from a state mental health institute. It is the responsibility of the county to secure the annual evaluation for all other ~~mentally ill~~ persons with mental illness in the county care facility.

b. It is the responsibility of the state to secure the annual evaluation for each person who is on leave and has not been discharged from a state hospital-school. It is the responsibility of the county to secure the annual evaluation for all other ~~mentally retarded~~ persons with mental retardation in the county care facility.

Sec. 56. Section 227.6, Code 1995, 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 with mental illness and all persons with mental retardation 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~~ persons with mental illness or mental retardation that has complied with the rules prescribed by the administrator. Residents being transferred to a state mental health institute or hospital-school shall be accompanied by an attendant or attendants sent from the institute or hospital-school. If a resident is 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 with mental illness and residents with mental retardation 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.

Sec. 57. Section 229.1, subsection 14, Code Supplement 1995, is amended to read as follows:

14. "Seriously mentally impaired" or "serious mental impairment" describes the condition of a person ~~who is afflicted~~ with mental illness and because of that illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment, and who because of that illness meets any of the following criteria:

a. Is likely to physically injure the person's self or others if allowed to remain at liberty without treatment.

b. Is likely to inflict serious emotional injury on members of the person's family or others who lack reasonable opportunity to avoid contact with the ~~afflicted~~ person with mental illness if the ~~afflicted~~ person with mental illness is allowed to remain at liberty without treatment.

c. Is unable to satisfy the person's needs for nourishment, clothing, essential medical care, or shelter so that it is likely that the person will suffer physical injury, physical debilitation, or death.

Sec. 58. Section 229.26, Code 1995, is amended to read as follows:

229.26 EXCLUSIVE PROCEDURE FOR INVOLUNTARY HOSPITALIZATION.

Sections 229.6 through 229.19 constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that this chapter does not negate the provisions of section 904.503 relating to transfer of ~~mentally ill~~ prisoners with mental illness to state hospitals for ~~the mentally ill~~ persons with mental illness and does not apply to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, 2d ed., or negate the provisions of section 232.51 relating to disposition of ~~mentally ill or mentally retarded~~ children with mental illness or mental retardation.

Sec. 59. Section 229.38, Code 1995, is amended to read as follows:

229.38 CRUELTY OR OFFICIAL MISCONDUCT.

If any person having the care of a ~~mentally ill~~ person with mental illness who has voluntarily entered a hospital or other facility for treatment or care, or who is responsible for psychiatric examination care, treatment and maintenance of any person involuntarily hospitalized under sections 229.6 to 229.15, whether in a hospital or elsewhere, with or without proper authority, shall treat such patient with unnecessary severity, harshness, or cruelty, or in any way abuse the patient or if any person unlawfully detains or deprives of liberty any ~~mentally ill or allegedly mentally ill~~ person with mental illness or any person who is alleged to have mental illness, or if any officer required by the provisions of this chapter and chapters 226 and 227, to perform any act shall willfully refuse or neglect to perform the same, the offending person shall, unless otherwise provided, be guilty of a serious misdemeanor.

Sec. 60. Section 230.15, Code 1995, is amended to read as follows:

230.15 PERSONAL LIABILITY.

A ~~mentally ill~~ person with mental illness and a person legally liable for the person's support remain liable for the support of the ~~mentally ill~~ person with mental illness as provided in this section. Persons legally liable for the support of a ~~mentally ill~~ person with mental illness include the spouse of the ~~mentally ill~~ person, any person bound by contract for support of the ~~mentally ill~~ person, and, with respect to ~~mentally ill~~ persons with mental illness under eighteen years of age only, the father and mother of the ~~mentally ill~~ person. The county auditor, subject to the direction of the board of supervisors, shall enforce the obligation created in this section as to all sums advanced by the county. The liability to the county incurred by a ~~mentally ill~~ person with mental illness or a person legally liable for the person's support under this section is limited to an amount equal to one hundred percent of the cost of care and treatment of the ~~mentally ill~~ person with mental illness at a state mental health institute for one hundred twenty days of hospitalization. This limit of liability may be reached by payment of the cost of care and treatment of the ~~mentally ill~~ person with mental illness subsequent to a single admission or multiple admissions to a state mental health institute or, if the person is not discharged as cured, subsequent to a single transfer or multiple transfers to a county care facility pursuant to section 227.11. After reaching this limit of liability, a ~~mentally ill~~ person with mental illness or a person legally liable for the person's support is liable to the county for the care and treatment of

the ~~mentally ill~~ person with mental illness at a state mental health institute or, if transferred but not discharged as cured, at a county care facility in an amount not in excess of the average minimum cost of the maintenance of ~~a physically and mentally healthy~~ an individual who is physically and mentally healthy residing in the individual's own home, which standard shall be established and may from time to time be revised by the department of human services. A lien imposed by section 230.25 shall not exceed the amount of the liability which may be incurred under this section on account of ~~any mentally ill~~ a person with mental illness.

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 with mental illness, substance abuser, or chronic substance abuser as established by the department of human services.

Sec. 61. Section 230.33, Code 1995, is amended to read as follows:

230.33 RECIPROCAL AGREEMENTS.

The administrator of the division is hereby authorized to enter into agreements with other states, through their duly constituted authorities, to effect the reciprocal return of ~~mentally ill and mentally retarded~~ persons with mental illness and persons with mental retardation to the contracting states, and to effect the reciprocal supervision of persons on convalescent leave.

Provided that in the case of a proposed transfer of a ~~mentally ill or mentally retarded~~ person with mental illness or mental retardation from this state that no final action be taken without the approval either of the commission of hospitalization, or of the district court, of the county of admission or commitment.

Sec. 62. Section 232.51, Code 1995, is amended to read as follows:

232.51 DISPOSITION OF ~~MENTALLY ILL OR MENTALLY RETARDED~~ CHILD WITH MENTAL ILLNESS OR MENTAL RETARDATION.

If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. These proceedings in the juvenile court shall adhere to the requirements of chapter 229. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally retarded, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. These proceedings shall adhere to the requirements of chapter 222. If the child is committed as a ~~mentally ill or mentally retarded~~ child with mental illness or mental retardation, any order adjudicating the child to have committed a delinquent act shall be set aside and the petition shall be dismissed.

Sec. 63. Section 233B.5, Code 1995, is amended to read as follows:

233B.5 TRANSFERS.

The administrator may transfer to the home minor wards of the state from any institution under the administrator's charge or under the charge of any other administrator of

the department of human services; but no person shall be so transferred who is ~~not mentally normal~~ a person with mental illness or mental retardation, or who is incorrigible, or has any vicious habits, or whose presence in the home would be inimical to the moral or physical welfare of ~~normal~~ the other children ~~therein~~ within the home, and any such child in the home may be transferred to the proper state institution.

Sec. 64. Section 249A.3, subsection 1, paragraph q, Code Supplement 1995, is amended to read as follows:

q. Is ~~a disabled~~ an individual with a disability, and is at least eighteen years of age, who receives parental social security benefits under the federal Social Security Act and is not eligible for federal supplemental security income or state supplementary assistance, as defined by section 249.1, because of the receipt of the social security benefits.

Sec. 65. Section 249A.5, subsection 2, paragraph b, Code Supplement 1995, is amended to read as follows:

b. If the collection of all or part of a debt is waived pursuant to subsection 2, paragraph "a", subparagraph (1), the amount waived shall be a debt due from the estate of the recipient's surviving spouse or ~~blind or disabled~~ child who is blind or has a disability, upon the death of the spouse or child, or due from a surviving child who was under twenty-one years of age at the time of the recipient's death, upon the child reaching age twenty-one, to the extent the recipient's estate is received by the surviving spouse or child.

Sec. 66. Section 249F.1, subsection 2, paragraph b, subparagraph (2), Code 1995, is amended to read as follows:

(2) Transfers, other than the transfer of a dwelling, to or for the sole benefit of the transferor's child who is blind or ~~disabled~~ has a disability as defined in section 1614 of the federal Social Security Act.

Sec. 67. Section 256.16, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Pursuant to section 256.7, subsection 5, the state board shall adopt rules requiring all higher education institutions providing practitioner preparation to include in the professional education program, preparation that contributes to education of ~~the handicapped and the~~ students with disabilities and students who are gifted and talented, which must be successfully completed before graduation from the practitioner preparation program.

Sec. 68. Section 256B.2, subsection 1, Code 1995, is amended to read as follows:

1. "Children requiring special education" means persons under twenty-one years of age, including children under five years of age, who ~~are handicapped~~ have a disability in obtaining an education because of a head injury, autism, behavioral disorder, or physical, mental, communication or learning disability, as defined by the rules of the department of education.

Sec. 69. Section 256B.6, subsection 5, Code 1995, is amended to read as follows:

5. Assigned to a program of special education when the child ~~is~~ does not ~~handicapped~~ have a disability.

Sec. 70. Section 256B.9, subsection 1, paragraphs b and d, Code 1995, are amended to read as follows:

b. Children requiring special education who require special adaptations while assigned to a regular classroom for basic instructional purposes and ~~handicapped~~ pupils with disabilities placed in a special education class who receive part of their instruction in regular classrooms are assigned a weighting of one and eight-tenths for the school year commencing July 1, 1975.

Effective July 1, 1991, this paragraph also applies to children requiring special education who require specially designed instruction while assigned to a regular classroom for basic instructional purposes.

d. Children requiring special education who ~~are severely handicapped~~ have severe disabilities or who have multiple ~~handicaps~~ disabilities are assigned a weighting of four and four-tenths for the school year commencing July 1, 1975.

Effective July 1, 1991, this paragraph also applies to children requiring special education who ~~are severely~~ have severe and ~~profoundly handicapped~~ profound disabilities.

Sec. 71. Section 256B.9, subsection 8, Code 1995, is amended to read as follows:

8. Commencing with the school year beginning July 1, 1976, a school district may expend an amount not to exceed two-sevenths of an amount equal to the district cost of a school district for the costs of regular classroom instruction of a child certified under the special education weighting plan in subsection 1, paragraph "b", as a ~~handicapped~~ pupil with disabilities who is enrolled in a special class, but who receives part of the pupil's instruction in a regular classroom. Unencumbered funds generated for special education instructional programs for the school year beginning July 1, 1975 and for the school year beginning July 1, 1976 shall not be expended for such purpose.

Sec. 72. Section 263.9, Code 1995, is amended to read as follows:

263.9 ESTABLISHMENT AND OBJECTIVES.

The state board of regents is hereby authorized to establish and maintain in reasonable proximity to Iowa City and in conjunction with the state university of Iowa and the university hospital, a hospital-school having as its objects the education and treatment of ~~severely handicapped~~ children with severe disabilities. Such hospital-schools shall be conducted in conjunction with the activities of the University of Iowa children's hospital. Insofar as is practicable, the facilities of the university children's hospital shall be utilized.

Sec. 73. Section 263.10, Code 1995, is amended to read as follows:

263.10 PERSONS ADMITTED.

Every resident of the state who is not more than twenty-one years of age, who ~~is so severely handicapped~~ has such severe disabilities as to be unable to acquire an education in the common schools, and every such person who is twenty-one and under thirty-five years of age who has the consent of the state board of regents, shall be entitled to receive an education, care, and training in the institution, and nonresidents similarly situated may be entitled to an education and care therein upon such terms as may be fixed by the state board of regents. The fee for nonresidents shall be not less than the average expense of resident pupils and shall be paid in advance. Residents and persons under the care and control of a director of a division of the department of human services who ~~are severely handicapped~~ have severe disabilities may be transferred to the hospital-school upon such terms as may be agreed upon by the state board of regents and ~~such~~ the director.

Sec. 74. Section 263.11, Code 1995, is amended to read as follows:

263.11 DEFINITIONS.

The term ~~"severely handicapped"~~ "severe disabilities" shall be interpreted for the purpose of this division as referring to persons who meet both of the following requirements:

1. Persons who are educable but ~~severely physically and educationally handicapped~~ have severe physical and educational disabilities as a result of cerebral palsy, muscular dystrophy, spina bifida, arthritis, poliomyelitis, or other severe physically ~~handicapping~~ disabling conditions~~, and~~.

2. Persons who are not eligible for admission to the schools already established for ~~the~~ persons with mental retardation or epilepsy or persons who are deaf~~,~~ or blind~~, epileptic, or mentally retarded~~.

Sec. 75. Section 280.8, Code 1995, is amended to read as follows:

280.8 SPECIAL EDUCATION.

The board of directors of each public school district shall make adequate educational provisions for each resident child requiring special education appropriate to the nature

and severity of the child's ~~handicapping condition~~ disability pursuant to rules promulgated by the department under the provisions of chapters 256B and 273.

Sec. 76. Section 299.18, Code 1995, is amended to read as follows:

299.18 EDUCATION OF CERTAIN ~~DEAF, BLIND, OR SEVERELY HANDICAPPED~~ CHILDREN WHO ARE DEAF, BLIND, OR HAVE SEVERE DISABILITIES.

Children who are of compulsory attendance age and who are so deaf or blind or ~~severely handicapped~~ have such severe disabilities so as to be unable to obtain an education in the public or accredited nonpublic schools shall be sent to the appropriate state-operated school, or shall receive appropriate special education under chapter 256B, unless exempted, and any person having such a child under the person's control or custody shall see that the child attends the state-operated school or special education program during the scholastic year.

Sec. 77. Section 299.19, Code 1995, is amended to read as follows:

299.19 PROCEEDING AGAINST PARENT.

Upon the failure of a person having the custody and control of a ~~deaf, blind, or severely handicapped~~ child who is blind, deaf, or has severe disabilities to require the child's attendance as provided in section 299.18, the state board of regents may make application to the district court or the juvenile court of the county in which the person resides for an order requiring the person to compel the attendance of the child at the proper state-operated school.

Sec. 78. Section 321.180A, subsection 1, Code 1995, is amended to read as follows:

1. Notwithstanding other provisions of this chapter, a ~~physically disabled~~ person with a physical disability, 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.

Sec. 79. Section 321.445, subsection 5, Code 1995, is amended to read as follows:

5. The department shall adopt rules pursuant to chapter 17A providing exceptions from application of subsections 1 and 2 for front seats and front seat passengers of motor vehicles owned, leased, rented, or primarily used by ~~physically handicapped~~ persons with physical disabilities who use collapsible wheelchairs.

Sec. 80. Section 324A.1, subsection 7, Code 1995, is amended to read as follows:

7. "Transportation disadvantaged persons" means persons ~~who are physically or mentally handicapped persons~~ with physical or mental disabilities, persons who are determined by the department to be economically disadvantaged and other persons or groups determined by the department to be disadvantaged in terms of the transportation services that are available to them.

Sec. 81. Section 324A.3, subsection 3, Code 1995, is amended to read as follows:

3. ~~Handicapped services~~ Services for persons with disabilities.

Sec. 82. Section 325.6, subsection 5, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A motor carrier providing primarily passenger service for ~~elderly, handicapped~~ persons who are elderly, persons with disabilities, and other transportation disadvantaged persons is exempt from the certification requirements of this section if it satisfies each of the following requirements:

Sec. 83. Section 331.324, subsection 1, paragraph n, Code 1995, is amended to read as follows:

n. Employ ~~the~~ persons who are blind~~, the~~ or partially blind~~,~~ and ~~the disabled~~ persons with physical disabilities in accordance with section 216C.2.

Sec. 84. Section 331.424, subsection 1, paragraph a, subparagraph (3), Code Supplement 1995, is amended to read as follows:

(3) Clothing, transportation, medical, or other services provided persons attending the Iowa braille and sight saving school, the Iowa school for the deaf, or the state hospital-school for ~~severely handicapped~~ children with severe disabilities at Iowa City, for which the county becomes obligated to pay pursuant to sections 263.12, 269.2, and 270.4 through 270.7.

Sec. 85. Section 331.655, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. For serving and returning a subpoena, for each person served, fifteen dollars, and the necessary expenses incurred while serving subpoenas in criminal cases or cases relating to ~~the mentally ill process~~ hospitalization of persons with mental illness.

Sec. 86. Section 384.24, subsection 2, paragraph k, Code 1995, is amended to read as follows:

k. Housing for ~~the elderly or physically handicapped~~ persons who are elderly or persons with physical disabilities.

Sec. 87. Section 403A.2, subsection 6, paragraphs d through g, Code 1995, are amended to read as follows:

d. "Families" includes, but is not limited to, families consisting of a single person in the case of any of the following:

(1) A person who is at least sixty-two years of age.

(2) A person ~~who is under~~ with a disability.

~~(3) A person who is handicapped.~~

~~(4)~~ (3) A displaced person.

~~(5)~~ (4) The remaining member of a tenant family.

e. "Families" includes two or more persons living together, who are at least sixty-two years of age, are ~~under~~ persons with a disability ~~or are handicapped~~, or one or more such individuals living with another person who is essential to such individual's care or well-being.

f. "Disability" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment.

~~g. "Handicapped" means,~~ or having a physical or mental impairment which is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of a nature that the ability to live independently could be improved by more suitable housing conditions.

Sec. 88. Section 403A.7, Code 1995, is amended to read as follows:

403A.7 HOUSING RENTALS AND TENANT ADMISSIONS.

A municipality shall ~~(1) rent~~ do the following:

1. Rent or lease the dwelling accommodations in a housing project only to persons or families of low income and at rentals within their financial reach~~; (2) rent~~.

2. Rent or lease to a tenant such dwelling accommodations consisting of the number of rooms which it deems necessary to provide safe and sanitary accommodations to the proposed occupants ~~thereof~~, without overcrowding~~; and (3) fix~~.

3. Fix income limits for occupancy and rents after taking into consideration ~~(a) the~~ the following:

a. The family size, composition, age, physical ~~handicaps~~ disabilities, and other factors which might affect the rent-paying ability of the person or family~~, and (b) the~~.

b. The economic factors which affect the financial stability and solvency of the project. ~~Provided, however,~~

PARAGRAPH DIVIDED. However, such determination of eligibility shall be within the limits of the income limits hereinbefore set out.

Nothing contained in this or the preceding section shall be construed as limiting the power of a municipality with respect to a housing project, to vest in an obligee the right, in the event of a default by the municipality, to take possession or cause the appointment of a receiver ~~thereof~~ for the housing project, free from all the restrictions imposed by this or the preceding section.

Sec. 89. Section 410.14, Code 1995, is amended to read as follows:

410.14 DECISION OF BOARD.

The decision of ~~such~~ the board upon such matters shall be final and conclusive, in the absence of fraud, and no appeal shall be allowed therefrom. ~~Such disabled~~ The member with a disability shall remain upon the pension roll unless and until reinstated in ~~such~~ the department by reason of such examination.

Sec. 90. Section 411.1A, Code 1995, is amended to read as follows:

411.1A PURPOSE OF CHAPTER.

The purpose of this chapter is to promote economy and efficiency in the municipal public safety service by providing an orderly means for police officers and fire fighters to have a retirement system which will provide for the payment of pensions to retired ~~and disabled~~ members and members incurring disabilities, and to the surviving spouses and dependents of deceased members.

Sec. 91. Section 419.1, subsection 12, paragraph a, subparagraph (13), Code 1995, is amended to read as follows:

(13) A housing unit or complex for ~~the elderly or handicapped~~ persons who are elderly or persons with disabilities.

Sec. 92. Section 422.45, subsection 22, paragraphs a and c, Code Supplement 1995, are amended to read as follows:

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

c. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the commission on accreditation of rehabilitation facilities or the accreditation council for services for ~~mentally retarded~~ persons with mental retardation and other ~~developmentally disabled~~ persons with developmental disabilities and adult day care services approved for reimbursement by the state department of human services.

Sec. 93. Section 425.23, subsection 3, paragraph b, Code 1995, is amended to read as follows:

b. For purposes of this subsection, ~~a totally disabled person~~ in computing household income, a person with a total disability shall deduct all medical and necessary care expenses paid during the twelve-month income tax accounting periods used in computing household income which are attributable to the person's total disability. "Medical and necessary care expenses" are those used in computing the federal income tax deduction under section 213 of the Internal Revenue Code as defined in section 422.3.

Sec. 94. Section 427.1, subsection 34, Code Supplement 1995, is amended to read as follows:

34. LOW-RENT HOUSING. The property owned and operated by a nonprofit organization providing low-rent housing for ~~the~~ persons who are elderly and ~~the physically and~~

~~mentally handicapped~~ persons with physical and mental disabilities. The exemption granted under the provisions of this subsection shall apply only until the terms of the original low-rent housing development mortgage is paid in full or expires, subject to the provisions of subsections 23 and 24.

Sec. 95. Section 468.513, Code 1995, is amended to read as follows:

468.513 VOTE OF MINOR OR ~~MENTALLY ILL~~ PERSON UNDER LEGAL INCOMPETENCY.

The vote of any person who is a minor~~, mentally ill,~~ or under ~~other~~ legal incompetency shall be cast by the parent, guardian, or other legal representative of ~~such minor, mentally ill, or other incompetent~~ the person. The person casting ~~such~~ the vote shall deliver to the judges and clerks of election a written sworn statement giving the name, age, and place of residence of ~~such~~ the minor~~, mentally ill,~~ or ~~other incompetent~~ person under legal incompetency, and any false statement knowingly made to secure permission to cast such vote shall render the party so making it guilty of the crime of perjury.

Sec. 96. Section 477C.1, Code 1995, is amended to read as follows:

477C.1 DUAL PARTY RELAY SERVICE - PURPOSE.

The general assembly finds that the provision of a statewide dual party relay service will further the public interest and protect the health, safety, and welfare of the people of Iowa through an increase in the usefulness and availability of the telephone system. Many ~~deaf, hard-of-hearing, and speech impaired~~ persons who are deaf, hard-of-hearing, or have speech impairments are not able to utilize the telephone system without this type of service. Therefore, it is the purpose of this chapter to enable the orderly development, operation, promotion, and funding of a statewide dual party relay service.

Sec. 97. Section 481A.38, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The commission shall adopt a rule permitting a crossbow to be used only by ~~handicapped~~ individuals with disabilities who are 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.

Sec. 98. Section 483A.3, subsection 1, Code 1995, is amended to read as follows:

1. A resident or nonresident person required to have a hunting, fur harvester or fur, fish and game license shall not hunt or trap unless the person carries a valid wildlife habitat stamp signed in ink with the person's signature across the face of the stamp. This section shall not apply to residents who ~~are permanently disabled~~ have permanent disabilities or who are younger than sixteen or older than sixty-five years of age. Special wildlife habitat stamps shall be administered in the same manner as hunting and fur harvester licenses except all revenue derived from the sale of the wildlife habitat stamps shall be used within the state of Iowa for habitat development and shall be deposited in the state fish and game protection fund, except as provided in subsection 2. The revenue may be used for the matching of federal funds. The revenues and any matched federal funds shall be used for acquisition of land, leasing of land or obtaining of easements from willing sellers for use as wildlife habitats. Notwithstanding the exemption provided by section 427.1, any land acquired with the revenues and matched federal funds shall be subject to the full consolidated levy of property taxes which shall be paid from those revenues. In addition such revenue may be used for the development and enhancement of wildlife lands and habitat areas. Not less than fifty percent of all revenue from the sale of wildlife habitat stamps shall be used by the commission to enter into agreements with county conservation boards or other public agencies in order to carry out the purposes of this section. The state share of funding of those agreements provided by the revenue from the sale of wildlife habitat stamps shall not exceed seventy-five percent.

Sec. 99. Section 483A.4, Code 1995, is amended to read as follows:

483A.4 ~~"PERMANENTLY DISABLED~~ PERMANENT DISABILITY" DEFINED.

For the purpose of obtaining a license, a person ~~is permanently disabled~~ has a permanent disability if any of the following apply:

1. The person has been found under the provisions of the federal Social Security Act, Title II, or any other public or private pension system to have a total, permanent physical or mental condition which prevents that person from engaging in the person's occupation or qualifies that person for retirement.

2. The person ~~is physically severely handicapped~~ has a severe physical disability and has qualified for a special license under section 483A.24.

Sec. 100. Section 483A.24, subsections 12 and 17, Code 1995, are amended to read as follows:

12. The commission shall issue without charge a special fishing license to residents of Iowa sixteen years or more of age who the commission finds ~~are mentally or physically severely handicapped~~ have severe mental or physical disabilities. The commission is hereby authorized to prepare an application to be used by the person requesting ~~handicapped status~~ the special license, which would require that the person's attending physician sign the form declaring that the person ~~handicapped~~ has a severe mental or physical disability and is eligible for exempt status.

17. The department shall issue without charge a special annual fishing or combined hunting and fishing license to residents of this state who ~~are permanently disabled~~ have permanent disabilities and whose income falls below the federal poverty guidelines as published by the United States department of health and human services or residents of this state who are sixty-five years of age or older and whose income falls below the federal poverty guidelines as published by the United States department of health and human services. The commission shall provide for, by rule, an application to be used by an applicant requesting a ~~permanent disabled status or age status~~ special license. The commission shall require proof of age, income, and proof of permanent disability.

Sec. 101. Section 598.17, unnumbered paragraph 3, Code 1995, is amended to read as follows:

~~No marriage~~ A dissolution of marriage granted ~~due to the mental illness of~~ when one of the spouses has mental illness shall not relieve the other spouse of any obligation imposed by law as a result of the marriage for the support of the ~~mentally ill~~ spouse with mental illness. The court may make an order for ~~such~~ the support or may waive the support obligation when satisfied from the evidence that it would create an undue hardship on the obliged spouse or that spouse's other dependents.

Sec. 102. Section 600.17, Code 1995, is amended to read as follows:

600.17 FINANCIAL ASSISTANCE.

The department of human services shall, within the limits of funds appropriated to the department of human services and any gifts or grants received by the department for this purpose, provide financial assistance to any person who adopts a ~~physically or mentally handicapped,~~ child with physical or mental disabilities or an older~~,~~ or otherwise hard-to-place child, if the adoptive parent has the capability of providing a suitable home for the child but the need for special services or the costs of maintenance are beyond the economic resources of the adoptive parent.

1. Financial assistance shall not be provided when the special services are available free of cost to the adoptive parent or are covered by an insurance policy of the adoptive parent.

2. "Special services" means any medical, dental, therapeutic, educational, or other similar service or appliance required by an adopted child by reason of a mental or physical ~~handicap~~ disability.

Sec. 103. Section 602.8102, subsection 41, Code Supplement 1995, is amended to read as follows:

41. Carry out duties relating to the involuntary commitment of ~~mentally impaired~~ persons with mental impairments as provided in chapter 229.

Sec. 104. Section 607A.5, Code 1995, is amended to read as follows:

607A.5 AUTOMATIC EXCUSE FROM JURY SERVICE.

A person shall be excused from jury service if the person submits written documentation verifying, to the court's satisfaction, that the person is solely responsible for the daily care of a ~~permanently disabled~~ person with a permanent disability living in the person's household and that the performance of juror service would cause substantial risk of injury to the health of the ~~disabled~~ person with a disability, or that the person is the mother of a breastfed child and is responsible for the daily care of the child. However, if the person is regularly employed at a location other than the person's household, the person shall not be excused under this section.

Sec. 105. Section 633.63, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. One who is under legal incompetency or is a ~~mental retardate, mentally ill, a~~ chronic alcoholic~~,~~ or a spendthrift.

Sec. 106. Section 633.707, subsection 4, Code 1995, is amended to read as follows:

4. "Maximum monthly medical assistance payment rate for services in an intermediate care facility for ~~the mentally retarded~~ persons with mental retardation" means the allowable rate established by the department of human services and as published in the Iowa administrative bulletin.

Sec. 107. Section 694.1, subsection 1, Code 1995, is amended to read as follows:

1. Is ~~physically or mentally disabled~~ a person with a physical or mental disability.

Sec. 108. Section 714.19, subsection 5, Code 1995, is amended to read as follows:

5. Nonprofit schools exclusively engaged in training ~~physically handicapped~~ persons with physical disabilities in the state of Iowa.

Sec. 109. Section 726.6, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person who is the parent, guardian, or person having custody or control over a child or a ~~mentally or physically handicapped~~ minor under the age of eighteen with a mental or physical disability, commits child endangerment when the person does any of the following:

Sec. 110. Section 726.6A, Code 1995, is amended to read as follows:

726.6A MULTIPLE ACTS OF CHILD ENDANGERMENT - PENALTY.

A person who engages in a course of conduct including three or more acts of child endangerment as defined in section 726.6 within a period of twelve months involving the same child or a ~~mentally or physically handicapped~~ minor with a mental or physical disability, where one or more of the acts results in serious injury to the child or minor or results in a skeletal injury to a child under the age of four years, is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, a person convicted of a violation of this section shall be confined for no more than fifty years.

Sec. 111. Section 904.108, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. Establish and maintain acceptable standards of treatment, training, education, and rehabilitation in the various state penal and corrective institutions which shall include habilitative services and treatment for ~~mentally retarded~~ offenders with mental retardation. For the purposes of this paragraph, habilitative services and treatment means medical, mental health, social, educational, counseling, and other services which will assist a

~~mentally retarded~~ person with mental retardation to become self-reliant. However, the director may also provide rehabilitative treatment and services to other persons who require the services. The director shall identify all individuals entering the correctional system who are ~~mentally retarded~~ persons with mental retardation, as defined in section 222.2, subsection 3. Identification shall be made by a qualified ~~mental retardation~~ professional in the area of mental retardation. In assigning ~~a mentally retarded~~ an offender with mental retardation, or an offender with an inadequately developed intelligence or with impaired mental abilities, to a correctional facility, the director shall consider both the program needs and the security needs of the offender. The director shall consult with the department of human services in providing habilitative services and treatment to ~~mentally ill and mentally retarded~~ offenders with mental illness or mental retardation.

Sec. 112. Section 904.205, Code 1995, is amended to read as follows:

904.205 CLARINDA CORRECTIONAL FACILITY.

The state correctional facility at Clarinda shall be utilized as a secure men's correctional facility primarily for ~~chemically dependent, mentally retarded, and socially inadequate~~ offenders with chemical dependence, mental retardation, or social inadequacies.

Sec. 113. AMENDMENTS CHANGING TERMINOLOGY – DIRECTIVES TO CODE EDITOR.

1. Sections 7D.15, 15.225, 16.4, 16.9, 16.12, 16.17, 16.18, 16.26, 16.155, 21.4, 49.25, 135.64, 216.8A, and 217.8, Code 1995, and sections 303C.4 and 321.1, Code Supplement 1995, are amended by striking from the sections the words "persons who are handicapped or disabled", "handicapped or disabled persons", "the handicapped", "handicapped or disabled individuals", "handicapped persons", or "disabled persons", and inserting in lieu thereof the words "persons with disabilities".

2. Sections 225C.35, 256B.2, 256B.4, 260C.1, 285.11, 403A.7, and 514E.7, Code 1995, and section 216.2, Code Supplement 1995, are amended by striking from the sections the words "handicap" or "handicaps", and inserting in lieu thereof, as appropriate, the words "disability" or "disabilities".

3. Section 256B.4, Code 1995, is amended by striking from the section the words "handicapped children" and inserting in lieu thereof the words "children with disabilities".

4. Sections 216.6, 216.8A, 216C.11, 321.109, 321.124, Code 1995, are amended by striking from the sections the words "disabled person" or "disabled or handicapped person", and inserting in lieu thereof the words "person with a disability".

5. Sections 285.10 and 403.17, Code 1995, and section 285.1, Code Supplement 1995, are amended by striking from the sections the word "handicapped", and inserting in lieu thereof the words "persons with disabilities,".

6. Sections 422.7 and 422.35, Code Supplement 1995, are amended by striking from the sections the words "A handicapped individual", and inserting in lieu thereof the words "An individual with a disability".

7. Sections 135C.3, 135C.23, 155.1, 218.46, 222.7, 222.55, 222.56, 225.5, 226.1, 226.9, 226.30, 227.1, 227.10, 227.11, 227.14, 227.15, 229.3, 229.19, 229.44, 230.5, 230.6, 230.8, 230.9, 230.10, 230.11, 230.14, 230.18, 230.19, 331.381, 331.502, 331.657, 614.8, 904.201, and 904.503, Code 1995, and sections 135.63, 229.1, 230.12, 331.552, 331.653, and 331.756, Code Supplement 1995, are amended by striking from the sections the words "the mentally ill" or "mentally ill persons", and inserting in lieu thereof the words "persons with mental illness".

8. Sections 225C.12, 230.1, 230.31, 448.12, 486.32, 597.6, and 597.9, Code 1995, are amended by striking from the sections the words "mentally ill person", and inserting in lieu thereof the words "person with mental illness".

9. Sections 587.12, 614.19, 614.27, and 633.31, Code 1995, are amended by striking from the sections the words "insane persons" or "insane person", and inserting in lieu thereof, as appropriate, the words "persons with mental illness" or "person with mental illness".

10. Section 681.27, Code 1995, is amended by striking from the section the word "insane" and inserting in lieu thereof the words "mentally ill".

11. Sections 23A.2, 135.64, 135C.23, 155.1, 218.92, 222.6, 222.9, 222.10, 222.12, 222.27, 222.34, 222.38, 222.43, 222.45, 222.51, 222.56, 222.66, 222.88, 226.8, 249A.2, 331.381, 331.502, 335.25, 414.22, and 633.709, Code 1995, and sections 135.63, 135C.2, 249A.5, 249A.12, 331.756, and 602.8102, Code Supplement 1995, are amended by striking from the sections the words "the mentally retarded", "mentally retarded persons", or "mentally retarded person", and inserting in lieu thereof, as appropriate, the words "persons with mental retardation" or "person with mental retardation".

12. The Code editor is directed to substitute the words "persons with disabilities" for the words "persons who are handicapped or disabled", "handicapped or disabled persons", "the handicapped", "handicapped or disabled individuals", "handicapped persons", or "disabled persons" when there appears to be no doubt as to the intent to refer to persons with disabilities, except where the term is intended to refer to provisions related to handicapped parking as provided in chapter 321L.

13. The Code editor is directed to substitute the words "disability" or "disabilities" for the words "handicap" or "handicaps" when there appears to be no doubt as to the intent to refer to the condition of a person, except where the term is intended to refer to provisions related to handicapped parking as provided in chapter 321L.

14. The Code editor is directed to substitute the words "children with disabilities" for the words "handicapped children" or "disabled children" when there appears to be no doubt as to the intent to refer to children with disabilities, except where the term is intended to refer to provisions related to handicapped parking as provided in chapter 321L.

15. The Code editor is directed to substitute the words "person with a disability" for the words "disabled person", "handicapped person", "disabled or handicapped person", or "handicapped or disabled person" when there appears to be no doubt as to the intent to refer to a person with a disability, except where the term is intended to refer to provisions related to handicapped parking as provided in chapter 321L.

16. The Code editor is directed to substitute the words "an individual with a disability" for the words "a disabled individual" or "a handicapped individual" when there appears to be no doubt as to the intent to refer to an individual with a disability, except where the term is intended to refer to provisions related to handicapped parking as provided in chapter 321L.

17. The Code editor is directed to substitute the words "persons with mental illness" for the words "the mentally ill" or "mentally ill persons" when there appears to be no doubt as to the intent to refer to persons with mental illness.

18. The Code editor is directed to substitute the words "person with mental illness" for the words "mentally ill persons" when there appears to be no doubt as to the intent to refer to a person with mental illness.

19. The Code editor is directed to substitute the words "persons with mental retardation" for the words "the mentally retarded" or "mentally retarded persons" when there appears to be no doubt as to the intent to refer to persons with mental retardation.

20. The Code editor is directed to substitute the words "person with mental retardation" for the words "mentally retarded person" when there appears to be no doubt as to the intent to refer to a person with mental retardation.

21. The Code editor shall not apply a directive established in this section to a section of the Code which establishes an interstate compact.

Approved April 17, 1996

CHAPTER 1130

DEPENDENT ADULT ABUSE

S.F. 2381

AN ACT relating to dependent adult abuse and providing penalties.

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

Section 1. Section 235B.1, Code 1995, is amended to read as follows:

235B.1 DEPENDENT ADULT ABUSE SERVICES.

The department shall establish and operate a dependent adult abuse services program. The program shall emphasize the reporting and evaluation of cases of abuse of a dependent adult who is unable to protect the adult's own interests or unable to perform ~~or obtain~~ activities necessary to meet essential ~~services~~ human needs. The program shall include but is not limited to:

1. The establishment of local or regional multidisciplinary teams to ~~provide leadership at the local and district levels in the delivery of~~ assist in assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to victims of dependent adult abuse. The membership of a team shall include individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, law, law enforcement, or other disciplines relative to dependent adults. Members of a team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and other persons involved in advocating or providing services to dependent adults.

2. Provisions for information sharing and case consultation among service providers, care providers, and victims of dependent adult abuse.

3. Procedures for referral of cases among service providers, including the referral of victims of dependent adult abuse residing in licensed health care facilities.

4. a. The establishment of a dependent adult protective advisory council. The advisory council shall do all of the following:

(1) Advise the director of human services and the administrator of the division of child and family services of the department of human services regarding dependent adult abuse.

(2) Evaluate state law and rules and make recommendations to the general assembly and to executive branch departments regarding laws and rules concerning dependent adults.

(3) Receive and review recommendations and complaints from the public concerning the dependent adult abuse services program.

b. (1) The advisory council shall consist of ten members. Six members shall be appointed by and serve at the pleasure of the governor. Four of the members appointed shall be appointed on the basis of knowledge and skill related to expertise in the area of dependent adult abuse including professionals practicing in the disciplines of medicine, public health, mental health, long-term care, social work, law, and law enforcement. Two of the members appointed shall be members of the general public with an interest in the area of dependent adult abuse. In addition, the membership of the council shall include the director or the director's designee of the department of human services, the department of elder affairs, the Iowa department of public health, and the department of inspections and appeals.

(2) The members of the advisory council shall be appointed to terms of four years beginning May 1. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled in the same manner as the original appointment.

(3) Members shall receive actual expenses incurred while serving in their official capacity.

(4) The advisory council shall select a chairperson, annually, from its membership.

Sec. 2. Section 235B.2, Code Supplement 1995, is amended to read as follows:

235B.2 DEFINITIONS.

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

1. "Caretaker" means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

2. "Court" means the district court.

3. "Department" means the department of human services.

4. "Dependent adult" means a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another, or as defined by departmental rule.

5. a. "Dependent adult abuse" means:

~~a.~~ (1) Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

~~(1)~~ (a) Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.

~~(2)~~ (b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

~~(3)~~ (c) Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

~~(4)~~ (d) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health.

~~b.~~ (2) The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

~~Dependent adult abuse does not include depriving a dependent adult of medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment. However, this provision does not preclude a court from ordering that medical service be provided to the dependent adult if the dependent adult's health requires it.~~

~~Dependent adult abuse does not include the withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin or guardian pursuant to the applicable procedures under chapter 125, 222, 229, or 633.~~

~~c.~~ (3) Sexual exploitation of a dependent adult who is a resident of a health care facility, as defined in section 135C.1, by a caretaker providing services to or employed by the health care facility, whether within the health care facility or at a location outside of the health care facility.

"Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

b. "Dependent adult abuse" does not include any of the following:

(1) Circumstances in which the dependent adult declines medical treatment if the

dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin or guardian pursuant to the applicable procedures under chapter 125, 222, 229, or 633.

5A. "Emergency shelter services" means and includes, but is not limited to, secure crisis shelters or housing for victims of dependent adult abuse.

5B. "Family or household member" means a spouse, a person cohabiting with the dependent adult, a parent, or a person related to the dependent adult by consanguinity or affinity, but does not include children of the dependent adult who are less than eighteen years of age.

5C. "Immediate danger to health or safety" means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

6. "Individual employed as an outreach person" means a natural person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources.

6A. "Legal holiday" means a legal public holiday as defined in section 1C.1.

7. "Person" means person as defined in section 4.1.

8. "Recklessly" means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

9. "Serious injury" means a disabling mental illness, or a bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

10. "Support services" includes but is not limited to community-based services including area agency on aging assistance, mental health services, fiscal management, home health services, housing-related services, counseling services, transportation services, adult day care services, respite services, legal services, and advocacy services.

Sec. 3. Section 235B.3, subsection 5, Code Supplement 1995, is amended to read as follows:

5. Following the reporting of suspected dependent adult abuse, the department of human services shall complete an assessment of necessary services and shall make appropriate referrals for receipt of these services. The assessment shall include interviews with the dependent adult, and, if appropriate, with the alleged perpetrator of the dependent adult abuse and with any person believed to have knowledge of the circumstances of the case. The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services.

Sec. 4. Section 235B.3, subsection 7, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, or a social services

agency in the state shall cooperate and assist in the evaluation upon the request of the department. If the department's assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

Sec. 5. Section 235B.3, subsection 7, paragraph a, Code Supplement 1995, is amended to read as follows:

a. If, upon completion of the evaluation or upon referral from the department of inspections and appeals, the department determines that the best interests of the dependent adult require 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, or shall pursue other remedies provided by law. 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. 6. NEW SECTION. 235B.3A PREVENTION OF ADDITIONAL ABUSE - NOTIFICATION OF RIGHTS - ARREST - LIABILITY.

1. If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all reasonable means to prevent further abuse, including but not limited to any of the following:

a. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain at the scene, assisting the dependent adult in leaving the residence and securing support services or emergency shelter services.

b. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.

c. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a copy of the following written statement, requesting the dependent adult to read the card and asking the dependent adult whether the dependent adult understands the rights:

"(1) You have the right to ask the court for the following help on a temporary basis:

(a) Keeping the alleged perpetrator away from you, your home, and your place of work.

(b) The right to stay at your home without interference from the alleged perpetrator.

(c) Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.

(2) If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

(3) If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured."

The notice shall also contain the telephone number of the local emergency shelter services, support services, or crisis lines operating in the area.

Sec. 7. NEW SECTION. 235B.17 PROVISION OF PROTECTIVE SERVICES WITH THE CONSENT OF DEPENDENT ADULT - CARETAKER REFUSAL.

If a caretaker of a dependent adult, who consents to the receipt of protective services, refuses to allow provision of the services, the department may petition the court for an order enjoining the caretaker from interfering with the provision of services. The petition shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and consents to the provision of services and that the caretaker refuses

to allow provision of the services. If the judge finds by clear and convincing evidence that the dependent adult is in need of protective services and consents to the services and that the caretaker refuses to allow the services, the judge may issue an order enjoining the caretaker from interfering with the provision of the protective services.

Sec. 8. NEW SECTION. 235B.18 PROVISION OF SERVICES TO DEPENDENT ADULT WHO LACKS CAPACITY TO CONSENT - HEARING - FINDINGS.

1. If the department reasonably determines that a dependent adult is a victim of dependent adult abuse and lacks capacity to consent to the receipt of protective services, the department may petition the court for an order authorizing the provision of protective services. The petition shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and lacks capacity to consent to the receipt of services.

2. The court shall set the case for hearing within fourteen days of the filing of the petition. The dependent adult shall receive at least five days' notice of the hearing. The dependent adult has the right to be present and represented by counsel at the hearing. If the dependent adult, in the determination of the judge, lacks the capacity to waive the right of counsel, the court may appoint a guardian ad litem for the dependent adult.

3. If, at the hearing, the judge finds by clear and convincing evidence that the dependent adult is in need of protective services and lacks the capacity to consent to the receipt of protective services, the judge may issue an order authorizing the provision of protective services. The order may include the designation of a person to be responsible for performing or obtaining protective services on behalf of the dependent adult or otherwise consenting to the receipt of protective services on behalf of the dependent adult. Within sixty days of the appointment of such a person the court shall conduct a review to determine if a petition shall be initiated in accordance with section 633.552 for good cause shown. The court may extend the sixty-day period for an additional sixty days, at the end of which the court shall conduct a review to determine if a petition shall be initiated in accordance with section 633.552. A dependent adult shall not be committed to a mental health facility under this section.

4. A determination by the court that a dependent adult lacks the capacity to consent to the receipt of protective services under this chapter shall not affect incompetency proceedings under sections 633.552 through 633.556 or any other proceedings, and incompetencey proceedings under sections 633.552 through 633.556 shall not have a conclusive effect on the question of capacity to consent to the receipt of protective services under this chapter.

5. This section shall not be construed and is not intended as and shall not imply a grant of entitlement for services to persons who are not otherwise eligible for the services or for utilization of services which do not currently exist or are not otherwise available.

Sec. 9. NEW SECTION. 235B.19 EMERGENCY ORDER FOR PROTECTIVE SERVICES.

1. If the department determines that a dependent adult is suffering from dependent adult abuse which presents an immediate danger to the health or safety of the dependent adult, that the dependent adult lacks capacity to consent to receive protective services, and that no consent can be obtained, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an emergency order authorizing protective services.

2. The petition shall be verified and shall include all of the following:

a. The name, date of birth, and address of the dependent adult who needs protective services.

b. The nature of the dependent adult abuse.

c. The services required.

3. Upon finding that there is probable cause to believe that the dependent adult abuse

presents an immediate threat to the health or safety of the dependent adult and that the dependent adult lacks capacity to consent to the receipt of services, the court may do any of the following:

a. Order removal of the dependent adult to safer surroundings.

b. Order the provision of medical services.

c. Order the provision of other available services necessary to remove conditions creating the danger to health or safety, including the services of peace officers or emergency services personnel.

4. The emergency order expires at the end of seventy-two hours from the time of the order unless the seventy-two-hour period ends on a Saturday, Sunday, or legal holiday in which event the order is automatically extended to four p.m. on the first succeeding business day. An order may be renewed for not more than fourteen additional days. A renewal order that ends on a Saturday, Sunday, or legal holiday is automatically extended to four p.m. on the first succeeding business day. The court may modify or terminate the emergency order on the petition of the department, the dependent adult, or any person interested in the dependent adult's welfare.

5. If the department cannot obtain an emergency order under this section due to inaccessibility of the court, the department may contact law enforcement to remove the dependent adult to safer surroundings, authorize the provision of medical treatment, and order the provision of or provide other available services necessary to remove conditions creating the immediate danger to the health or safety of the dependent adult. The department shall obtain an emergency order under this section not later than four p.m. on the first succeeding business day after the date on which protective or other services are provided. If the department does not obtain an emergency order within the prescribed time period, the department shall cease providing protective services and, if necessary, make arrangements for the immediate return of the person to the place from which the person was removed, to the person's place of residence in the state, or to another suitable place. A person, agency, or institution acting in good faith in removing a dependent adult or in providing services under this subsection, and an employer of or person under the direction of such a person, agency, or institution, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as the result of the removal or provision of services.

6. The court may also enter orders as may be appropriate to third persons enjoining them from specific conduct. The orders may include temporary restraining orders which impose criminal sanctions if violated. The court may enjoin third persons from any of the following:

a. Removing the dependent adult from the care or custody of another.

b. Committing dependent adult abuse on the dependent adult.

c. Living at the dependent adult's residence.

d. Contacting the dependent adult in person or by telephone.

e. Selling, removing, or otherwise disposing of the dependent adult's personal property.

f. Withdrawing funds from any bank, savings and loan association, credit union, or other financial institution, or from a stock account in which the dependent adult has an interest.

g. Negotiating any instruments payable to the dependent adult.

h. Selling, mortgaging, or otherwise encumbering any interest that the dependent adult has in real property.

i. Exercising any powers on behalf of the dependent adult through representatives of the department, any court-appointed guardian or guardian ad litem, or any official acting on the dependent adult's behalf.

j. Engaging in any other specified act which, based upon the facts alleged, would constitute harm or a threat of imminent harm to the dependent adult or would cause damage to or the loss of the dependent adult's property.

7. This section shall not be construed and is not intended as and shall not imply a grant of entitlement for services to persons who are not otherwise eligible for the services or for utilization of services which do not currently exist or are not otherwise available.

Sec. 10. NEW SECTION. 235B.20 DEPENDENT ADULT ABUSE - INITIATION OF CHARGES - PENALTY.

1. Charges of dependent adult abuse may be initiated upon complaint of private individuals or as a result of investigations by social service agencies or on the direct initiative of a county attorney or law enforcement agency.

2. A caretaker who intentionally commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class "C" felony if the intentional dependent adult abuse results in serious injury.

3. A caretaker who recklessly commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class "D" felony if the reckless dependent adult abuse results in serious injury.

4. A caretaker who intentionally commits dependent adult abuse on a dependent adult in violation of this chapter is guilty of a class "C" felony if the intentional dependent adult abuse results in physical injury.

5. A caretaker who commits dependent adult abuse by exploiting a dependent adult in violation of this chapter is guilty of a class "D" felony if the value of the property, assets, or resources exceeds one hundred dollars.

6. A caretaker who recklessly commits dependent adult abuse on a person in violation of this chapter is guilty of an aggravated misdemeanor if the reckless dependent adult abuse results in physical injury.

7. A caretaker who commits dependent adult abuse by exploiting a dependent adult in violation of this chapter is guilty of a simple misdemeanor if the value of the property, assets, or resources is one hundred dollars or less.

8. A caretaker alleged to have committed a violation of this chapter shall be charged with the respective offense cited, unless a charge may be brought based upon a more serious offense, in which case the charge of the more serious offense shall supersede the less serious charge.

Approved April 17, 1996

CHAPTER 1131

DOMESTIC ABUSE

S.F. 2269

AN ACT enhancing the penalties for a third or subsequent offense of domestic abuse assault, requiring county attorneys to prosecute certain domestic abuse misdemeanors, giving district associate judges jurisdiction to enter orders of protection in certain domestic abuse matters, and establishing a pilot program for domestic abuse.

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

Section 1. Section 331.756, subsection 4, Code Supplement 1995, is amended to read as follows:

4. Prosecute misdemeanors under chapter 236. The county attorney shall prosecute other misdemeanors when not otherwise engaged in the performance of other official duties.

Sec. 2. Section 602.6306, subsection 2, Code 1995, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ten thousand dollars, jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229, jurisdiction of indictable misdemeanors, and felony violations of section 321J.2, jurisdiction to enter a temporary or emergency order of protection under chapter 236, and to make court appointments and set hearings in criminal matters, jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter 633, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Sec. 3. Section 708.2A, Code Supplement 1995, is amended to read as follows:

708.2A DOMESTIC ABUSE ASSAULT – MANDATORY MINIMUMS, PENALTIES ENHANCED – EXTENSION OF NO-CONTACT ORDER.

1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2.

2. On a first offense of domestic abuse assault, the person commits:

a. A simple misdemeanor for a domestic abuse assault, except as otherwise provided.

b. A serious misdemeanor, if the domestic abuse assault causes bodily injury or mental illness.

c. An aggravated misdemeanor, if the domestic abuse assault is committed with the intent to inflict a serious injury upon another, or if the person uses or displays a dangerous weapon in connection with the assault. This paragraph does not apply if section 708.6 or 708.8 applies.

3. Except as otherwise provided in subsection 2, on a second ~~or subsequent~~ domestic abuse assault, a person commits:

a. A serious misdemeanor, if the first offense was classified as a simple misdemeanor, and the second offense would otherwise be classified as a simple misdemeanor.

b. An aggravated misdemeanor, if the first offense was classified as a simple or aggravated misdemeanor, and the second offense would otherwise be classified as a serious misdemeanor, or the first offense was classified as a serious or aggravated misdemeanor, and the second offense would otherwise be classified as a simple or serious misdemeanor.

4. On a third or subsequent offense of domestic abuse assault, a person commits a class "D" felony.

5. a. A 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 not be considered in determining that the violation charged is a second or subsequent offense.

b. For the purpose of determining if a violation charged is a second or subsequent offense, deferred judgments issued pursuant to section 907.3 for violations of section 708.2 or this section, which were issued on domestic abuse assaults, 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 offenses 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 offense charged shall be considered and counted as a separate previous offense.

c. An offense shall be considered a prior offense regardless of whether it was committed upon the same victim.

~~4.~~ 6. a. A person convicted of violating ~~this section~~ subsection 2 or 3 shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does

not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the defendant has not previously received a deferred sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault. However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or this section which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.

b. A person convicted of violating subsection 4 shall be sentenced to a term of not less than one year and committed to the custody of the director of the department of corrections, and assessed a fine of not less than seven hundred fifty dollars. Notwithstanding section 901.5, subsection 3, and section 907.3, subsection 3, the sentence cannot be suspended; however, the person sentenced shall receive credit for any time the person was confined in a jail or detention facility following arrest.

~~5.~~ 7. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the defendant is placed on probation.

~~6.~~ 8. The clerk of the district court shall provide notice and copies of a judgment entered under this section to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications of the judgment in the same manner.

~~7.~~ 9. In addition to the mandatory minimum term of confinement imposed by ~~this section~~ subsection 6, paragraph "a", the court shall order ~~the~~ a defendant convicted under subsection 2 or 3 to participate in a batterers' treatment program as required under section 708.2B. In addition, as a condition of deferring judgment or sentence pursuant to section 907.3, the court shall order the defendant to participate in a batterers' treatment program. The clerk of the district court shall send a copy of the judgment or deferred judgment to the judicial district department of correctional services.

Sec. 4. Section 907.3, subsection 3, Code Supplement 1995, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Sec. 5. DOMESTIC ABUSE TREATMENT PILOT PROGRAM. Notwithstanding section 708.2A, a court, located in a county which has been designated by the supreme court as a county establishing an alternative batterers' treatment pilot program, shall sentence a person who pleads guilty to or is convicted of domestic abuse assault under section 708.2A to either a batterers' treatment program under section 708.2B or the alternative batterers' pilot program established in the county.

The judicial district in which the county is located shall report to the general assembly not later than January 15 of each year regarding the alternative batterers' pilot program. The judicial district shall submit a final report not later than August 1, 1998, regarding the pilot program.

This section is repealed effective June 30, 1998, except that the date for submission of the final report shall remain August 1, 1998.

Approved April 17, 1996

CHAPTER 1132

SEX OFFENDER REGISTRY - STUDY OF ACCESS TO VARIOUS REGISTRIES
S.F. 2208

AN ACT relating to persons required to register with the sex offender registry, requiring a departmental study, and providing a penalty.

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

Section 1. Section 692A.1, subsection 3, paragraph k, Code Supplement 1995, is amended to read as follows:

k. Stalking in violation of section 708.11, subsection 3, paragraph "b", subparagraph (3), if the fact-finder determines by clear and convincing evidence that the offense was sexually motivated.

l. Sexual exploitation of a minor in violation of section 728.12, subsection 2 or 3.

m. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through ~~"j"~~ "l".

Sec. 2. Section 692A.1, subsection 6, Code Supplement 1995, is amended by adding the following new paragraphs after paragraph c:

NEW PARAGRAPH. d. Telephone dissemination of obscene materials in violation of section 728.15.

NEW PARAGRAPH. e. Rental or sale of hard-core pornography in violation of section 728.4.

NEW PARAGRAPH. f. Indecent exposure in violation of section 709.9.

Sec. 3. Section 692A.1, subsection 6, paragraph d, Code Supplement 1995, is amended to read as follows:

~~d.~~ g. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, ~~or~~ burglary, or manslaughter.

Sec. 4. Section 692A.5, subsection 2, Code Supplement 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the offender refuses to register, the sheriff, warden, or superintendent shall immediately notify a prosecuting attorney of the refusal to register. The prosecuting attorney may bring a contempt of court action against the offender in the county in which the offender was convicted. An offender who refuses to register may be held in contempt and incarcerated following the entry of judgment by the court on the contempt action until the offender complies with the registration requirements.

Sec. 5. Section 692A.13, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Records regarding the persons requesting registry information shall be maintained for ten years.

Sec. 6. The department of human services shall work with the department of public safety to develop a single point of contact for persons seeking information regarding individuals who may be listed on the child abuse registry created in section 235A.14, the dependent adult abuse registry created in section 235B.5, or the sex offender registry created in section 692A.10. The department of human services and the department of public safety shall also study the issue of information sharing among the registries. The department of human services and the department of public safety shall present a joint report to the general assembly not later than December 15, 1996, regarding the feasibility of creating

a single point of contact for information on the registries and providing information sharing among the registries, including the statutory changes necessary for implementation.

Approved April 17, 1996

CHAPTER 1133

ECONOMIC AND OTHER PENALTIES FOR CRIMINAL ACTIVITY
S.F. 482

AN ACT establishing economic and other penalties for certain criminal activity.

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

DIVISION I
IOWA FORFEITURE REFORM ACT

Section 1. NEW SECTION. 809A.1 DEFINITIONS.
As used in this chapter:

1. "Conveyance" includes any vehicle, trailer, vessel, aircraft, or other means of transportation.

2. "Interest holder" means a secured party within the meaning of chapter 554, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest is perfected against a good faith purchaser for value. A person who holds property for the benefit of or as an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an interest holder.

3. "Omission" means the failure to perform an act that is required by law.

4. "Owner" means a person, other than an interest holder, who has an interest in property. A person who holds property for the benefit of or for an agent or nominee for another person, or who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value, is not an owner.

5. "Proceeds" means property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind without reduction for expenses incurred for acquisition, maintenance, production, or any other purpose.

6. "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible, or intangible.

7. "Prosecuting attorney" means an attorney who is authorized by law to appear on the behalf of the state in a criminal case, and includes the attorney general, an assistant attorney general, the county attorney, an assistant county attorney, or a special or substitute prosecutor whose appearance is approved by a court having jurisdiction to try a defendant for the offense with which the defendant is charged.

8. "Regulated interest holder" means an interest holder that is a business authorized to do business in this state and is under the jurisdiction of any state or federal agency regulating banking, insurance, real estate, or securities.

9. "Seizing agency" means a department or agency of this state or its political subdivisions that regularly employs law enforcement officers, and that employs the law enforcement officer who seizes property for forfeiture, or such other agency as the department or

agency may designate by its chief executive officer or the officer's designee.

10. "Seizure for forfeiture" means seizure of property by a law enforcement officer, including a constructive seizure, accompanied by an assertion by the seizing agency or by a prosecuting attorney that the property is seized for forfeiture, in accordance with section 809A.6.

Sec. 2. NEW SECTION. 809A.2 JURISDICTION AND VENUE.

1. The district court has jurisdiction under this chapter over:

a. All interests in property within this state at the time a forfeiture action is filed.

b. The interest in the property of an owner or interest holder who is subject to personal jurisdiction in this state.

2. In addition to the venue provided for under chapter 803 or any other provision of law, a proceeding for forfeiture under this chapter may be maintained in the county in which any part of the property is found or in the county in which a civil or criminal action could be maintained against an owner or interest holder for the conduct alleged to give rise to the forfeiture.

Sec. 3. NEW SECTION. 809A.3 CONDUCT GIVING RISE TO FORFEITURE.

The following conduct may give rise to forfeiture:

1. An act or omission which is a public offense and which is a serious or aggravated misdemeanor or felony.

2. An act or omission occurring outside of this state, that would be punishable by confinement of one year or more in the place of occurrence and would be a serious or aggravated misdemeanor or felony if the act or omission occurred in this state.

3. An act or omission committed in furtherance of any act or omission described in subsection 1, which is a serious or aggravated misdemeanor or felony including any inchoate or preparatory offense.

4. A violation of section 321J.4B, subsection 12.

5. Notwithstanding subsections 1 through 4, violations of chapter 321 or 321J, except section 321J.4B, subsection 12, shall not be considered conduct giving rise to forfeiture.

Sec. 4. NEW SECTION. 809A.4 PROPERTY SUBJECT TO FORFEITURE.

The following are subject to forfeiture:

1. All controlled substances, raw materials, controlled substance analogs, counterfeit controlled substances, imitation controlled substances, or precursor substances, that have been manufactured, distributed, dispensed, possessed, or acquired in violation of the laws of this state.

2. a. All property, except as provided in paragraph "b", including the whole of any lot or tract of land and any appurtenances or improvements to real property, including homesteads that are otherwise exempt from judicial sale pursuant to section 561.16, that is either:

(1) Furnished or intended to be furnished by a person in an exchange that constitutes conduct giving rise to forfeiture.

(2) Used or intended to be used in any manner or part to facilitate conduct giving rise to forfeiture.

b. If the only conduct giving rise to forfeiture is a violation of section 124.401, subsection 3, real property is not subject to forfeiture and other property subject to forfeiture pursuant to paragraph "a", subparagraph (2), may be forfeited only pursuant to section 809A.14.

3. All proceeds of any conduct giving rise to forfeiture.

4. All weapons possessed, used, or available for use in any manner to facilitate conduct giving rise to forfeiture.

5. Any interest or security in, claim against, or property or contractual right of any kind affording a source of control over any enterprise that a person has established, operated, controlled, or conducted through, or participated in the conduct, giving rise to forfeiture.

6. a. Any property of a person up to the value of property of either of the following:

(1) Described in subsection 2 that the person owned or possessed for the purpose of a use described in subsection 2.

(2) Described in subsection 3 and is proceeds of conduct engaged in by the person or for which the person is criminally responsible.

b. Property described in this subsection may be seized for forfeiture pursuant to a constructive seizure or an actual seizure pursuant to section 809A.6. Actual seizure may only be done pursuant to a seizure warrant issued on a showing, in addition to the showing of probable cause for the forfeiture of the subject property, that the subject property is not available for seizure for reasons described in section 809A.15, subsection 1, and that the value of the property to be seized is not greater than the total value of the subject property, or pursuant to a constructive seizure. If property of a defendant up to the total value of all interests in the subject property is not seized prior to final judgment in an action under this section, the remaining balance shall be ordered forfeited as a personal judgment against the defendant.

7. As used in this section, "facilitate" means to have a substantial connection between the property and the conduct giving rise to forfeiture.

Sec. 5. NEW SECTION. 809A.5 EXEMPTIONS.

1. All property, including all interests in property, described in section 809A.4 is subject to forfeiture, except that property is exempt from forfeiture if either of the following occurs:

a. The owner or interest holder acquired the property before or during the conduct giving rise to its forfeiture, and did not know and could not reasonably have known of the conduct or that the conduct was likely to occur, or acted reasonably to prevent the conduct giving rise to forfeiture.

b. The owner or interest holder acquired the property, including acquisition of proceeds of conduct giving rise to forfeiture, after the conduct giving rise to its forfeiture and acquired the property in good faith, for value and did not knowingly take part in an illegal transaction.

2. Notwithstanding subsection 1, property is not exempt from forfeiture, even though the owner or interest holder lacked knowledge or reason to know that the conduct giving rise to its forfeiture had occurred or was likely to occur, if any of the following exists:

a. The person whose conduct gave rise to its forfeiture had the authority to convey the property of the person claiming the exemption to a good faith purchaser for value at the time of the conduct.

b. The owner or interest holder is criminally responsible for the conduct giving rise to its forfeiture, whether or not the owner or interest holder is prosecuted or convicted.

c. The owner or interest holder acquired the property with notice of its actual or constructive seizure for forfeiture under section 809A.6, or with reason to believe that it was subject to forfeiture.

Sec. 6. NEW SECTION. 809A.6 SEIZURE OF PROPERTY.

1. A peace officer may seize property for forfeiture upon process issued by any district judge, district associate judge, or magistrate. The court may issue a seizure warrant on an affidavit under oath demonstrating that probable cause exists for its forfeiture or that the property has been the subject of a previous final judgment of forfeiture in the courts of any state or of the United States. The court may order that the property be seized on such terms and conditions as are reasonable in the discretion of the court. The order may be made on or in connection with a search warrant.

2. Peace officers may seize property for forfeiture without process on probable cause to believe that the property is subject to forfeiture under this chapter and if exigent circumstances exist or if the property has already been seized for a purpose other than forfeiture.

3. The seizure of inhabited residential real property for forfeiture which is accompanied

by removing or excluding its residents shall be done pursuant to a preseizure adversarial judicial determination of probable cause, except that this determination may be made ex parte if the prosecuting attorney has demonstrated exigent circumstances.

4. Property may be seized constructively by:

a. Posting notice of seizure for forfeiture or notice of pending forfeiture on the property.

b. Giving notice pursuant to section 809A.8.

c. Filing or recording in the public records relating to that type of property notice of seizure for forfeiture, notice of pending forfeiture, a forfeiture lien, or a notice of lis pendens.

Filings or recordings made pursuant to this subsection are not subject to a filing fee or other charge.

5. The seizing agency, or the prosecuting attorney, shall make a reasonable effort to provide notice of the seizure to the person from whose possession or control the property was seized and to any person who has a security interest in the property. If no person is in possession or control of the property, the seizing agency may attach the notice to the property or to the place of its seizure or may make a reasonable effort to deliver it to the owner of the property. The notice shall contain a general description of the property seized, the date and place of seizure, the name of the seizing agency, and the address and telephone number of the seizing officer or other person or agency from whom information about the seizure may be obtained.

6. A person who acts in good faith and in a reasonable manner pursuant to this section to comply with an order of the court or a request of a law enforcement officer is not liable to any person for acts done in reasonable compliance with the order or request. In addition, an inference of guilt shall not be drawn from the fact that a person refuses a law enforcement officer's request to deliver the property.

7. A possessory lien of a person from whose possession property is seized is not affected by the seizure.

Sec. 7. NEW SECTION. 809A.7 PROPERTY MANAGEMENT AND PRESERVATION.

1. Property seized for forfeiture under this chapter is not subject to alienation, conveyance, sequestration, attachment, or an application for return of seized property under chapter 809.

2. The seizing agency or the prosecuting attorney may authorize the release of the seizure for forfeiture on the property if forfeiture or retention of actual custody is unnecessary.

3. The prosecuting attorney may discontinue forfeiture proceedings and transfer the action to another state or federal agency or prosecuting attorney who has initiated forfeiture proceedings.

4. Property seized for forfeiture under this chapter is deemed to be in the custody of the district court subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings and to the acts of the seizing agency or the prosecuting attorney pursuant to this chapter.

5. An owner of property seized for forfeiture under this chapter may obtain release of the property by posting with the court a surety bond or cash in an amount determined by the court to be reasonable in light of the fair market value of the property. Property shall not be released if any of the following apply:

a. The owner fails to post the required bond.

b. The property is retained as contraband or as evidence.

c. The property is particularly altered or designed for use in conduct giving rise to forfeiture.

If a surety bond or cash is posted and the property is forfeited, the court shall forfeit the surety bond or cash in lieu of the property.

6. If property is seized for forfeiture under this chapter, the prosecuting attorney, subject to any need to retain the property as evidence, may do any of the following:

a. Remove the property to an appropriate place designated by the district court.

b. Place the property under constructive seizure.

c. Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, deposit it in an interest-bearing account.

d. Provide for another agency or custodian, including an owner, secured party, mortgagee, or lienholder, to take custody of the property and service, maintain, and operate it as reasonably necessary to maintain its value, in any appropriate location within the jurisdiction of the court.

e. Require the seizing agency to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

7. As soon as practicable after seizure for forfeiture, the seizing agency shall conduct a written inventory and estimate the value of the property seized.

8. The court may order property which has been seized for forfeiture sold, leased, rented, or operated to satisfy a specified interest of any interest holder, or to preserve the interests of any party on motion of such party. The court may enter orders under this subsection after notice to persons known to have an interest in the property, and an opportunity for a hearing, if either of the following exist:

a. The interest holder has timely filed a proper claim and is a regulated interest holder.

b. The interest holder has an interest which the prosecuting attorney has stipulated is exempt from forfeiture.

9. A sale may be ordered under subsection 8 if the property is liable to perish, to waste, or to be foreclosed upon or significantly reduced in value, or if the expenses of maintaining the property are disproportionate to its value. A third party designated by the court shall dispose of the property by commercially reasonable public sale and distribute the proceeds in the following order of priority:

a. For the payment of reasonable expenses incurred in connection with the sale or disposal.

b. For the satisfaction of exempt interests in the order of their priority.

c. Any balance of the proceeds shall be preserved in the actual or constructive custody of the court, in an interest-bearing account, subject to the proceedings under this chapter.

Sec. 8. NEW SECTION. 809A.8 COMMENCEMENT OF FORFEITURE PROCEEDINGS - PROPERTY RELEASE REQUIREMENTS.

1. Forfeiture proceedings shall be commenced as follows:

a. Property seized for forfeiture shall be released on the request of an owner or interest holder to the owner's or interest holder's custody, as custodian for the court, pending further proceedings pursuant to this chapter if the prosecuting attorney fails to do either of the following:

(1) File a notice of pending forfeiture against the property within ninety days after seizure.

(2) File a judicial forfeiture proceeding within ninety days after notice of pending forfeiture of property upon which a proper claim has been timely filed pursuant to section 809A.11.

b. Within thirty days after the effective date of the notice of pending forfeiture, an owner of or interest holder in the property may elect to file with the prosecuting attorney any of the following:

(1) A claim pursuant to section 809A.11.

(2) A petition for recognition of exemption pursuant to section 809A.11, except that no petition may be filed after the state commences a court action.

(3) A request for an extension of time in which to file a claim or petition for recognition of exemption.

c. An extension of time for the filing of a claim shall only be granted for good cause shown for mistake, inadvertence, surprise, excusable neglect, or unavoidable casualty.

d. If a petition is timely filed, the prosecuting attorney may delay filing a judicial forfeiture proceeding for one hundred eighty days after the notice of pending forfeiture, and the following procedures shall apply:

(1) The prosecuting attorney shall provide the seizing agency and the petitioning party with a written recognition of exemption and statement of nonexempt interests relating to any or all interests in the property in response to each petitioning party as follows:

(a) Within sixty days after the effective date of the notice of pending forfeiture if the petitioner is a regulated interest holder. The recognition of exemption shall recognize the interest of the petitioner to the extent of documented outstanding principal plus interest at the contract rate until paid.

(b) Within one hundred twenty days after the effective date of the notice of pending forfeiture for all other petitioners.

(2) An owner or interest holder in any property declared nonexempt may file a claim pursuant to section 809A.11 within thirty days after the effective date of the notice of the recognition of exemption and statement of nonexempt interest.

(3) If a petitioning party does not timely file a proper claim under paragraph "b", the recognition of exemption and statement of nonexempt interests becomes final, and the prosecuting attorney shall proceed as provided in sections 809A.16 and 809A.17.

(4) The prosecuting attorney may elect to proceed under this section for judicial forfeiture at any time.

(5) If a judicial forfeiture proceeding follows the application of procedures in this paragraph, the following apply:

(a) A duplicate or repetitive notice is not required. If a proper claim has been timely filed pursuant to subparagraph (2), the claim shall be determined in a judicial forfeiture proceeding after the commencement of such a proceeding under sections 809A.13, 809A.14, and 809A.15.

(b) The proposed recognition of exemption and statement of nonexempt interest responsive to all petitioning parties who subsequently filed claims are void and are regarded as rejected offers to compromise.

e. If a proper petition for recognition of exemption or proper claim is not timely filed, the prosecuting attorney shall proceed as provided in sections 809A.16 and 809A.17.

2. a. Notice of pending forfeiture, service of an in rem complaint or notice of a recognition of exemption and statement of nonexempt interests required under the chapter, shall be given in accordance with one of the following:

(1) If the owner's or interest holder's name and current address are known, by either personal service by any person qualified to serve process or by any law enforcement officer or by mailing a copy of the notice by restricted certified mail to that address.

(2) If the owner's or interest holder's name and address are required by law to be on record with the county recorder, secretary of state, the motor vehicle division of the state department of transportation, or another state or federal agency to perfect an interest in the property, and the owner's or interest holder's current address is not known, by mailing a copy of the notice by restricted certified mail to any address of record with any of the described agencies.

(3) If the owner's or interest holder's address is not known and is not on record as provided in subsection 2, paragraph "a", subparagraph (2), or the owner or interest holder's interest is not known, by publication in one issue of a newspaper of general circulation in the county in which the seizure occurred.

b. Notice is effective upon the earlier of personal service, publication, or the mailing of a written notice, except that notice of pending forfeiture of real property is not effective until it is recorded. Notice of pending forfeiture shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

Sec. 9. NEW SECTION. 809A.9 LIENS.

1. The prosecuting attorney may file, without a filing fee, a lien for the forfeiture of property if any of the following apply:

a. Upon the initiation of any civil or criminal proceeding relating to conduct giving rise to forfeiture under this chapter.

b. Upon seizure for forfeiture.

c. In connection with a proceeding or seizure for forfeiture in any other state under a state or federal statute substantially similar to the relevant provisions of this chapter. The filing constitutes notice to any person claiming an interest in the seized property or in property owned by the named person.

2. The lienor, as soon as practical, but not later than ten days, after filing a lien, shall furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection shall not invalidate or otherwise affect the lien.

3. The lien notice shall set forth all of the following:

a. The name of the person and, in the discretion of the lienor, any aliases, or the name of any corporation, partnership, trust, or other entity, including nominees, that are owned entirely or in part, or controlled by the person.

b. The description of the seized property or the criminal or civil proceeding that has been brought relating to conduct giving rise to forfeiture under the chapter.

c. The amount claimed by the lienor.

d. The name of the district court where the proceeding or action has been brought.

e. The case number of the proceeding or action if known at the time of the filing of the lien.

4. The notice of forfeiture lien shall be filed in accordance with the provisions of the laws of this state relating to the type of property that is subject to the lien. The validity and priority of the forfeiture lien shall be determined in accordance with applicable law pertaining to liens.

5. A lien filed pursuant to this section applies to the described property or to one named person, any aliases, fictitious names, or other names, including the names of any corporation, partnership, trust, or other entity, owned entirely or in part, or controlled by the named person, and any interest in real property owned or controlled by the named person. A separate forfeiture lien shall be filed for each named person.

6. The lien notice creates, upon filing, a lien in favor of the lienor as it relates to the property or the named person or related entities. The lien secures the amount of potential liability for civil judgment, and, if applicable, the fair market value of property relating to all proceedings under this chapter enforcing the lien.

7. The lienor may amend or release, in whole or in part, a lien filed under this section at any time by filing, without a filing fee, an amended lien.

8. Upon entry of judgment in its favor, the state may proceed to execute on the lien as provided by law.

Sec. 10. NEW SECTION. 809A.10 TRUSTEES.

1. Except as provided in subsection 2, a trustee, constructive or otherwise, who has notice that a notice of forfeiture lien, or a notice of pending forfeiture, or a civil forfeiture proceeding has been filed against the property or against any person or entity for whom the person holds title or appears as record owner, shall furnish within fifteen days of such notice, to the seizing agency, or the prosecuting attorney all of the following:

a. The name and address of each person or entity for whom the property is held.

b. The description of all other property whose legal title is held for the benefit of the named person.

c. A copy of the applicable trust agreement or other instrument, if any, under which the trustee or other person holds legal title or appears as record owner of the property.

2. Subsection 1 is inapplicable if any of the following applies:

a. A trustee is acting under a recorded subdivision trust agreement or a recorded deed of trust.

b. All of the information is of record in the public records giving notice of liens on that type of property.

3. A trustee with notice who knowingly fails to comply with the provisions of this section commits a class "D" felony, and shall be fined not less than ten thousand dollars per day for each day of noncompliance.

4. A trustee with notice who fails to comply with subsection 1 is subject to a civil penalty of three hundred dollars for each day of noncompliance. The court shall enter judgment ordering payment of three hundred dollars for each day of noncompliance from the effective date of the notice until the required information is furnished or the state executes its judgment lien under this section.

5. To the extent permitted by the Constitution of the United States and the Constitution of the State of Iowa, the duty to comply with subsection 1 shall not be excused by any privilege or provision of law of this state or any other state or country which authorizes or directs that testimony or records required to be furnished pursuant to subsection 1 are privileged or confidential or otherwise may not be disclosed.

6. A trustee who furnishes information pursuant to subsection 1 is immune from civil liability for the release of information.

7. An employee of the seizing agency or the prosecuting attorney who releases the information obtained pursuant to subsection 1, except in the proper discharge of official duties, commits a serious misdemeanor.

8. If any information furnished pursuant to subsection 1 is offered in evidence, the court may seal that portion of the record or may order that the information be disclosed in a designated way.

9. A judgment or an order of payment entered pursuant to this section becomes a judgment lien against the property alleged to be subject to forfeiture.

Sec. 11. NEW SECTION. 809A.11 CLAIMS - PETITIONS FOR RECOGNITION OF EXEMPTION.

1. Only an owner of or interest holder in property seized for forfeiture may file a claim, and shall do so in the manner provided in this section. The claim shall be mailed to the seizing agency and to the prosecuting attorney by restricted certified mail or other service which indicates the date on which the claim was received by the seizing agency and prosecuting attorney within thirty days after the effective date of notice of pending forfeiture. An extension of time for the filing of a claim shall only be granted for good cause shown for mistake, inadvertence, surprise, excusable neglect, or unavoidable casualty.

2. The prosecuting attorney shall make an opportunity to file a petition for recognition of exemption available by so indicating in the notice of pending forfeiture described in section 809A.8, subsection 2.

3. The claim or petition and all supporting documents shall be in affidavit form, signed by the claimant under oath, and sworn to by the affiant before one who has authority to administer the oath, under penalty of perjury and shall set forth all of the following:

a. The caption of the proceedings and identifying number, if any, as set forth on the notice of pending forfeiture or complaint, the name of the claimant or petitioner, and the name of the prosecuting attorney who authorized the notice of pending forfeiture or complaint.

b. The address where the claimant or petitioner will accept mail.

c. The nature and extent of the claimant's or petitioner's interest in the property.

d. The date, the identity of the transferor, and the circumstances of the claimant's or petitioner's acquisition of the interest in the property.

e. The specific provision of law relied on in asserting that the property is not subject to forfeiture.

f. All essential facts supporting each assertion.

g. The specific relief sought.

Sec. 12. NEW SECTION. 809A.12 JUDICIAL PROCEEDINGS GENERALLY.

1. A judicial forfeiture proceeding under this chapter is subject to the provisions of this section.

2. The court, before or after the filing of a notice of pending forfeiture or complaint and on application of the prosecuting attorney, may do any of the following:

a. Enter a restraining order or injunction.

b. Require the execution of satisfactory performance bonds.

c. Create receiverships.

d. Appoint conservators, custodians, appraisers, accountants, or trustees.

e. Take any other action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this chapter, including a writ of attachment or a warrant for its seizure.

3. The court, after five days' notice to the prosecuting attorney, may issue an order to show cause to the seizing agency, for a hearing on the sole issue of whether probable cause for forfeiture of the property then exists if all of the following exist:

a. Property is seized for forfeiture or a forfeiture lien is filed without a previous judicial determination of probable cause, order of forfeiture, or a hearing under section 809A.14, subsection 4.

b. An owner of or interest holder in the property files an application for a hearing within ten days after notice of its seizure for forfeiture or lien, or actual knowledge of its seizure, whichever is earlier.

c. The owner of or interest holder in the property complies with the requirements for claims or petitions in section 809A.11.

The hearing shall be held within thirty days of the order to show cause unless continued for good cause on motion of either party.

4. If the court finds in a hearing under subsection 3 that no probable cause exists for forfeiture of the property, or if the state elects not to contest the issue, the property shall be released to the custody of the applicant, as custodian for the court, or from the lien pending the outcome of a judicial proceeding pursuant to this chapter. If the court finds that probable cause for the forfeiture of the property exists, the court shall not order the property released.

5. All applications filed within the ten-day period prescribed by subsection 3 shall be consolidated for a single hearing relating to each applicant's interest in the property seized for forfeiture.

6. A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding pursuant to this section. For the purposes of this section, a conviction results from a verdict or a plea of guilty. A defendant whose conviction is overturned on appeal may file a motion to correct, vacate, or modify a judgment of forfeiture under this subsection.

7. In any proceeding under this chapter, if a claim is based on an exemption provided for in this chapter, the burden of proving the existence of the exemption is on the claimant. However, once the claimant comes forward with some evidence supporting the existence of the exemption, the state must provide some evidence to negate the assertion of the exemption. The state's evidence must be substantial, though not necessarily rising to the level of a preponderance of the evidence, and more than a simple assertion of the claimant's interest in the property. The agency or political subdivision bringing the forfeiture action shall pay the reasonable attorneys fees and costs, as determined by the court, incurred by a claimant who prevails on a claim for exemption in a proceeding under this chapter.

8. In hearings and determinations pursuant to this section, the court may receive and consider, in making any determination of probable cause, all evidence admissible in determining probable cause at a preliminary hearing or by a judge pursuant to chapter 808 together with inferences therefrom.

9. The fact that money or a negotiable instrument was found in close proximity to any contraband or an instrumentality of conduct giving rise to forfeiture shall give rise to the presumption that the money or negotiable instrument was the proceeds of conduct giving rise to forfeiture or was used or intended to be used to facilitate the conduct.

10. Subject to the exemptions contained in section 809A.5, a presumption arises that any property of a person is subject to forfeiture under this chapter if the state establishes any of the following:

a. The person has engaged in conduct giving rise to forfeiture.

b. The property was acquired by the person during that period of the conduct giving rise to forfeiture or within a reasonable time after that period.

c. No likely source for acquisition of the property exists other than the conduct giving rise to the forfeiture.

11. A finding that property is the proceeds of conduct giving rise to forfeiture does not require proof that the property is the proceeds of any particular exchange or transaction.

12. A person who acquires property subject to forfeiture is a constructive trustee of the property, and its fruits, for the benefit of the state, to the extent that the person's interest is not exempt from forfeiture. If property subject to forfeiture has been commingled with other property, the court shall order the forfeiture of the commingled property, and of any fruits of the commingled property, to the extent of the property subject to forfeiture, unless an owner or interest holder proves that specified property does not contain property subject to forfeiture, or that the person's interest in specified property is exempt from forfeiture.

13. Title to all property declared forfeited under this chapter vests in the state on the commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any such property or proceeds subsequently transferred to any person remain subject to forfeiture and thereafter shall be ordered forfeited unless the transferee claims and establishes in a hearing under the provisions of the chapter that the transferee's interest is exempt under section 809A.5.

14. An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this chapter.

15. For good cause shown, on motion by either party, the court may stay discovery in civil forfeiture proceedings during a criminal trial for a related criminal indictment or information alleging the same conduct, after making provision to prevent loss to any party resulting from the stay. Such a stay shall not be available pending an appeal.

16. Except as otherwise provided by this chapter, all proceedings hereunder shall be governed by the rules of civil procedure.

17. An action brought pursuant to this chapter shall be consolidated with any other action or proceeding brought pursuant to this chapter or chapter 626 or 654 relating to the same property on motion of the prosecuting attorney, and may be consolidated on motion of an owner or interest holder.

Sec. 13. NEW SECTION. 809A.13 IN REM PROCEEDINGS.

1. A judicial in rem forfeiture proceeding may be brought by the prosecuting attorney in addition to, or in lieu of, civil in personam forfeiture procedures, and is also subject to the provisions of this section. If a forfeiture is authorized by this chapter, it shall be ordered by the court in the in rem action.

2. An action in rem may be brought by the prosecuting attorney pursuant to a notice of pending forfeiture or verified complaint for forfeiture. The state may serve the complaint in the manner provided in section 809A.8, subsection 2, or as provided by the rules of civil procedure.

3. Only an owner of or an interest holder in the property who has timely filed a proper claim pursuant to section 809A.11 may file an answer in an action in rem. For the purposes of this section, an owner of or interest holder in property who has filed a claim and answer shall be referred to as a claimant.

4. The answer shall be signed by the owner or interest holder under penalty of perjury and shall be in accordance with R.C.P. 72 and shall also set forth all of the following:

a. The caption of the proceedings and identifying number, if any, as set forth on the notice of pending forfeiture or complaint and the name of the claimant.

b. The address where the claimant will accept mail.

c. The nature and extent of the claimant's interest in the property.

d. The date, the identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property.

e. The specific provision of this chapter relied on in asserting that it is not subject to forfeiture.

f. All essential facts supporting each assertion.

g. The specific relief sought.

5. The answer shall be filed within twenty days after service on the claimant of the civil in rem complaint.

6. The rules of civil procedure shall apply to discovery by the state and any claimant who has timely answered the complaint.

7. The forfeiture hearing shall be held without a jury and within sixty days after service of the complaint unless continued for good cause. The prosecuting attorney shall have the initial burden of proving the property is subject to forfeiture by a preponderance of the evidence. If the state so proves the property is subject to forfeiture, the claimant has the burden of proving that the claimant has an interest in the property which is exempt from forfeiture under this chapter by a preponderance of the evidence.

8. The court shall order the interest in the property returned or conveyed to the claimant if the prosecuting attorney fails to meet the state's burden or the claimant establishes by a preponderance of the evidence that the claimant has an interest that is exempt from forfeiture. The court shall order all other property forfeited to the state and conduct further proceedings pursuant to sections 809A.16 and 809A.17.

Sec. 14. NEW SECTION. 809A.14 IN PERSONAM PROCEEDINGS.

1. A judicial in personam forfeiture proceeding brought by a prosecuting attorney pursuant to an in personam civil action alleging conduct giving rise to forfeiture is subject to the provisions of this section. If a forfeiture is authorized by this chapter, it shall be ordered by the court in the in personam action. This action shall be in addition to or in lieu of in rem forfeiture procedures.

2. The court, on application of the prosecuting attorney, may enter any order authorized by section 809A.12, or any other appropriate order to protect the state's interest in property forfeited or subject to forfeiture.

3. The court may issue a temporary restraining order on application of the prosecuting attorney, if the state demonstrates both of the following:

a. Probable cause exists to believe that in the event of a final judgment, the property involved would be subject to forfeiture under this chapter.

b. Provision of notice would jeopardize the availability of the property for forfeiture.

4. Notice of the issuance of a temporary restraining order and an opportunity for a hearing shall be given to persons known to have an interest in the property. A hearing shall be held at the earliest possible date in accordance with R.C.P. 326, and shall be limited to the following issues:

a. Whether a probability exists that the state will prevail on the issue of forfeiture.

b. Whether the failure to enter the order will result in the property being destroyed, conveyed, encumbered, removed from the jurisdiction of the court, concealed, or otherwise made unavailable for forfeiture.

c. Whether the need to preserve the availability of property outweighs the hardship on any owner or interest holder against whom the order is to be entered.

5. On a determination that a person committed conduct giving rise to forfeiture under this chapter, the court shall do both of the following:

a. Enter a judgment of forfeiture of the property found to be subject to forfeiture described in the complaint.

b. Authorize the prosecuting attorney or designee or any law enforcement officer to seize all property ordered forfeited which was not previously seized or is not under seizure.

6. Except as provided in section 809A.12, a person claiming an interest in property subject to forfeiture under this chapter shall not intervene in a trial or appeal of a criminal action or in an in personam civil action involving the forfeiture of the property.

7. Following the entry of an in personam forfeiture order, the prosecuting attorney may proceed with an in rem action to resolve the remaining interests in the property. The following procedures shall apply:

a. The prosecuting attorney shall give notice of pending forfeiture, in the manner provided in section 809A.8, to all owners and interest holders who have not previously been given notice.

b. An owner of or interest holder in property that has been ordered forfeited and whose claim is not precluded may file a claim as described in section 809A.11, within thirty days after initial notice of pending forfeiture or after notice under paragraph "a", whichever is earlier.

c. If the state does not recognize the claimed exemption, the prosecuting attorney shall file a complaint and the court shall hold an in rem forfeiture hearing as provided for in section 809A.13.

d. In accordance with the findings made at the hearing, the court may amend the order of forfeiture if it determines that any claimant has established by a preponderance of the evidence that the claimant has an interest in the property which is exempt under the provisions of section 809A.5.

Sec. 15. NEW SECTION. 809A.15 SUBSTITUTED ASSETS - SUPPLEMENTAL REMEDIES.

1. The court shall order the forfeiture of any other property of a person, including a claimant, up to the value of that person's property found by the court to be subject to forfeiture under this chapter, if any of the following applies to the person's forfeitable property:

a. The forfeitable property cannot be located.

b. The forfeitable property has been transferred or conveyed to, sold to, or deposited with a third party.

c. The forfeitable property is beyond the jurisdiction of the court.

d. The forfeitable property has been substantially diminished in value while not in the actual physical custody of the court, the seizing agency, the prosecuting attorney, or their designee.

e. The forfeitable property has been commingled with other property that cannot be divided without difficulty.

f. The forfeitable property is subject to any interest of another person which is exempt from forfeiture under this chapter.

2. a. The prosecuting attorney may institute a civil action in district court against any person with notice or actual knowledge who destroys, conveys, encumbers, removes from the jurisdiction of the court, conceals, or otherwise renders unavailable property alleged to be subject to forfeiture if either of the following apply:

(1) A forfeiture lien or notice of pending forfeiture has been filed and notice given pursuant to section 809A.8.

(2) A complaint pursuant to section 809A.13 alleging conduct giving rise to forfeiture has been filed and notice given pursuant to section 809A.8.

b. The court shall enter a final judgment in an amount equal to the value of the lien not to exceed the fair market value of the property, or if a lien does not exist, in an amount equal to the fair market value of the property, together with reasonable investigative expenses and attorney's fees.

c. If a civil proceeding under this chapter is pending in court, the action shall be heard by that court.

Sec. 16. NEW SECTION. 809A.16 DISPOSITION OF PROPERTY.

1. If notice of pending forfeiture is properly served in an action in rem or in personam in which personal property, having an estimated value of five thousand dollars or less, as established by affidavit provided by the prosecuting attorney, is seized, and no claim opposing forfeiture is filed within thirty days of service of such notice, the prosecuting attorney shall prepare a written declaration of forfeiture of the subject property to the state and allocate the property according to the provisions of section 809A.17.

2. Within one hundred eighty days of the date of a declaration of forfeiture, an owner or interest holder in property declared forfeited pursuant to subsection 1, may petition the court to have the declaration of forfeiture set aside, after making a prima facie showing that the state failed to serve proper notice as provided by section 809A.13. Upon such a showing the court shall allow the state to demonstrate by a preponderance of the evidence that notice was properly served. If the state fails to meet its burden of proof, the court may order the declaration of forfeiture set aside. The state may proceed with judicial proceedings pursuant to this chapter.

3. Except as provided in subsection 1, if a proper claim is not timely filed in an action in rem, or if a proper answer is not timely filed in response to a complaint, the prosecuting attorney may apply for an order of forfeiture and an allocation of forfeited property pursuant to section 809A.17. Under such circumstance and upon a determination by the court that the state's written application established the court's jurisdiction, the giving of proper notice, and facts sufficient to show probable cause for forfeiture, the court shall order the property forfeited to the state.

4. After final disposition of all claims timely filed in an action in rem, or after final judgment and disposition of all claims timely filed in an action in personam, the court shall enter an order that the state has clear title to the forfeited property interest. Title to the forfeited property interest and its proceeds shall be deemed to have vested in the state on the commission of the conduct giving rise to the forfeiture under this chapter.

5. The court, on application of the prosecuting attorney, may release or convey forfeited personal property to a regulated interest holder or interest holder if any of the following applies:

a. The prosecuting attorney, in the attorney's discretion, has recognized in writing that the regulated interest holder or interest holder has an interest in the property and informs the court that the property interest is exempt from forfeiture.

b. The regulated interest holder's or interest holder's interest was acquired in the regular course of business as a regulated interest holder or interest holder.

c. The amount of the regulated interest holder's or interest holder's encumbrance is readily determinable and has been reasonably established by proof made available by the prosecuting attorney to the court.

d. The encumbrance held by the regulated interest holder or interest holder seeking possession is the only interest exempted from forfeiture and the order forfeiting the property to the state transferred all of the rights of the owner prior to forfeiture, including rights to redemption, to the state.

6. After the court's release or conveyance under subsection 5, the regulated interest holder or interest holder shall dispose of the property by a commercially reasonable public sale. Within ten days of disposition the regulated interest holder or interest holder shall tender to the state the amount received at disposition less the amount of the regulated interest holder's or interest holder's encumbrance and reasonable expense incurred by the regulated interest holder or interest holder in connection with the sale or disposal. For the purposes of this section, "commercially reasonable" means a sale or disposal that would be commercially reasonable under chapter 554, article 7.

7. On order of the court or declaration of forfeiture forfeiting the subject property, the state may transfer good and sufficient title to any subsequent purchaser or transferee. The title shall be recognized by all courts and agencies of this state, and any political subdivision. On entry of judgment in favor of a person claiming an interest in the property that is subject to forfeiture proceedings under this chapter, the court shall enter an order that the

property or interest in property shall be released or delivered promptly to that person free of liens and encumbrances under this chapter, and that the person's cost bond shall be discharged.

8. Upon motion by the prosecuting attorney, if it appears after a hearing that reasonable cause existed for the seizure for forfeiture or for the filing of the notice of pending forfeiture or complaint, the court shall find all of the following:

a. That reasonable cause existed, or that the action was taken under a reasonable good faith belief that it was proper.

b. That the claimant is not entitled to costs or damages.

c. That the person or seizing agency who made the seizure and the prosecuting attorney are not liable to suit or judgment for the seizure, suit, or prosecution.

Sec. 17. NEW SECTION. 809A.17 DISPOSITION OF FORFEITED PROPERTY.

1. A person having control over forfeited property shall communicate that fact to the attorney general or the attorney general's designee.

2. Forfeited property not needed as evidence in a criminal case shall be delivered to the department of justice, or, upon written authorization of the attorney general or the attorney general's designee, the property may be destroyed, sold, or delivered to an appropriate agency for disposal in accordance with this section.

3. Forfeited property may be used by the department of justice in the enforcement of the criminal law. The department may give, sell, or trade property to any other state agency or to any other law enforcement agency within the state if, in the opinion of the attorney general, it will enhance law enforcement within the state.

4. Forfeited property which is not used by the department of justice in the enforcement of the law may be requisitioned by the department of public safety or any law enforcement agency within the state for use in enforcing the criminal laws of this state. Forfeited property not requisitioned may be delivered to the director of the department of general services to be disposed of in the same manner as property received pursuant to section 18.15.

5. Notwithstanding subsection 1, 2, 3, or 4, the following apply:

a. Forfeited property which is a controlled substance or a simulated, counterfeit, or imitation-controlled substance shall be disposed of as provided in section 124.506.

b. Forfeited property which is a weapon or ammunition shall be deposited with the department of public safety to be disposed of in accordance with the rules of the department. All weapons or ammunition may be held for use in law enforcement, testing, or comparison by the criminalistics laboratory, or destroyed. Ammunition and firearms which are not illegal and are not offensive weapons as defined by section 724.1 may be sold by the department as provided in section 809.21.

c. Material in violation of chapter 728 shall be destroyed.

d. Property subject to the rules of the natural resource commission shall be delivered to that commission for disposal in accordance with its rules.

Sec. 18. NEW SECTION. 809A.18 POWERS OF ENFORCEMENT PERSONNEL.

1. A prosecuting attorney may conduct an investigation of any conduct that gives rise to forfeiture. The prosecuting attorney is authorized, before the commencement of a proceeding or action under this chapter, to subpoena witnesses, and compel their attendance, examine them under oath, and require the production of documentary evidence for inspection, reproducing, or copying. Except as otherwise provided by this section, the prosecuting attorney shall proceed under this subsection with the same powers and limitations, and judicial oversight and enforcement, and in the manner provided by this chapter and by the Iowa rules of civil procedure. Any person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel.

2. The examination of all witnesses under this section shall be conducted by the prosecuting attorney before an officer authorized to administer oaths. The testimony shall be

taken by a certified shorthand reporter or by a sound recording device and shall be transcribed or otherwise preserved. The prosecuting attorney may exclude from the examination all persons except the witness, the witness' counsel, the officer before whom the testimony is to be taken, law enforcement officials, and a certified shorthand reporter. Prior to oral examination, the person shall be advised of the person's right to refuse to answer any questions on the basis of the privilege against self-incrimination. The examination shall be conducted in a manner consistent with the rules dealing with the taking of depositions.

3. Except as otherwise provided in this section, prior to the filing of a civil or criminal proceeding or action relating to such a proceeding, documentary material, transcripts, or oral testimony, in the possession of the prosecuting attorney, shall not be available for examination by any individual other than a law enforcement official or agent of such official without the consent of the person who produced the material, transcripts, or oral testimony.

4. A person shall not knowingly remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any documentary material that is the subject of a subpoena, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any person with any duly served subpoena of the prosecuting attorney under this section. A violation of this subsection is a class "D" felony. The prosecuting attorney shall investigate and prosecute suspected violations of this subsection.

Sec. 19. NEW SECTION. 809A.19 IMMUNITY ORDERS.

1. If a person is or may be called to produce evidence at a deposition, hearing, or trial under this chapter or at an investigation brought by the prosecuting attorney under section 809A.18, the district court in which the deposition, hearing, trial, or investigation is or may be held shall, upon certification in writing of a request of the prosecuting attorney, issue an order, ex parte or after a hearing, requiring the person to produce evidence, notwithstanding that person's refusal to do so on the basis of the privilege against self-incrimination.

2. The prosecuting attorney may certify in writing a request for an ex parte order under subsection 1 if in the prosecuting attorney's judgment both of the following apply:

a. The production of the evidence may be necessary to the public interest.

b. The person has refused or is likely to refuse to produce evidence on the basis of the privilege against self-incrimination.

3. A person shall not refuse to comply with an order issued under subsection 1 on the basis of a self-incrimination privilege. If the person refuses to comply with the order after being informed of its existence by the presiding officer, the person may be compelled or punished by the district court issuing an order for civil or criminal contempt.

4. The production of evidence compelled by order issued under subsection 1, and any information directly or indirectly derived from the production of evidence, shall not be used against the person in a subsequent criminal case, except in a prosecution for perjury, false swearing, or an offense otherwise involving a failure to comply with the order.

Sec. 20. NEW SECTION. 809A.20 STATUTE OF LIMITATIONS.

A civil action under this chapter shall be commenced within five years after the last conduct giving rise to forfeiture or the cause of action becomes known or should have become known, excluding any time during which either the property or defendant is out of the state or in confinement, or during which criminal proceedings relating to the same conduct are pending.

Sec. 21. NEW SECTION. 809A.21 SUMMARY FORFEITURE OF CONTROLLED SUBSTANCES.

Controlled substances included in chapter 124 which are contraband and any controlled substance whose owners are unknown are summarily forfeited to the state. The court may include in any judgment under this chapter an order forfeiting any controlled substance involved in the conduct giving rise to forfeiture to the extent of the defendant's interest.

Sec. 22. NEW SECTION. 809A.22 BAR TO COLLATERAL ACTION.
A person claiming an interest in property subject to forfeiture shall not commence or maintain any action against the state concerning the validity of the alleged interest other than as provided in this chapter.

Sec. 23. NEW SECTION. 809A.23 STATUTORY CONSTRUCTION.
The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. The civil remedies do not preclude and are not precluded by any other provision of law.

Sec. 24. NEW SECTION. 809A.24 UNIFORMITY OF APPLICATION.
1. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting this law.
2. The attorney general may enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this chapter.

Sec. 25. NEW SECTION. 809A.25 RULEMAKING.
The attorney general shall adopt, amend, or repeal rules pursuant to chapter 17A to carry out the provisions of this chapter.

DIVISION II
IOWA ONGOING CRIMINAL CONDUCT ACT

Sec. 26. NEW SECTION. 706A.1 DEFINITIONS.
In this chapter, unless the context otherwise requires:
1. "Criminal network" means any combination of persons engaging, for financial gain on a continuing basis, in conduct which is an indictable offense under the laws of this state regardless of whether such conduct is charged or indicted. As used in this subsection, persons combine if they collaborate or act in concert in carrying on or furthering the activities or purposes of a network even though such persons may not know each other's identity, membership in the network changes from time to time, or one or more members of the network stand in a wholesaler-retailer, service provider, or other arm's length relationship with others as to conduct in the furtherance of the financial goals of the network.
2. "Enterprise" includes any sole proprietorship, partnership, corporation, trust, or other legal entity, or any unchartered union, association, or group of persons associated in fact although not a legal entity, and includes unlawful as well as lawful enterprises.
3. "Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes any property of any kind.
4. "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible, or intangible, without reduction for expenses incurred for acquisition, maintenance, production, or any other purpose.
5. "Specified unlawful activity" means any act, including any preparatory or completed offense, committed for financial gain on a continuing basis, that is punishable as an indictable offense under the laws of the state in which it occurred and under the laws of this state.

Sec. 27. NEW SECTION. 706A.2 VIOLATIONS.
1. SPECIFIED UNLAWFUL ACTIVITY INFLUENCED ENTERPRISES.
a. It is unlawful for any person who has knowingly received any proceeds of specified unlawful activity to use or invest, directly or indirectly, any part of such proceeds in the acquisition of any interest in any enterprise or any real property, or in the establishment or operation of any enterprise.
b. It is unlawful for any person to knowingly acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property through specified unlawful activity.

c. It is unlawful for any person to knowingly conduct the affairs of any enterprise through specified unlawful activity or to knowingly participate, directly, or indirectly, in any enterprise that the person knows is being conducted through specified unlawful activity.

d. It is unlawful for any person to conspire or attempt to violate or to solicit or facilitate the violations of the provisions of paragraphs "a", "b", or "c".

2. FACILITATION OF A CRIMINAL NETWORK. It is unlawful for a person acting with knowledge of the financial goals and criminal objectives of a criminal network to knowingly facilitate criminal objectives of the network by doing any of the following:

a. Engaging in violence or intimidation or inciting or inducing another to engage in violence or intimidation.

b. Inducing or attempting to induce a person believed to have been called or who may be called as a witness to unlawfully withhold any testimony, testify falsely, or absent themselves from any official proceeding to which the potential witness has been legally summoned.

c. Attempting by means of bribery, misrepresentation, intimidation, or force to obstruct, delay, or prevent the communication of information or testimony relating to a violation of any criminal statute to a peace officer, magistrate, prosecutor, grand jury, or petit jury.

d. Injuring or damaging another person's body or property because that person or any other person gave information or testimony to a peace officer, magistrate, prosecutor, or grand jury.

e. Attempting to suppress by an act of concealment, alteration, or destruction any physical evidence that might aid in the discovery, apprehension, prosecution, or conviction of any person.

f. Making any property available to a member of the criminal network.

g. Making any service other than legal services available to a member of the criminal network.

h. Inducing or committing any act or omission by a public servant in violation of the public servant's official duty.

i. Obtaining any benefit for a member of a criminal network by means of false or fraudulent pretenses, representation, promises or material omissions.

j. Making a false sworn statement regarding a material issue, believing it to be false, or making any statement, believing it to be false, regarding a material issue to a public servant in connection with an application for any benefit, privilege, or license, or in connection with any official investigation or proceeding.

3. MONEY LAUNDERING. It is unlawful for a person to commit money laundering as defined in chapter 706B.

4. ACTS OF SPECIFIED UNLAWFUL ACTIVITY. It is unlawful for a person to commit specified unlawful activity as defined in section 706A.1.

5. NEGLIGENT EMPOWERMENT OF SPECIFIED UNLAWFUL ACTIVITY.

a. It is unlawful for a person to negligently allow property owned or controlled by the person or services provided by the person, other than legal services, to be used to facilitate specified unlawful activity, whether by entrustment, loan, rent, lease, bailment, or otherwise.

b. Damages for negligent empowerment of specified unlawful activity shall include all reasonably foreseeable damages proximately caused by the specified unlawful activity, including, in a case brought or intervened in by the state, the costs of investigation and criminal and civil litigation of the specified unlawful activity incurred by the government for the prosecution and defense of any person involved in the specified unlawful activity, and the imprisonment, probation, parole, or other expense reasonably necessary to detain, punish, and rehabilitate any person found guilty of the specified unlawful activity, except for the following:

(1) If the person empowering the specified unlawful activity acted only negligently and was without knowledge of the nature of the activity and could not reasonably have known

of the unlawful nature of the activity or that it was likely to occur, damages shall be limited to the greater of the following:

(a) The cost of the investigation and litigation of the person's own conduct plus the value of the property or service involved as of the time of its use to facilitate the specified unlawful activity.

(b) All reasonably foreseeable damages to any person, except any person responsible for the specified unlawful activity, and to the general economy and welfare of the state proximately caused by the person's own conduct.

(2) If the property facilitating the specified unlawful activity was taken from the possession or control of the person without that person's knowledge and against that person's will in violation of the criminal law, damages shall be limited to reasonably foreseeable damages to any person, except persons responsible for the taking or the specified unlawful activity, and to the general economy and welfare of the state proximately caused by the person's negligence, if any, in failing to prevent its taking.

(3) If the person was aware of the possibility that the property or service would be used to facilitate some form of specified unlawful activity and acted to prevent the unlawful use, damages shall be limited to reasonably foreseeable damages to any person, except any person responsible for the specified unlawful activity, and to the general economy and welfare of the state proximately caused by the person's failure, if any, to act reasonably to prevent the unlawful use.

(4) The plaintiff shall carry the burden of proof by a preponderance of the evidence that the specified unlawful activity occurred and was facilitated by the property or services. The defendant shall have the burden of proof by a preponderance of the evidence as to circumstances constituting lack of negligence and on the limitations on damages in this subsection.

Sec. 28. NEW SECTION. 706A.3 CIVIL REMEDIES - ACTIONS.

1. The prosecuting attorney or an aggrieved person may institute civil proceedings against any person in district court seeking relief from conduct constituting a violation of this chapter or to prevent, restrain, or remedy such violation.

2. The district court has jurisdiction to prevent, restrain, or remedy such violations by issuing appropriate orders. Prior to a determination of liability such orders may include, but are not limited to, entering restraining orders or injunctions, requiring the execution of satisfactory performance bonds, creating receiverships, and enforcing constructive trusts in connection with any property or interest subject to damages, forfeiture, or other remedies or restraints pursuant to this chapter.

3. If the plaintiff in such a proceeding proves the alleged violation by a preponderance of the evidence, the district court, after making due provision for the rights of innocent persons, shall grant relief by entering any appropriate order or judgment, including any of the following:

a. Ordering any defendant to divest the defendant of any interest in any enterprise, or in any real property.

b. Imposing reasonable restrictions upon the future activities or investments of any defendant, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as any enterprise in which the defendant was engaged in a violation of this chapter.

c. Ordering the dissolution or reorganization of any enterprise.

d. Ordering the payment of all reasonable costs and expenses of the investigation and prosecution of any violation, civil or criminal, including reasonable attorney fees in the trial and appellate courts. Such payments received by the state, by judgment, settlement, or otherwise, shall be considered forfeited property and disposed of pursuant to section 809A.17.

e. Ordering the forfeiture of any property subject to forfeiture under chapter 809A, pursuant to the provisions and procedures of that chapter.

f. Ordering the suspension or revocation of any license, permit, or prior approval granted to any person by any agency of the state.

g. Ordering the surrender of the certificate of existence of any corporation organized under the laws of this state or the revocation of any certificate authorizing a foreign corporation to conduct business within this state, upon finding that for the prevention of future violations, the public interest requires the certificate of the corporation to be surrendered and the corporation dissolved or the certificate revoked.

4. Relief under subsection 3, paragraphs "e", "f", and "g" shall not be granted in civil proceedings instituted by an aggrieved person unless the prosecuting attorney has instituted the proceedings or intervened. In any action under this section brought by the state or in which the state has intervened, the state may employ any of the powers of seizure and restraint of property as are proved* for forfeiture actions under chapter 809A, or as are provided for the collection of taxes payable and past due, and whose collection has been determined to be in jeopardy.

5. In a proceeding initiated under this section, injunctive relief shall be granted in conformity with the principles that govern the granting of relief from injury or threatened injury in other civil cases, but no showing of special or irreparable injury is required. Pending final determination of a proceeding initiated under this section, a temporary restraining order or a preliminary injunction may be issued upon a showing of immediate danger of significant injury, including the possibility that a judgment for money damages might be difficult to execute, and, in a proceeding initiated by a nongovernmental aggrieved person, upon the execution of proper bond against injury for an injunction improvidently granted.

6. Any person who is in possession or control of proceeds of any violation of this chapter, is an involuntary trustee and holds the property in constructive trust for the benefit of the person entitled to remedies under this chapter, unless the holder acquired the property as a bona fide purchaser for value who was not knowingly taking part in an illegal transaction.

7. Any person whose business or property is directly or indirectly injured by conduct constituting a violation of this chapter, by any person, may bring a civil action, subject to the in pari delicto defense and shall recover threefold the actual damages sustained and the costs and expenses of the investigation and prosecution of the action including reasonable attorney fees in the trial and appellate courts. Damages shall not include pain and suffering. Any person injured shall have a claim to any property against which any fine, or against which treble damages under subsection 10 or 11 may be imposed, superior to any right or claim of the state to the property, up to the value of actual damages and costs awarded in an action under this subsection. The state shall have a right of subrogation to the extent that an award made to a person so injured is satisfied out of property against which any fine or civil remedy in favor of the state may be imposed.

8. a. If liability of a legal entity is based on the conduct of another, through respondent** superior or otherwise, the legal entity shall not be liable for more than actual damages and costs, including a reasonable attorney's fee, if the legal entity affirmatively shows by a preponderance of the evidence that both of the following apply:

(1) The conduct was not engaged in, authorized, solicited, commanded, or recklessly tolerated by the legal entity, by the directors of the legal entity or by a high managerial agent of the legal entity acting within the scope of employment.

(2) The conduct was not engaged in by an agent of the legal entity acting within the scope of employment and in behalf of the legal entity.

b. For the purposes of this subsection:

(1) "Agent" means any officer, director, or employee of the legal entity, or any other person who is authorized to act in behalf of the legal entity.

(2) "High managerial agent" means any officer of the legal entity or, in the case of a partnership, a partner, or any other agent in a position of comparable authority with respect to the formulation of policy of the legal entity.

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*The word "provided" probably intended

**The word "respondeat" probably intended

(3) Notwithstanding any other provision of law, any pleading, motion, or other paper filed by a nongovernmental aggrieved party in connection with a proceeding or action under subsection 7 shall be verified. If such aggrieved person is represented by an attorney, such pleading, motion, or other paper shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated.

If such pleading, motion, or other paper includes an averment of fraud, coercion, accomplice, respondent* superior, conspiratorial, enterprise, or other vicarious accountability, it shall state, insofar as practicable, the circumstances with particularity. The verification and the signature by an attorney required by this subsection shall constitute a certification by the signor that the attorney has carefully read the pleading, motion, or other paper and, based on a reasonable inquiry, believes that all of the following exist:

(a) It is well-grounded in fact.

(b) It is warranted by existing law, or a good faith argument for the extension, modification, or reversal of existing law.

(c) It is not made for an improper purpose, including to harass, to cause unnecessary delay, or to impose a needless increase in the cost of litigation.

The court may, after a hearing and appropriate findings of fact, impose upon any person who verified the complaint, cross-claim or counterclaim, or any attorney who signed it in violation of this subsection, or both, a fit and proper sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the complaint or claim, including reasonable attorney fees. If the court determines that the filing of a complaint or claim under subsection 7 by a nongovernmental party was frivolous in whole or in part, the court shall award double the actual expenses, including attorney fees, incurred because of the frivolous portion of the complaint or claim.

9. Upon the filing of a complaint, cross-claim, or counterclaim under this section, an aggrieved person, as a jurisdictional prerequisite, shall immediately notify the attorney general of its filing and serve one copy of the pleading on the attorney general. Service of the notice on the attorney general does not limit or otherwise affect the right of the state to maintain an action under this section or intervene in a pending action and does not authorize the aggrieved person to name the state or the attorney general as a party to the action. The attorney general, upon timely application, may intervene or appear as amicus curiae in any civil proceeding or action brought under this section if the attorney general certifies that, in the opinion of the attorney general, the proceeding or action is of general public importance. In any proceeding or action brought under this section by an aggrieved person, the state shall be entitled to the same relief as if it had instituted the proceeding or action.

10. a. Any prosecuting attorney may bring a civil action on behalf of a person whose business or property is directly or indirectly injured by conduct constituting a violation of this chapter, and shall recover threefold the damages sustained by such person and the costs and expenses of the investigation and prosecution of the action, including reasonable attorney fees in the trial and appellate courts. The court shall exclude from the amount of monetary relief awarded any amount of monetary relief which is any of the following:

(1) Which duplicates amounts which have been awarded for the same injury.

(2) Which is properly allocable to persons who have excluded their claims under paragraph "c".

b. In any action brought under this subsection, the prosecuting attorney, at such times, in such manner, and with such content as the court may direct, shall cause notice of the action to be given by publication. If the court finds that notice given solely by publication would deny due process to any person, the court may direct further notice to such person according to the circumstances of the case.

c. A person on whose behalf an action is brought under this subsection may elect to exclude from adjudication the portion of the state claim for monetary relief attributable to the person by filing notice of such election within such time as specified in the notice given under this subsection.

d. A final judgment in an action under this subsection shall preclude any claim under this subsection by a person on behalf of whom such action was brought who fails to give

*The word "respondeat" probably intended

notice of exclusion within the times specified in the notice given under paragraph "b".

e. An action under this subsection on behalf of a person other than the state shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

11. The attorney general may bring a civil action as parens patriae on behalf of the general economy, resources, and welfare of this state, and shall recover threefold the proceeds acquired, maintained, produced, or realized by or on behalf of the defendant by reason of a violation of this chapter, plus the costs and expenses of the investigation and prosecution of the action, including reasonable attorney fees in the trial and appellate courts.

a. A person who has knowingly conducted or participated in the conduct of an enterprise in violation of section 706A.2, subsection 1, paragraph "c" is also jointly and severally liable for the greater of threefold the damage sustained directly or indirectly by the state by reason of conduct in furtherance of the violation or threefold the total of all proceeds acquired, maintained, produced, or realized by, or on behalf of any person by reason of participation in the enterprise except for the following:

(1) A person is not liable for conduct occurring prior to the person's first knowing participation in or conduct of the enterprise.

(2) If a person shows that, under circumstances manifesting a voluntary and complete renunciation of culpable intent, the person withdrew from the enterprise by giving a complete and timely warning to law enforcement authorities or by otherwise making a reasonable and substantial effort to prevent the conduct or result which is the criminal objective of the enterprise, the person is not liable for conduct occurring after the person's withdrawal.

b. A person who has facilitated a criminal network in violation of section 706A.2, subsection 2, is also jointly and severally liable for all of the following:

(1) The damages resulting from the conduct in furtherance of the criminal objectives of the criminal network, to the extent that the person's facilitation was of substantial assistance to the conduct.

(2) The proceeds of conduct in furtherance of the criminal objectives of the criminal network, to the extent that the person's facilitation was of substantial assistance to the conduct.

(3) A person who has engaged in money laundering in violation of chapter 706B is also jointly and severally liable for the greater of threefold the damages resulting from the person's conduct or threefold the property that is the subject of the violation.

Sec. 29. NEW SECTION. 706A.4 CRIMINAL SANCTIONS.

A person who violates section 706A.2, subsection 1, 2, or 4, commits a class "B" felony.

Sec. 30. NEW SECTION. 706A.5 UNIFORMITY OF CONSTRUCTION AND APPLICATION.

1. The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. Civil remedies under this chapter do not preclude and are not precluded by other provisions of law.

2. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting the law.

3. The attorney general may enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this chapter.

DIVISION III
IOWA MONEY LAUNDERING ACT

Sec. 31. NEW SECTION. 706B.1 DEFINITIONS.

In this chapter, unless the context otherwise requires:

1. "Proceeds" means property acquired or derived directly or indirectly from, produced

through, realized through, or caused by an act or omission and includes any property of any kind.

2. "Property" means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible.

3. "Specified unlawful activity" means any act, including any preparatory or completed offense, committed for financial gain on a continuing basis, that is punishable by confinement of one year or more under the laws of this state, or, if the act occurred outside this state, would be punishable by confinement of one year or more under the laws of the state in which it occurred and under the laws of this state.

4. "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase, or sale of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property by whatever means effected.

5. "Unlawful activity" means any act which is chargeable or indictable as a public offense of any degree under the laws of the state in which the act occurred or under federal law and, if the act occurred in a state other than this state, would be chargeable or indictable as a public offense of any degree under the laws of this state or under federal law.

Sec. 32. NEW SECTION. 706B.2 MONEY LAUNDERING PENALTY - CIVIL REMEDIES.

1. It is unlawful for a person to do any of the following:

a. To knowingly transport, receive, or acquire property or to conduct a transaction involving property, knowing that the property involved is the proceeds of some form of unlawful activity, when, in fact, the property is the proceeds of specified unlawful activity.

b. To make property available to another, by transaction, transportation, or otherwise, knowing that it is intended to be used for the purpose of committing or furthering the commission of specified unlawful activity.

c. To conduct a transaction knowing that the property involved in the transaction is the proceeds of some form of unlawful activity with the intent to conceal or disguise the nature, location, source, ownership, or control of the property or the intent to avoid a transaction-reporting requirement under chapter 529, the Iowa financial transaction reporting Act, or federal law.

d. To knowingly engage in the business of conducting, directing, planning, organizing, initiating, financing, managing, supervising, or facilitating transactions involving property, knowing that the property involved in the transaction is the proceeds of some form of unlawful activity, that, in fact, is the proceeds of specified unlawful activity.

2. A person who violates:

a. Subsection 1, paragraphs "a", "b", or "c", commits a class "C" felony, and may be fined not more than ten thousand dollars or twice the value of the property involved, whichever is greater, or by imprisonment for not more than 10 years, or both.

b. Subsection 1, paragraph "d", commits a class "D" felony, and may be fined not more than seven thousand five hundred dollars or twice the value of the property involved, whichever is greater, or by imprisonment for not more than five years, or both.

3. A person who violates subsection 1, paragraph "a", "b", "c", or "d", is subject to a civil penalty of three times the value of the property involved in the transaction, in addition to any criminal sanction imposed.

4. A person who is found guilty of a violation under this section also may be charged with violations of chapter 706A, and property involved in a violation under this chapter is subject to forfeiture under chapter 809A.

Sec. 33. NEW SECTION. 706B.3 UNIFORMITY OF CONSTRUCTION AND APPLICATION.

1. The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. The civil remedies do not preclude and are not precluded by other provision of law.

2. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting the law.

3. The attorney general may enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this chapter.

DIVISION IV
IOWA FINANCIAL TRANSACTION REPORTING ACT

Sec. 34. NEW SECTION. 529.1 DEFINITIONS.

In this chapter, unless the context otherwise requires:

1. "Authorized delegate" means a person designated by the licensee.

2. "Check cashing" means exchanging for compensation a check, draft, money order, traveler's check, or a payment instrument of a licensee for money delivered to the presenter at the time and place of the presentation.

3. "Compensation" means any fee, commission, or other benefit.

4. "Conduct the business" means engaging in activities of a licensee or money transmitter more than ten times in any calendar year for compensation.

5. "Foreign money exchange" means exchanging for compensation money of the United States government or a foreign government to or from money of another government at a conspicuously posted exchange rate at the time and place of the presentation of the money to be exchanged.

6. "Licensee" means a person licensed under this chapter.

7. "Location" means a place of business at which activity conducted by a licensee or money transmitter occurs.

8. "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance.

9. "Money transmitter" means a person who is located or doing business in this state, including a check cashier and a foreign money exchanger, and who does any of the following:

a. Sells or issues payment instruments.

b. Conducts the business of receiving money for the transmission of or transmitting money.

c. Conducts the business of exchanging payment instruments or money into any form of money or payment instrument.

d. Conducts the business of receiving money for obligors for the purpose of paying obligors' bills, invoices, or accounts.

e. Meets the definition of a bank, financial agency, or financial institution as prescribed by 31 U.S.C. § 5312 or 31 C.F.R. § 103.11 and any successor provisions.

10. "Payment instrument" means a check, draft, money order, traveler's check, or other instrument or order for the transmission or payment of money, sold to one or more persons, whether or not that instrument or order is negotiable. "Payment instrument" does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.

11. "Proceeds" means anything of value, and includes any interest in property, including any benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible or intangible, without reduction for expenses incurred for acquisition, maintenance, production, or any other purpose.

12. "Superintendent" means the superintendent of banking or the superintendent of credit unions.

13. "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts,

exchange of currency, extension of credit, purchase, or sale of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property by whatever means effected.

14. "Transmitting money" includes the transmission of money by any means including transmission within this country or to or from locations abroad by payment instrument, wire, facsimile, or electronic transfer, courier, or otherwise.

15. "Traveler's check" means an instrument identified as a traveler's check on its face or commonly recognized as a traveler's check and issued in a money multiple of United States or foreign currency with a provision for a specimen signature of the purchaser to be completed at the time of purchase and a countersignature of the purchaser to be completed at the time of negotiation.

Sec. 35. NEW SECTION. 529.2 REPORTS.

1. A licensee, authorized delegate, or money transmitter required to file a report regarding business conducted in this state pursuant to the federal Currency and Foreign Transactions Reporting Act, 31 U.S.C. § 5311 through 5326 and 31 C.F.R. pt. 103, or 12 C.F.R. § 21.11, shall file a duplicate of that report with the department of public safety.

2. All persons engaged in a trade or business who are required to file a report pursuant to 26 U.S.C. § 6050i and 26 C.F.R. § 1.6050I, and any successor provisions, concerning returns relating to cash received in trade or business, shall file a copy of the report with the department of public safety.

3. A licensee, authorized delegate, or money transmitter that is regulated under the federal Currency and Foreign Transaction Reporting Act, 31 U.S.C. § 5325 and 31 C.F.R. pt. 103, and that is required to make available prescribed records to the secretary of the United States department of treasury upon request at any time, shall follow the same prescribed procedures and create and maintain the same prescribed records relating to a transaction and shall make these records available to the department of public safety pursuant to a prosecuting attorney subpoena.

4. a. The timely filing of a report required by this section with the appropriate federal agency shall be deemed compliance with the reporting requirements of this section, unless the attorney general or the department of public safety has notified the superintendent that reports of that type are not being regularly and comprehensively transmitted by that federal agency to the department of public safety.

b. This chapter does not preclude a licensee, authorized delegate, money transmitter, financial institution, or a person engaged in a trade or business, in its discretion, from instituting contact with, and thereafter communicating with and disclosing customer financial records to appropriate state or local law enforcement agencies if the licensee, authorized delegate, money transmitter, financial institution, or person has information that may be relevant to a possible violation of any criminal statute or to the evasion or attempted evasion of any reporting requirement of this chapter.

c. A licensee, authorized delegate, money transmitter, financial institution, person engaged in a trade or business, or any officer, employee, agent, or authorized delegate of any of them, or any public official or governmental employee who keeps or files a record pursuant to this section or who communicates or discloses information or records under paragraph "b", is not liable to its customer, to a state or local agency, or to any person for any loss or damage caused in whole or in part by the making, filing, or governmental use of the report, or any information contained in that report.

5. The attorney general or the department of public safety may report any possible violations indicated by analysis of the reports required by this chapter to any appropriate law enforcement agency for use in the proper discharge of its official duties. The attorney general or the department of public safety shall provide copies of the reports required by this chapter to any appropriate prosecutorial or law enforcement agency upon being provided with a written request for records relating to a specific individual or entity and stating that the agency has an articulable suspicion that such individual or entity has

committed a felony offense or a violation of this chapter to which the reports are relevant. A person who releases information received pursuant to this subsection except in the proper discharge of the person's official duties is guilty of a serious misdemeanor.

6. It shall be unlawful for any person to do any of the following:

a. With intent to disguise the fact that money or a payment instrument is the proceeds of criminal conduct, or with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal conduct, to knowingly furnish or provide to a licensee, authorized delegate, money transmitter, financial institution, person engaged in a trade or business, or any officer, employee, agent or authorized delegate of any of them, or to the attorney general or department of public safety, any false, inaccurate, or incomplete information; or to knowingly conceal a material fact in connection with a transaction for which a report is required to be filed pursuant to this section.

b. With the intent to disguise the fact that money or a payment instrument is the proceeds of criminal conduct, or with intent to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of any criminal conduct, or with intent to evade the making or filing of a report required under this chapter, or with intent to cause the making or filing of a report that contains a material omission or misstatement of fact, or with intent to conduct or structure a transaction or series of transactions by or through one or more licensees, authorized delegates, money transmitters, financial institutions, or persons engaged in a trade or business.

7. A person who violates subsection 7* is guilty of a class "C" felony and is also subject to a civil penalty of three times the value of the property involved in the transaction, or, if no transaction is involved, five thousand dollars.

8. Notwithstanding any other provision of law, each violation of this section constitutes a separate, punishable offense.

9. Any report, record, information, analysis, or request obtained by the attorney general or department of public safety pursuant to this chapter is not a public record as defined in chapter 22 and is not subject to disclosure.

Sec. 36. NEW SECTION. 529.3 INVESTIGATIONS.

1. The attorney general or county attorney may conduct investigations within or outside this state to determine if any licensee, authorized delegate, money transmitter, or person engaged in a trade or business has failed to file a report required by this chapter or has engaged or is engaging in any act, practice, or transaction that constitutes a violation of this chapter.

2. Upon presentation of a subpoena from a prosecuting attorney, all licensees, authorized delegates, money transmitters, and financial institutions shall make their books and records available to the attorney general or county attorney or peace officer during normal business hours for inspection and examination in connection with an investigation pursuant to this section.

Sec. 37. NEW SECTION. 529.4 UNIFORMITY OF CONSTRUCTION AND APPLICATION.

1. The provisions of this chapter shall be liberally construed to effectuate its remedial purposes. Civil remedies under this chapter shall be supplemental and not mutually exclusive. The civil remedies do not preclude and are not precluded by other provisions of law.

2. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting the law and to make the reporting requirements regarding financial transactions under Iowa law uniform with the reporting requirements regarding financial transactions under federal law.

3. The attorney general is authorized to enter into reciprocal agreements with the attorney general or chief prosecuting attorney of any state to effectuate the purposes of this chapter.

*Subsection 6 probably intended

DIVISION V
CONFORMING AMENDMENTS

Sec. 38. Section 22.7, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 33. A record required under the Iowa financial transaction reporting Act listed in section 529.2, subsection 10.*

Sec. 39. Section 80.39, subsection 1, Code 1995, is amended to read as follows:

1. Personal property, except for motor vehicles subject to sale pursuant to section 321.89, and seizable ~~or forfeitable~~ property subject to disposition pursuant to chapter 809, which personal property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department of public safety and which the department does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. A published notice may contain multiple items.

Sec. 40. Section 123.20, subsection 7, Code 1995, is amended to read as follows:

7. To accept intoxicating liquors ordered delivered to the alcoholic beverages division pursuant to chapter ~~809~~ 809A, and offer for sale and deliver the intoxicating liquors to class "E" liquor control licensees, unless the administrator determines that the intoxicating liquors may be adulterated or contaminated. If the administrator determines that the intoxicating liquors may be adulterated or contaminated, the administrator shall order their destruction.

Sec. 41. Section 321.232, subsection 3, Code 1995, is amended to read as follows:

3. A radar jamming device may be seized by a peace officer subject to forfeiture as provided by chapter 809 or 809A.

Sec. 42. Section 321J.4B, subsection 12, Code Supplement 1995, is amended to read as follows:

12. Operating a motor vehicle on a street or highway in this state in violation of an order of impoundment or immobilization is a serious misdemeanor. A motor vehicle which is subject to an order of impoundment or immobilization that is operated on a street or highway in this state in violation of the order shall be seized and forfeited to the state under ~~chapter~~ chapters 809 and 809A.

Sec. 43. Section 321J.4B, subsections 13 and 16, Code Supplement 1995, are amended to read as follows:

13. Once the period of impoundment or immobilization has expired, the owner of the motor vehicle shall have thirty days to claim the motor vehicle and pay the fees and charges imposed under this section. If the owner or the owner's designee has not claimed the vehicle and paid the fees and charges imposed under this section within seven days from the date of expiration of the period, the clerk shall send written notification to the motor vehicle owner, at the owner's last known address, notifying the owner of the date of expiration of the period of impoundment or immobilization and of the period in which the motor vehicle must be claimed. If the motor vehicle owner fails to claim the motor vehicle and pay the fees and charges imposed within the thirty-day period, the motor vehicle shall be forfeited to the state under ~~chapter~~ chapters 809 and 809A.

16. Notwithstanding the requirements of this section, the holder of a security interest in a vehicle which is impounded or immobilized pursuant to this section or forfeited in the manner provided in ~~chapter~~ chapters 809 and 809A shall be notified of the impoundment, immobilization, or forfeiture within seventy-two hours of the seizure of the vehicle and

*Subsection 9 probably intended

shall have the right to claim the motor vehicle without payment of any fees or surcharges unless the value of the vehicle exceeds the value of the security interest held by the creditor.

Sec. 44. Section 321J.10, subsection 7, Code 1995, is amended to read as follows:

7. Specimens obtained pursuant to warrants issued under this section are not subject to disposition under section 808.9 or chapter 809 or 809A.

Sec. 45. Section 455B.103, subsection 4, paragraph d, subparagraph (2), Code 1995, is amended to read as follows:

(2) In a reasonable manner, and any property seized shall be treated in accordance with the provisions of chapters 808, ~~and~~ 809, and 809A.

Sec. 46. Section 602.6405, subsection 1, Code 1995, 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. Magistrates have jurisdiction to determine the disposition of livestock or another animal, as provided in sections 717.5 and 717B.4, if the magistrate determines the value of the livestock or animal is less than ten thousand dollars. Magistrates have jurisdiction to exercise the powers specified in sections 556F.2 and 556F.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. Magistrates have jurisdiction over violations of section 123.49, subsection 2, paragraph "h". Magistrates who are admitted to the practice of law in this state have jurisdiction over all proceedings for the involuntary commitment, treatment, or hospitalization of individuals under chapters 125 and 229, except as otherwise provided under section 229.6A; nonlawyer magistrates have jurisdiction over emergency detention and hospitalization proceedings under sections 125.91 and 229.22. Magistrates have jurisdiction to conduct hearings authorized under section 809.4 ~~and section 809.10, subsection 2~~.

Sec. 47. Section 809.1, subsection 2, Code Supplement 1995, is amended by striking the subsection.

Sec. 48. Section 809.4, Code 1995, is amended to read as follows:

809.4 HEARING - APPEAL.

An application for the return of seized property shall be set for hearing not less than five nor more than thirty days after the filing of the application and shall be tried to the court. All claims to the same property shall be heard in one proceeding unless it is shown that the proceeding would result in prejudice to one or more of the parties. If the total value of the property sought to be returned is less than five thousand dollars, the proceeding may be conducted by a magistrate or a district associate judge with appeal to be as in the case of small claims. In all other cases, the hearing shall be conducted by a district judge, with appeal as provided in section ~~809.12~~ 809.12A.

Sec. 49. NEW SECTION. 809.12A APPEALS.

An appeal from a denial of an application for the return of seized property or from an order for the return of seized property shall be made within thirty days after the entry of a judgment order. The appellant, other than the state, shall post a bond of a reasonable amount as the court may fix and approve, conditioned to pay all costs of the proceedings if the appellant is unsuccessful on appeal. The appellant, other than the state, may be required to post a supersedeas bond or other security, as the court finds to be reasonable, in order to stay the operation of a forfeiture order under section 809A.16.

Sec. 50. Section 809.15, Code 1995, is amended to read as follows:

809.15 COMBINING PROCEEDINGS.

In cases involving seized property and ~~forfeitable~~ property subject to forfeiture pursuant to section 809A.4, the court may order that the proceedings be combined for purposes of this chapter.

Sec. 51. Section 809.16, Code 1995, is amended to read as follows:

809.16 RULEMAKING.

The attorney general ~~may~~ shall adopt, amend, or repeal rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 52. Section 809.17, Code 1995, is amended to read as follows:

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 compensation fund created in section 912.14 at the discretion of the recipient agency, political subdivision, or department.

Sec. 53. Sections 809.6 through 809.14, Code 1995, are repealed.

Approved April 17, 1996

CHAPTER 1134

JUVENILE AND CRIMINAL JUSTICE – MISCELLANEOUS PROVISIONS

S.F. 2420

AN ACT relating to juvenile justice, including the use of deadly force by criminal street gangs, dispositional alternatives for juveniles adjudicated delinquent, registering with the sex offender registry, and associate juvenile judge jurisdiction.

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

Section 1. Section 232.8, subsection 1, paragraph c, Code Supplement 1995, is amended to read as follows:

c. Violations by a child, age sixteen or older, which subject the child to the provisions of section 124.401, subsection 1, paragraph "e" or "f", or violations of section 723A.2 which involve a violation of chapter 724, or violation of chapter 724 which constitutes a felony, or violations which constitute a forcible felony are excluded from the jurisdiction of the juvenile court and shall be prosecuted as otherwise provided by law unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause. A child over whom jurisdiction has not been transferred to the juvenile court, and who is convicted of a violation excluded from the jurisdiction of the juvenile court under this paragraph, shall be sentenced pursuant to section 124.401B, 902.9, or 903.1. Notwithstanding any other provision of the Code to the contrary, the court may accept from a child a plea of guilty, or may instruct the jury on a lesser included offense to the offense excluded from the jurisdiction of the juvenile court under this section in the same manner as regarding an adult.

Sec. 2. Section 232.52, subsection 2, paragraph d, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The chief juvenile court officer or the officer's designee for placement in a program under section 232.191, subsection 4. The chief juvenile court officer or the officer's designee may place a child in group foster care for failure to comply with the terms and conditions of the supervised community treatment program for up to seventy-two hours without notice to the court or for more than seventy-two hours if the court is notified of the placement within seventy-two hours of placement, subject to a hearing before the court on the placement within ten days.

Sec. 3. Section 236.8, Code Supplement 1995, is amended to read as follows:

236.8 VIOLATION OF ORDER - CONTEMPT - PENALTIES - HEARINGS.

A person commits a simple misdemeanor or the court may hold a person in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or~~ for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or for violation by an adult of a protective order under chapter 232. If convicted or held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days. A defendant who is held in contempt or convicted may be ordered by the court to pay the plaintiff's attorneys fees and court costs incurred in the proceedings under this section.

A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court.

A person shall not be convicted of and held in contempt for the same violation of an order or court-approved consent agreement entered under this chapter, for the same violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or~~ for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or for violation of a protective order under chapter 232.

Sec. 4. Section 236.11, unnumbered paragraphs 1 and 2, Code 1995, are amended to read as follows:

A peace officer shall use every reasonable means to enforce an order or court-approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or any~~ an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault, or a protective order under chapter 232. If a peace officer has reason to believe that domestic abuse has occurred, the peace officer shall ask the abused person if any prior orders exist, and shall contact the twenty-four hour dispatcher to inquire if any prior orders exist. If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or any~~ an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, or, if the person is an adult, a violation of a protective order under chapter 232, the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody. The magistrate shall make an initial preliminary determination whether there is probable cause to believe that an order or consent agreement existed and that the person taken into custody has violated its terms. The magistrate's decision shall be entered in the record.

If a peace officer has probable cause to believe that a person has violated an order or approved consent agreement entered under this chapter, a temporary or permanent protective order or order to vacate the homestead under chapter 598, ~~or any~~ an order establishing conditions of release or a protective or sentencing order in a criminal prosecution arising from a domestic abuse assault, or a protective order under chapter 232, and the peace officer is unable to take the person into custody within twenty-four hours of making the probable cause determination, the peace officer shall either request a magistrate to make a determination as to whether a rule to show cause or arrest warrant should be issued, or refer the matter to the county attorney.

Sec. 5. Section 602.7103, subsection 2, Code 1995, is amended to read as follows:

2. The associate juvenile judge shall have the same jurisdiction to conduct juvenile court proceedings, to issue warrants, nontestimonial identification orders, and contempt arrest warrants for adults in juvenile court proceedings, and to issue orders, findings, and decisions as the judge of the juvenile court~~, except that the associate juvenile judge shall not issue warrants~~. However, the appointing judge may limit the exercise of juvenile court jurisdiction by the associate juvenile judge.

Sec. 6. Section 665.4, subsections 2 and 3, Code 1995, are amended to read as follows:

2. Before district judges, ~~and~~ district associate judges, and associate juvenile judges by a fine not exceeding five hundred dollars or imprisonment in a county jail not exceeding six months or by both such fine and imprisonment.

3. Before judicial magistrates ~~and juvenile court referees~~, by a fine not exceeding one hundred dollars or imprisonment in a county jail not exceeding thirty days.

Sec. 7. Section 692A.2, subsection 1, Code Supplement 1995, is amended to read as follows:

1. A person who has been convicted of either a criminal offense against a minor, sexual exploitation, or a sexually violent offense shall register as provided in this chapter for a period of ten years commencing from the date of placement on probation, parole, work release, release from foster care or residential treatment, or other release from custody. A person is not required to register while incarcerated, in foster care, or in a residential treatment program. A person who is convicted, as defined in section 692A.1, of either a criminal offense against a minor or a sexually violent offense as a result of adjudication of delinquency in juvenile court shall not be required to register as required in this chapter if the juvenile court finds that the person should not be required to register under this chapter. If a person is placed on probation, parole, or work release and the probation, parole, or work release is revoked, the ten years shall commence anew upon release from custody.

Sec. 8. Section 692A.5, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent or, in the case of release from foster care or residential treatment or conviction without incarceration, the court shall do the following prior to release or sentencing of the convicted person:

Sec. 9. Section 692A.5, subsection 2, Code Supplement 1995, is amended to read as follows:

2. When a person who is required to register under this chapter is released from confinement from a jail, prison, juvenile facility, or other correctional institution or facility, or when such a person is convicted but not incarcerated, the sheriff, warden, or superintendent or, in the case of release from foster care or residential treatment or conviction without incarceration, the court shall verify that the person has completed initial registration forms, and accept the forms on behalf of the sheriff of the county of registration. The sheriff, warden, superintendent, or the court shall send the initial registration information to the department within three working days of completion of the registration. Probation, parole, work release, or any other form of release after conviction shall not be granted unless the person has registered as required under this chapter.

Sec. 10. Section 723A.1, subsection 1, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Brandishing a dangerous weapon. For purposes of this paragraph:

(1) "Brandishing a dangerous weapon" means the display or exhibition of a dangerous weapon, with the intent to use, intimidate, or threaten another person without justification,

or the actual use of the dangerous weapon in a manner which is intended to or does cause serious injury or death without justification.

(2) "Dangerous weapon" means either of the following:

(a) An instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and that is capable of inflicting death upon a human being when used in the manner for which it was designed.

(b) An instrument or device of any sort whatsoever that is actually used in a manner that indicates the defendant intends to inflict death or serious injury upon another person without justification, and that, when so used, is capable of inflicting death or serious injury upon a human being.

Approved April 18, 1996

CHAPTER 1135

FINGERPRINTING REQUIREMENTS

S.F. 2211

AN ACT relating to fingerprinting requirements for certain public offenses.

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

Section 1. Section 690.2, Code 1995, is amended to read as follows:

690.2 FINGER AND PALM PRINTS - PHOTOGRAPHS - DUTY OF SHERIFF AND CHIEF OF POLICE.

The sheriff of every county, and the chief of police of each city regardless of the form of government thereof, shall take the fingerprints of all unidentified dead bodies in their respective jurisdictions and all persons who are taken into custody for the commission of a serious misdemeanor, other than a serious misdemeanor under chapter 321 or 321A, aggravated misdemeanor, or felony and shall forward such fingerprint records on such forms and in such manner as may be prescribed by the commissioner of public safety, within two working days after the fingerprint records are taken, to the department of public safety and, if appropriate, to the federal bureau of investigation. Fingerprints may be taken of a person who has been arrested for a public offense subject to an enhanced penalty for conviction of a second or subsequent offense. In addition to the fingerprints as herein provided, any such officer may also take the photograph and palm prints of any such person and forward them to the department of public safety. If a defendant is convicted by a court of this state of an offense which is a serious misdemeanor, other than a serious misdemeanor under chapter 321 or 321A, aggravated misdemeanor, or felony, the court shall determine whether such defendant has previously been fingerprinted in connection with the criminal proceedings leading to the conviction and, if not, shall order that the defendant be fingerprinted and those prints submitted to the department of public safety. The court shall also order that a juvenile adjudicated delinquent for an offense which would be a violation of section 321J.2 or an act which would be an aggravated misdemeanor or felony if committed by an adult be fingerprinted and the prints submitted to the department of public safety if the juvenile has not previously been fingerprinted in proceedings leading to the adjudication.

Approved April 18, 1996

CHAPTER 1136

EXEMPTIONS FROM EXECUTION - RESIDENTIAL DEPOSITS AND PREPAID RENT
S.F. 2396

AN ACT adding certain residential security deposits and prepaid rent to the list of exempt property which a debtor may claim.

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

Section 1. Section 627.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 14. The debtor's interest, not to exceed five hundred dollars in the aggregate, in any combination of the following property:

a. Any residential rental deposit held by a landlord as a security deposit, as well as any interest earned on such deposit as a result of any statute or rule requiring that such deposit be placed in an interest-bearing account.

b. Any residential utility deposit held by any electric, gas, telephone, or water company as a condition for initiation or reinstatement of such utility service, as well as any interest earned on such deposit as a result of any statute or rule requiring that such deposit be placed in an interest-bearing account.

c. Any rent paid to the landlord in advance of the date due under any unexpired residential lease.

Notwithstanding the provisions of this subsection, a debtor shall not be permitted to claim these exemptions against a landlord or utility company, with regard to sums held under the terms of a rental agreement, or for utility services furnished to the debtor.

Approved April 18, 1996

CHAPTER 1137

PURCHASE MONEY MORTGAGES
S.F. 2305

AN ACT relating to purchase money mortgages and providing a retroactive applicability provision.

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

Section 1. Section 654.12B, Code Supplement 1995, is amended to read as follows:

654.12B PRIORITY OF RECORDED PURCHASE MONEY MORTGAGE LIEN.

The lien created by a recorded purchase money mortgage shall have priority over and is senior to preexisting judgments against the purchaser and any other right, title, interest, or lien arising either directly or indirectly by, through, or under the purchaser. A mortgage is a purchase money mortgage ~~if~~ to the extent it is either ~~of the following~~:

1. Taken or retained by the seller of the real estate to secure all or part of its price, including all costs in connection with the purchase.

2. Taken by a lender who, by making an advance or incurring an obligation, provides funds to enable the purchaser to acquire rights in the real estate, including all costs in connection with the purchase, if the funds are in fact so used. Except when it is a refinancing of an existing purchase money mortgage between the same lender and purchaser and no new funds are advanced, a mortgage given to secure funds which are used to pay off another mortgage is not a purchase money mortgage.

~~The~~ If more than one purchase money mortgage exists, the first mortgage to be recorded has priority. In order to be entitled to the rights provided by this section, the mortgage ~~shall~~ must contain a recital that it is a purchase money mortgage ~~in order to provide notice to third parties of its priority. If there is more than one purchase money mortgage, a prior recorded mortgage has priority unless "the prior recorded mortgage" or "a mortgage recorded earlier" provides otherwise.~~ However, failure to include the recital in the mortgage shall not prevent a mortgage otherwise qualifying as a purchase money mortgage from being a purchase money mortgage for purposes other than this section. The rights in this section are in addition to, and the obligations are not in derogation of, all rights provided by common law.

Sec. 2. RETROACTIVE APPLICABILITY. This Act applies retroactively to purchase money mortgages taken or retained on or after July 1, 1995.

Approved April 18, 1996

CHAPTER 1138

INVESTMENT SECURITIES – UNIFORM COMMERCIAL CODE

S.F. 2368

AN ACT providing for the regulation of investment securities under article 8 of the uniform commercial code, and providing conforming changes, and an effective date.

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

Section 1. Section 511.8, subsection 21, paragraph a, subparagraph (1), Code 1995, is amended to read as follows:

(1) "Clearing corporation" means a corporation as defined in section 554.8102~~, subsection 3~~.

Sec. 2. Section 515.35, subsection 2, paragraphs b and c, Code 1995, are amended to read as follows:

b. "Clearing corporation" means as defined in section 554.8102~~, subsection 3~~.

c. "Custodian bank" means ~~as defined in section 554.8102, subsection 4~~ a bank or trust company that is supervised and examined by state or federal authority having supervision over banks and is acting as custodian for a clearing corporation.

Sec. 3. Section 518.14, subsection 2, paragraph c, Code Supplement 1995, is amended to read as follows:

c. "Custodian bank" means as defined in section ~~554.8102~~ 515.35.

Sec. 4. Section 518A.12, subsection 2, paragraph c, Code Supplement 1995, is amended to read as follows:

c. "Custodian bank" means as defined in section ~~554.8102~~ 515.35.

Sec. 5. Section 554.1105, subsection 2, Code 1995, is amended to read as follows:

2. Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 554.2402.

Applicability of the Article on Bank Deposits and Collections. Section 554.4102.

Applicability of the Article on Investment Securities. Section ~~554.8106~~ 554.8110.

Perfection provisions of the Article on Secured Transactions. Section 554.9103.
Governing law in the Article on Funds Transfers. Section 554.12507.
Applicability of the Article on Leases. Sections 554.13105 and 554.13106.

Sec. 6. Section 554.1206, subsection 2, Code 1995, is amended to read as follows:

2. Subsection 1 of this section does not apply to contracts for the sale of goods (section 554.2201) nor of securities (section ~~554.8319~~ 554.8113) nor to security agreements (section 554.9203).

Sec. 7. Section 554.4104, subsection 1, paragraph f, Code Supplement 1995, is amended to read as follows:

f. "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (section 554.8102) or instructions for uncertificated securities (section ~~554.8308~~ 554.8102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

Sec. 8. Section 554.5114, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (section 554.7507) or of a certificated security (section ~~554.8306~~ 554.8108) or is forged or fraudulent or there is fraud in the transaction:

Sec. 9. Section 554.5114, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (section 554.3302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (section 554.7502) or a ~~bona fide~~ purchaser of a certificated or uncertificated security who acquires rights in a security (section 554.8302); and

PART 1
SHORT TITLE AND GENERAL MATTERS

Sec. 10. Section 554.8102, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8102 DEFINITIONS AND INDEX OF DEFINITIONS.

1. In this Article:

a. "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

b. "Bearer form", as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

c. "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

d. "Certificated security" means a security that is represented by a certificate.

e. "Clearing corporation" means:

(1) a person that is registered as a "clearing agency" under the federal securities laws;

(2) a federal reserve bank; or

(3) any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

f. "Communicate" means to:

(1) send a signed writing; or

(2) transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

g. "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of section 554.8501, subsection 2, paragraph "b" or "c", that person is the entitlement holder.

h. "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

i. "Financial asset", except as otherwise provided in section 554.8103, means:

(1) a security;

(2) an obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(3) any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this Article.

As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

j. "Good faith", for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this Article, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

k. "Indorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

l. "Instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed.

m. "Registered form", as applied to a certificated security, means a form in which:

(1) the security certificate specifies a person entitled to the security; and

(2) a transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

n. "Securities intermediary" means:

(1) a clearing corporation; or

(2) a person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

o. "Security", except as otherwise provided in section 554.8103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer:

(1) which is represented by a security certificate in bearer or registered form, or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(2) which is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations; and

(3) which:

(a) is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(b) is a medium for investment and by its terms expressly provides that it is a security governed by this Article.

p. "Security certificate" means a certificate representing a security.

q. "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5.

r. "Uncertificated security" means a security that is not represented by a certificate.

2. Other definitions applying to this Article and the sections in which they appear are:

Appropriate person	Section 554.8107
Control	Section 554.8106
Delivery	Section 554.8301
Investment company security	Section 554.8103
Issuer	Section 554.8201
Overissue	Section 554.8210
Protected purchaser	Section 554.8303
Securities account	Section 554.8501

3. In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

4. The characterization of a person, business, or transaction for purposes of this Article does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

Sec. 11. Section 554.8103, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8103 RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.

1. A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

2. An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

3. An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this Article, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

4. A writing that is a security certificate is governed by this Article and not by Article 3, even though it also meets the requirements of that Article. However, a negotiable instrument governed by Article 3 is a financial asset if it is held in a securities account.

5. An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

6. A commodity contract, as defined in section 554.9115, is not a security or a financial asset.

Sec. 12. Section 554.8104, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8104 ACQUISITION OF SECURITY OR FINANCIAL ASSET OR INTEREST THEREIN.

1. A person acquires a security or an interest therein, under this Article, if:

a. the person is a purchaser to whom a security is delivered pursuant to section 554.8301; or

b. the person acquires a security entitlement to the security pursuant to section 554.8501.

2. A person acquires a financial asset, other than a security, or an interest therein, under this Article, if the person acquires a security entitlement to the financial asset.

3. A person who acquires a security entitlement to a security or other financial asset has the rights specified in Part 5, but is a purchaser of any security, security entitlement, or other financial asset held by the securities intermediary only to the extent provided in section 554.8503.

4. Unless the context shows that a different meaning is intended, a person who is required by other law, regulation, rule, or agreement to transfer, deliver, present, surrender, exchange, or otherwise put in the possession of another person a security or financial asset satisfies that requirement by causing the other person to acquire an interest in the security or financial asset pursuant to subsection 1 or 2.

Sec. 13. Section 554.8105, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8105 NOTICE OF ADVERSE CLAIM.

1. A person has notice of an adverse claim if:

a. the person knows of the adverse claim;

b. the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or

c. the person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists, and the investigation so required would establish the existence of the adverse claim.

2. Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a transaction and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.

3. An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than:

a. one year after a date set for presentment or surrender for redemption or exchange; or

b. six months after a date set for payment of money against presentation or surrender of the certificate, if money was available for payment on that date.

4. A purchaser of a certificated security has notice of an adverse claim if the security certificate:

a. whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

b. is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

5. Filing of a financing statement under Article 9 is not notice of an adverse claim to a financial asset.

Sec. 14. Section 554.8106, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8106 CONTROL.

1. A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

2. A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

a. the certificate is indorsed to the purchaser or in blank by an effective indorsement; or

b. the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

3. A purchaser has "control" of an uncertificated security if:

a. the uncertificated security is delivered to the purchaser; or

b. the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

4. A purchaser has "control" of a security entitlement if:

a. the purchaser becomes the entitlement holder; or

b. the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder.

5. If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

6. A purchaser who has satisfied the requirements of subsection 3, paragraph "b", or subsection 4, paragraph "b", has control even if the registered owner in the case of subsection 3, paragraph "b", or the entitlement holder in the case of subsection 4, paragraph "b", retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

7. An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection 3, paragraph "b", or subsection 4, paragraph "b", without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

Sec. 15. Section 554.8107, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8107 WHETHER INDORSEMENT, INSTRUCTION, OR ENTITLEMENT ORDER IS EFFECTIVE.

1. "Appropriate person" means:

a. with respect to an indorsement, the person specified by a security certificate or by an effective special indorsement to be entitled to the security;

b. with respect to an instruction, the registered owner of an uncertificated security;

c. with respect to an entitlement order, the entitlement holder;

d. if the person designated in paragraph "a", "b", or "c" is deceased, the designated person's successor taking under other law or the designated person's personal representative acting for the estate of the decedent; or

e. if the person designated in paragraph "a", "b", or "c" lacks capacity, the designated person's guardian, conservator, or other similar representative who has power under other law to transfer the security or financial asset.

2. An indorsement, instruction, or entitlement order is effective if:

a. it is made by the appropriate person;

b. it is made by a person who has power under the law of agency to transfer the security or financial asset on behalf of the appropriate person, including, in the case of an instruction or entitlement order, a person who has control under section 554.8106, subsection 3, paragraph "b", or subsection 4, paragraph "b"; or

c. the appropriate person has ratified it or is otherwise precluded from asserting its ineffectiveness.

3. An indorsement, instruction, or entitlement order made by a representative is effective even if:

a. the representative has failed to comply with a controlling instrument or with the law of the state having jurisdiction of the representative relationship, including any law requiring the representative to obtain court approval of the transaction; or

b. the representative's action in making the indorsement, instruction, or entitlement order or using the proceeds of the transaction is otherwise a breach of duty.

4. If a security is registered in the name of or specially indorsed to a person described as a representative, or if a securities account is maintained in the name of a person described as a representative, an indorsement, instruction, or entitlement order made by the person is effective even though the person is no longer serving in the described capacity.

5. Effectiveness of an indorsement, instruction, or entitlement order is determined as of the date the indorsement, instruction, or entitlement order is made, and an indorsement, instruction, or entitlement order does not become ineffective by reason of any later change of circumstances.

Sec. 16. Section 554.8108, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8108 WARRANTIES IN DIRECT HOLDING.

1. A person who transfers a certificated security to a purchaser for value warrants to the purchaser, and an indorser, if the transfer is by indorsement, warrants to any subsequent purchaser, that:

a. the certificate is genuine and has not been materially altered;

b. the transferor or indorser does not know of any fact that might impair the validity of the security;

c. there is no adverse claim to the security;

d. the transfer does not violate any restriction on transfer;

e. if the transfer is by indorsement, the indorsement is made by an appropriate person, or if the indorsement is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

f. the transfer is otherwise effective and rightful.

2. A person who originates an instruction for registration of transfer of an uncertificated security to a purchaser for value warrants to the purchaser that:

a. the instruction is made by an appropriate person, or if the instruction is by an agent, the agent has actual authority to act on behalf of the appropriate person;

b. the security is valid;

c. there is no adverse claim to the security; and

d. at the time the instruction is presented to the issuer:

(1) the purchaser will be entitled to the registration of transfer;

(2) the transfer will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction;

(3) the transfer will not violate any restriction on transfer; and

(4) the requested transfer will otherwise be effective and rightful.

3. A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants that:

a. the uncertificated security is valid;

b. there is no adverse claim to the security;

c. the transfer does not violate any restriction on transfer; and

d. the transfer is otherwise effective and rightful.

4. A person who indorses a security certificate warrants to the issuer that:

a. there is no adverse claim to the security; and

b. the indorsement is effective.

5. A person who originates an instruction for registration of transfer of an uncertificated security warrants to the issuer that:

a. the instruction is effective; and

b. at the time the instruction is presented to the issuer the purchaser will be entitled to the registration of transfer.

6. A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that the person is entitled to the registration, payment, or exchange, but a purchaser for value and without notice of adverse claims to whom transfer is registered warrants only that the person has no knowledge of any unauthorized signature in a necessary indorsement.

7. If a person acts as agent of another in delivering a certificated security to a purchaser, the identity of the principal was known to the person to whom the certificate was delivered, and the certificate delivered by the agent was received by the agent from the

principal or received by the agent from another person at the direction of the principal, the person delivering the security certificate warrants only that the delivering person has authority to act for the principal and does not know of any adverse claim to the certificated security.

8. A secured party who redelivers a security certificate received, or after payment and on order of the debtor delivers the security certificate to another person, makes only the warranties of an agent under subsection 7.

9. Except as otherwise provided in subsection 7, a broker acting for a customer makes to the issuer and a purchaser the warranties provided in subsections 1 through 6. A broker that delivers a security certificate to its customer, or causes its customer to be registered as the owner of an uncertificated security, makes to the customer the warranties provided in subsection 1 or 2, and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of the customer.

Sec. 17. NEW SECTION. 554.8109 WARRANTIES IN INDIRECT HOLDING.

1. A person who originates an entitlement order to a securities intermediary warrants to the securities intermediary that:

a. the entitlement order is made by an appropriate person, or if the entitlement order is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

b. there is no adverse claim to the security entitlement.

2. A person who delivers a security certificate to a securities intermediary for credit to a securities account or originates an instruction with respect to an uncertificated security directing that the uncertificated security be credited to a securities account makes to the securities intermediary the warranties specified in section 554.8108, subsection 1 or 2.

3. If a securities intermediary delivers a security certificate to its entitlement holder or causes its entitlement holder to be registered as the owner of an uncertificated security, the securities intermediary makes to the entitlement holder the warranties specified in section 554.8108, subsection 1 or 2.

Sec. 18. NEW SECTION. 554.8110 APPLICABILITY - CHOICE OF LAW.

1. The local law of the issuer's jurisdiction, as specified in subsection 4, governs:

a. the validity of a security;

b. the rights and duties of the issuer with respect to registration of transfer;

c. the effectiveness of registration of transfer by the issuer;

d. whether the issuer owes any duties to an adverse claimant to a security; and

e. whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

2. The local law of the securities intermediary's jurisdiction, as specified in subsection 5, governs:

a. acquisition of a security entitlement from the securities intermediary;

b. the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

c. whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

d. whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

3. The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

4. "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction

specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsection 1, paragraphs "b" through "e".

5. The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

a. if an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

b. if an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph "a", but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

c. if an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph "a" or "b", the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.

d. if an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph "a" or "b" and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph "c", the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.

6. A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

Sec. 19. NEW SECTION. 554.8111 CLEARING CORPORATION RULES.

A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with this Article* and affects another party who does not consent to the rule.

Sec. 20. NEW SECTION. 554.8112 CREDITOR'S LEGAL PROCESS.

1. The interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy, except as otherwise provided in subsection 4. However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer.

2. The interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States, except as otherwise provided in subsection 4.

3. The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except as otherwise provided in subsection 4.

4. The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party, or in an uncertificated security registered in the name of a secured party, or a security entitlement maintained in the name of a secured party, may be reached by a creditor by legal process upon the secured party.

5. A creditor whose debtor is the owner of a certificated security, uncertificated security, or security entitlement is entitled to aid from a court of competent jurisdiction, by injunction or otherwise, in reaching the certificated security, uncertificated security, or security entitlement or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by other legal process.

*The word "chapter" probably intended

Sec. 21. NEW SECTION. 554.8113 STATUTE OF FRAUDS INAPPLICABLE.

A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one year of its making.

Sec. 22. NEW SECTION. 554.8114 EVIDENTIARY RULES CONCERNING CERTIFICATED SECURITIES.

The following rules apply in an action on a certificated security against the issuer:

1. Unless specifically denied in the pleadings, each signature on a security certificate or in a necessary indorsement is admitted.

2. If the effectiveness of a signature is put in issue, the burden of establishing effectiveness is on the party claiming under the signature, but the signature is presumed to be genuine or authorized.

3. If signatures on a security certificate are admitted or established, production of the certificate entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security.

4. If it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect cannot be asserted.

Sec. 23. NEW SECTION. 554.8115 SECURITIES INTERMEDIARY AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT.

A securities intermediary that has transferred a financial asset pursuant to an effective entitlement order, or a broker or other agent or bailee that has dealt with a financial asset at the direction of its customer or principal, is not liable to a person having an adverse claim to the financial asset, unless the securities intermediary, or broker or other agent or bailee:

1. took the action after it had been served with an injunction, restraining order, or other legal process enjoining it from doing so, issued by a court of competent jurisdiction, and had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or

2. acted in collusion with the wrongdoer in violating the rights of the adverse claimant; or

3. in the case of a security certificate that has been stolen, acted with notice of the adverse claim.

PART 2
ISSUE AND ISSUER

Sec. 24. Section 554.8201, Code 1995, is amended to read as follows:

554.8201 "ISSUER".

1. With respect to ~~obligations~~ an obligation on or ~~defenses~~ a defense to a security, an "issuer" includes a person ~~who~~ that:

a. places or authorizes the placing of ~~that person's~~ its name on a ~~certificated~~ security ~~(otherwise~~ certificate, other than as authenticating trustee, registrar, transfer agent, or the like~~)~~, to evidence ~~that it represents~~ a share, participation, or other interest in ~~that person's~~ its property or in an enterprise, or to evidence ~~that person's~~ its duty to perform an obligation represented by the ~~certificated security~~ certificate;

b. creates ~~shares~~ a share, ~~participations~~ participation or other ~~interests~~ interest in ~~the person's~~ its property or in an enterprise, or undertakes ~~obligations~~ an obligation, ~~which shares, participations, interests, or obligations are~~ that is an uncertificated ~~securities~~ security;

c. directly or indirectly creates a fractional ~~interests~~ interest in ~~that person's~~ its rights or property, ~~which~~ if the fractional ~~interests are~~ interest is represented by ~~certificated securities~~ a security certificate; or

d. becomes responsible for, or in place of, ~~any other~~ another person described as an issuer in this section.

2. With respect to ~~obligations~~ an obligation on or ~~defenses~~ defense to a security, a guarantor is an issuer to the extent of ~~the guarantor's guaranty~~ its guaranty, whether or

not ~~the guarantor's~~ its obligation is noted on a ~~certificated~~ security ~~or on statements of uncertificated securities sent pursuant to section 554.8408~~ certificate.

3. With respect to a registration of a transfer, ~~pledge, or release (Part 4 of this Article), "issuer"~~ issuer means a person on whose behalf transfer books are maintained.

Sec. 25. Section 554.8202, Code 1995, is amended to read as follows:

554.8202 ISSUER'S RESPONSIBILITY AND DEFENSES - NOTICE OF DEFECT OR DEFENSE.

1. Even against a purchaser for value and without notice, the terms of a certificated security include~~:~~

~~a. if the security is certificated, those stated on the security;~~

~~b. if the security is uncertificated, those contained in the initial transaction statement sent to such purchaser, or if the purchaser's interest is transferred to the purchaser other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or registered pledgee; and~~

~~c. those made part of the security by reference, on the certificated security or in the initial transaction statement,~~ terms stated on the certificate and terms made part of the security by reference on the certificate to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order, or the like, to the extent ~~that~~ the terms referred to do not conflict with ~~the~~ terms stated on the ~~certificated security or contained in the initial statement~~ certificate. A reference under this ~~paragraph~~ subsection does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even ~~though the certificated security or statement~~ if the certificate expressly states that a person accepting it admits notice. The terms of an uncertificated security, include those stated in any instrument, indenture, or document or in a constitution, statute, ordinance, rule, regulation, order, or the like pursuant to which the security is issued.

2. The following rules apply if an issuer asserts that a security is not valid:

a. A ~~certificated~~ security ~~in the hands of a purchaser for value or an uncertificated security as to which an initial transaction statement has been sent to a purchaser for value,~~ other than ~~a security~~ one issued by a government or governmental subdivision, agency, or ~~unit~~ instrumentality, even though issued with a defect going to its validity, is valid ~~with respect to the~~ in the hands of a purchaser ~~if the purchaser is~~ for value and without notice of the particular defect unless the defect involves a violation of a constitutional ~~provisions, in which~~ provision. In that case, the security is valid ~~with respect to a subsequent~~ in the hands of a purchaser for value and without notice of the defect, other than one who takes by original issue.

b. ~~This subsection~~ Paragraph "a" applies to an issuer that is a government or governmental subdivision, agency, or ~~unit~~ instrumentality only if ~~either~~ there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

3. Except as otherwise provided in ~~the case of certain unauthorized signatures (~~section 554.8205~~)~~, lack of genuineness of a certificated security ~~or an initial transaction statement~~ is a complete defense, even against a purchaser for value and without notice.

4. All other defenses of the issuer of a ~~certificated or uncertificated~~ security, including nondelivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken the certificated security without notice of the particular defense.

5. ~~Nothing in this~~ This section ~~shall be construed to~~ does not affect the right of a party to cancel a contract for a security "when, as and if issued" or ~~a~~ "when distributed" ~~contract to cancel the contract~~ in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement pursuant to which the security is to be issued or distributed.

6. If a security is held by a securities intermediary against whom an entitlement holder has a security entitlement with respect to the security, the issuer may not assert any defense that the issuer could not assert if the entitlement holder held the security directly.

Sec. 26. Section 554.8203, Code 1995, is amended to read as follows:

554.8203 STALENESS AS NOTICE OF ~~DEFECTS~~ DEFECT OR ~~DEFENSES~~ DEFENSE.

~~1.~~ After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or ~~that sets~~ setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer, if the act or event:

~~a.~~ 1. ~~the act or event is one requiring~~ requires the payment of money, the delivery of a certificated ~~securities~~ security, the registration of transfer of an uncertificated ~~securities~~ security, or any of ~~these~~ them on presentation or surrender of the ~~certificated~~ security certificate, the ~~funds~~ money or ~~securities are~~ security is available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date; ~~and~~ or

~~b.~~ 2. ~~the act or event~~ is not covered by ~~paragraph "a"~~ subsection 1 and the purchaser takes the security more than two years after the date set for surrender or presentation or the date on which performance became due.

~~2. A call that has been revoked is not within subsection 1.~~

Sec. 27. Section 554.8204, Code 1995, is amended to read as follows:

554.8204 EFFECT OF ISSUER'S ~~RESTRICTIONS~~ RESTRICTION ON TRANSFER.

A restriction on transfer of a security imposed by the issuer, even ~~though~~ if otherwise lawful, is ineffective against ~~any~~ a person without ~~actual~~ knowledge of ~~it~~ the restriction unless:

~~a.~~ 1. the security is certificated and the restriction is noted conspicuously ~~thereon~~ on the security certificate; or

~~b.~~ 2. the security is uncertificated and ~~a notation of the restriction is contained in the initial transaction statement sent to the person or, if the person's interest is transferred to the person other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee~~ the registered owner has been notified of the restriction.

Sec. 28. Section 554.8205, Code 1995, is amended to read as follows:

554.8205 EFFECT OF UNAUTHORIZED SIGNATURE ON ~~CERTIFICATED~~ SECURITY ~~OR INITIAL TRANSACTION STATEMENT~~ CERTIFICATE.

An unauthorized signature placed on a ~~certificated~~ security ~~prior to~~ certificate* or in the course of issue ~~or placed on an initial transaction statement~~ is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security ~~or a purchaser for value of an uncertificated security to whom such initial transaction statement has been sent,~~ if the purchaser is without notice of the lack of authority and ~~if~~ the signing has been done by:

~~a.~~ 1. an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security~~, of similar securities, or of initial transaction statements~~ certificate or of similar security certificates, or the immediate preparation for signing of any of them; or

~~b.~~ 2. an employee of the issuer, or of any of the ~~foregoing~~ persons listed in subsection 1, entrusted with responsible handling of the security ~~or initial transaction statement~~ certificate.

Sec. 29. Section 554.8206, Code 1995, is amended to read as follows:

554.8206 COMPLETION OR ALTERATION OF ~~CERTIFICATED~~ SECURITY ~~OR INITIAL TRANSACTION STATEMENT~~ CERTIFICATE.

1. If a ~~certificated~~ security certificate contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

*Uniform Act includes the word "before" following the word "certificate"

a. any person may complete it by filling in the blanks as authorized; and

b. even ~~though~~ if the blanks are incorrectly filled in, the security certificate as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

2. A complete ~~certificated~~ security certificate that has been improperly altered, even ~~though~~ if fraudulently, remains enforceable, but only according to its original terms.

~~3. If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect:~~

~~a. any person may complete it by filling in the blanks as authorized; and~~

~~b. even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if the person purchased the security referred to therein for value and without notice of the incorrectness.~~

~~4. A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.~~

Sec. 30. Section 554.8207, Code 1995, is amended to read as follows:

554.8207 RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO REGISTERED OWNERS.

1. ~~Prior to~~ Before due presentment for registration of transfer of a certificated security in registered form, or of an instruction requesting registration of transfer of an uncertificated security, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, ~~to~~ receive notifications, and otherwise ~~to~~ exercise all the rights and powers of an owner.

~~2. Subject to the provisions of subsections 3, 4, and 6, the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.~~

~~3.~~ 2. ~~The~~ This Article does not affect the liability of the registered owner of ~~an uncertificated~~ a security ~~that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction~~ for a call, assessment, or the like. ~~The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.~~

~~4. Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall:~~

~~a. register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee;~~

~~b. register the transfer of the security to the new owner subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee; or~~

~~c. register the release of the security from the existing pledge and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.~~

~~5. Continuity of perfection of a security interest is not broken by registration of transfer under subsection (4)(b) or by registration of release and pledge under subsection (4)(c), if the security interest is assigned.~~

~~6. If an uncertificated security is subject to a registered pledge:~~

~~a. any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge;~~

~~b. any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee; and~~

~~c. any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.~~

~~7. Nothing in this Article shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.~~

Sec. 31. Section 554.8208, Code 1995, is amended to read as follows:

554.8208 EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE, REGISTRAR, OR TRANSFER AGENT.

1. A person ~~placing that person's signature upon~~ signing a ~~certificated~~ security ~~or an initial transaction statement~~ certificate, as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security, ~~or a purchaser for value of an uncertificated security to whom the initial transaction statement has been sent,~~ if the purchaser is without notice of the particular defect, that:

a. the ~~certificated security or initial transaction statement~~ certificate is genuine;

b. ~~that~~ the person's own participation in the issue ~~or registration of transfer, pledge, or release~~ of the security is within ~~that~~ the person's capacity and within the scope of the authority received by ~~that~~ the person from the issuer; and

c. ~~that~~ the person has reasonable grounds to believe that the certificated security is in the form and within the amount the issuer is authorized to issue.

2. Unless otherwise agreed, a person ~~by so placing that person's signature~~ signing under subsection 1 does not assume responsibility for the validity of the security in other respects.

Sec. 32. NEW SECTION. 554.8209 ISSUER'S LIEN.

A lien in favor of an issuer upon a certificated security is valid against a purchaser only if the right of the issuer to the lien is noted conspicuously on the security certificate.

Sec. 33. NEW SECTION. 554.8210 OVERISSUE.

1. In this section, "overissue" means the issue of securities in excess of the amount the issuer has corporate power to issue, but an overissue does not occur if appropriate action has cured the overissue.

2. Except as otherwise provided in subsections 3 and 4, the provisions of this Article which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue.

3. If an identical security not constituting an overissue is reasonably available for purchase, a person entitled to issue or validation may compel the issuer to purchase the security and deliver it if certificated or register its transfer if uncertificated, against surrender of any security certificate the person holds.

4. If a security is not reasonably available for purchase, a person entitled to issue or validation may recover from the issuer the price the person or the last purchaser for value paid for it with interest from the date of the person's demand.

PART 3
TRANSFER OF CERTIFICATED
AND UNCERTIFICATED SECURITIES

Sec. 34. Section 554.8301, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8301 DELIVERY.

1. Delivery of a certificated security to a purchaser occurs when:

a. the purchaser acquires possession of the security certificate;

b. another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

c. a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and has been specially indorsed to the purchaser by an effective indorsement.

2. Delivery of an uncertificated security to a purchaser occurs when:

a. the issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

b. another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

Sec. 35. Section 554.8302, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8302 RIGHTS OF PURCHASER.

1. Except as otherwise provided in subsections 2 and 3, upon delivery of a certificated or uncertificated security to a purchaser, the purchaser acquires all rights in the security that the transferor had or had power to transfer.

2. A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

3. A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Sec. 36. Section 554.8303, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8303 PROTECTED PURCHASER.

1. "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

a. gives value;

b. does not have notice of any adverse claim to the security; and

c. obtains control of the certificated or uncertificated security.

2. In addition to acquiring the rights of a purchaser, a protected purchaser also acquires its interest in the security free of any adverse claim.

Sec. 37. Section 554.8304, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8304 INDORSEMENT.

1. An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies to whom a security is to be transferred or who has power to transfer it. A holder may convert a blank indorsement to a special indorsement.

2. An indorsement purporting to be only of part of a security certificate representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

3. An indorsement, whether special or in blank, does not constitute a transfer until delivery of the certificate on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificate.

4. If a security certificate in registered form has been delivered to a purchaser without a necessary indorsement, the purchaser may become a protected purchaser only when the indorsement is supplied. However, against a transferor, a transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

5. An indorsement of a security certificate in bearer form may give notice of an adverse claim to the certificate, but it does not otherwise affect a right to registration that the holder possesses.

6. Unless otherwise agreed, a person making an indorsement assumes only the obligations provided in section 554.8108 and not an obligation that the security will be honored by the issuer.

Sec. 38. Section 554.8305, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8305 INSTRUCTION.

1. If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed, even though it has been completed incorrectly.

2. Unless otherwise agreed, a person initiating an instruction assumes only the obligations imposed by section 554.8108 and not an obligation that the security will be honored by the issuer.

Sec. 39. Section 554.8306, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8306 EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT, OR INSTRUCTION.

1. A person who guarantees a signature of an indorser of a security certificate warrants that at the time of signing:

a. the signature was genuine;

b. the signer was an appropriate person to indorse, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and

c. the signer had legal capacity to sign.

2. A person who guarantees a signature of the originator of an instruction warrants that at the time of signing:

a. the signature was genuine;

b. the signer was an appropriate person to originate the instruction, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person, if the person specified in the instruction as the registered owner was, in fact, the registered owner, as to which fact the signature guarantor does not make a warranty; and

c. the signer had legal capacity to sign.

3. A person who specially guarantees the signature of an originator of an instruction makes the warranties of a signature guarantor under subsection 2 and also warrants that at the time the instruction is presented to the issuer:

a. the person specified in the instruction as the registered owner of the uncertificated security will be the registered owner; and

b. the transfer of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

4. A guarantor under subsections 1 and 2 or a special guarantor under subsection 3 does not otherwise warrant the rightfulness of the transfer.

5. A person who guarantees an indorsement of a security certificate makes the warranties of a signature guarantor under subsection 1 and also warrants the rightfulness of the transfer in all respects.

6. A person who guarantees an instruction requesting the transfer of an uncertificated security makes the warranties of a special signature guarantor under subsection 3 and also warrants the rightfulness of the transfer in all respects.

7. An issuer may not require a special guaranty of signature, a guaranty of indorsement, or a guaranty of instruction as a condition to registration of transfer.

8. The warranties under this section are made to a person taking or dealing with the security in reliance on the guaranty, and the guarantor is liable to the person for loss resulting from their breach. An indorser or originator of an instruction whose signature, indorsement, or instruction has been guaranteed is liable to a guarantor for any loss suffered by the guarantor as a result of breach of the warranties of the guarantor.

Sec. 40. Section 554.8307, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8307 PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER.

Unless otherwise agreed, the transferor of a security on due demand shall supply the purchaser with proof of authority to transfer or with any other requisite necessary to obtain registration of the transfer of the security, but if the transfer is not for value, a transferor need not comply unless the purchaser pays the necessary expenses. If the transferor fails within a reasonable time to comply with the demand, the purchaser may reject or rescind the transfer.

PART 4
REGISTRATION

Sec. 41. Section 554.8401, Code 1995, is amended to read as follows:

554.8401 DUTY OF ISSUER TO REGISTER TRANSFER~~, PLEDGE, OR RELEASE~~.

1. If a certificated security in registered form is presented to ~~the~~ an issuer with a request to register transfer or an instruction is presented to ~~the~~ an issuer with a request to register transfer*, ~~pledge, or release~~ the issuer shall register the transfer~~, pledge, or release~~ as requested if:

a. ~~the security is endorsed or the instruction was originated by the appropriate person or persons (section 554.8308)~~ under the terms of the security the person seeking registration of transfer is eligible to have the security registered in its name;

b. the indorsement or instruction is made by the appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

~~b.~~ c. reasonable assurance is given that ~~those endorsements~~ the indorsement or ~~instructions are~~ instruction is genuine and ~~effective~~ authorized (section 554.8402);

~~c. the issuer has no duty as to adverse claims or has discharged the duty (section 554.8403);~~

d. any applicable law relating to the collection of taxes has been complied with; ~~and~~

e. the transfer~~, pledge, or release is in fact rightful or is to a bona fide purchaser~~ does not violate any restriction on transfer imposed by the issuer in accordance with section 554.8204.

f. a demand that the issuer not register transfer has not become effective under section 554.8403, or the issuer has complied with section 554.8403, subsection 2, but no legal process or indemnity bond is obtained as provided in section 554.8403, subsection 4; and

g. the transfer is in fact rightful or is to a protected purchaser.

2. If an issuer is under a duty to register a transfer~~, pledge, or release~~ of a security, the issuer is ~~also~~ liable to ~~the~~ a person presenting a certificated security or an instruction for registration or ~~that~~ to the person's principal for loss resulting from ~~any~~ unreasonable delay in registration or ~~from~~ failure or refusal to register the transfer~~, pledge, or release~~.

Sec. 42. Section 554.8402, Code 1995, is amended to read as follows:

554.8402 ASSURANCE THAT ~~ENDORSEMENTS AND INSTRUCTIONS ARE~~ INDORSEMENT OR INSTRUCTION IS EFFECTIVE.

1. ~~The~~ An issuer may require the following assurance that each necessary ~~endorsement of a certificated security~~ indorsement or each instruction ~~(section 554.8308)~~ is genuine and ~~effective~~ authorized:

a. in all cases, a guarantee of the signature ~~(section 554.8312, subsection 1 or 2)~~ of the person ~~endorsing a certificated security~~ making an indorsement or originating an instruction including, in the case of an instruction, ~~a warranty of the taxpayer identification number or, in the absence thereof, other~~ reasonable assurance of identity;

b. if the ~~endorsement~~ indorsement is made or the instruction is originated by an agent, appropriate assurance of actual authority to sign;

c. if the ~~endorsement~~ indorsement is made or the instruction is originated by a fiduciary~~;~~ pursuant to section 554.8107, subsection 1, paragraph "d" or subsection 1, paragraph "e", appropriate evidence of appointment or incumbency;

d. if there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

e. if the ~~endorsement~~ indorsement is made or the instruction is originated by a person not covered by ~~any of the foregoing~~ another provision of this subsection, assurance appropriate to the case corresponding as nearly as may be to the ~~foregoing~~ provisions of this subsection.

2. An issuer may elect to require reasonable assurance beyond that specified in this section.

3. In this section:

~~2.~~ a. ~~A "guarantee~~ "Guaranty of the signature" ~~in subsection 1~~ means a ~~guarantee~~ guaranty signed by or on behalf of a person reasonably believed by the issuer to be responsible. ~~The~~ An issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable.

~~3.~~ b. "Appropriate evidence of appointment or incumbency" ~~in subsection 1~~ means

~~a.~~ (1) in the case of a fiduciary appointed or qualified by a court, a certificate issued by

* Uniform Act includes the words "of an uncertificated security"

or under the direction or supervision of ~~that~~ the court or an officer ~~of that court~~ thereof and dated within ~~one hundred eighty~~ sixty days before the date of presentation for transfer~~, pledge, or release~~; or

~~b.~~ (2) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by ~~the~~ an issuer to be responsible or, in the absence of that document or certificate, other evidence the issuer reasonably ~~deemed by the issuer to be~~ considers appropriate. ~~The issuer may adopt standards with respect to the evidence if they are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph "b" except to the extent that the contents relate directly to the appointment or incumbency.~~

~~4. The issuer may elect to require reasonable assurance beyond that specified in this section, but if it does so and, for a purpose other than that specified in subsection 3 "b", both requires and obtains a copy of a will, trust, indenture, articles of copartnership, bylaws, or other controlling instrument, it is charged with notice of all matters contained therein affecting the transfer, pledge, or release.~~

Sec. 43. Section 554.8403, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8403 DEMAND THAT ISSUER NOT REGISTER TRANSFER.

1. A person who is an appropriate person to make an indorsement or originate an instruction may demand that the issuer not register transfer of a security by communicating to the issuer a notification that identifies the registered owner and the issue of which the security is a part and provides an address for communications directed to the person making the demand. The demand is effective only if it is received by the issuer at a time and in a manner affording the issuer reasonable opportunity to act on it.

2. If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security after a demand that the issuer not register transfer has become effective, the issuer shall promptly communicate to (i) the person who initiated the demand at the address provided in the demand, and (ii) the person who presented the security for registration of transfer or initiated the instruction requesting registration of transfer a notification stating that:

a. the certificated security has been presented for registration of transfer or the instruction for registration of transfer of the uncertificated security has been received;

b. a demand that the issuer not register transfer had previously been received; and

c. the issuer will withhold registration of transfer for a period of time stated in the notification in order to provide the person who initiated the demand an opportunity to obtain legal process or an indemnity bond.

3. The period described in subsection 2, paragraph "c", may not exceed thirty days after the date of communication of the notification. A shorter period may be specified by the issuer if it is not manifestly unreasonable.

4. An issuer is not liable to a person who initiated a demand that the issuer not register transfer for any loss the person suffers as a result of registration of a transfer pursuant to an effective indorsement or instruction if the person who initiated the demand does not, within the time stated in the issuer's communication, either:

a. obtain an appropriate restraining order, injunction, or other process from a court of competent jurisdiction enjoining the issuer from registering the transfer; or

b. file with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved from any loss it or they may suffer by refusing to register the transfer.

5. This section does not relieve an issuer from liability for registering transfer pursuant to an indorsement or instruction that was not effective.

Sec. 44. Section 554.8404, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8404 WRONGFUL REGISTRATION.

1. Except as otherwise provided in section 554.8406, an issuer is liable for wrongful registration of transfer if the issuer has registered a transfer of a security to a person not entitled to it, and the transfer was registered:

a. pursuant to an ineffective indorsement or instruction;

b. after a demand that the issuer not register transfer became effective under section 554.8403, subsection 1, and the issuer did not comply with section 554.8403, subsection 2;

c. after the issuer had been served with an injunction, restraining order, or other legal process enjoining it from registering the transfer, issued by a court of competent jurisdiction, and the issuer had a reasonable opportunity to act on the injunction, restraining order, or other legal process; or

d. by an issuer acting in collusion with the wrongdoer.

2. An issuer that is liable for wrongful registration of transfer under subsection 1 on demand shall provide the person entitled to the security with a like certificated or uncertificated security, and any payments or distributions that the person did not receive as a result of the wrongful registration. If an overissue would result, the issuer's liability to provide the person with a like security is governed by section 554.8210.

3. Except as otherwise provided in subsection 1 or in a law relating to the collection of taxes, an issuer is not liable to an owner or other person suffering loss as a result of the registration of a transfer of a security if registration was made pursuant to an effective indorsement or instruction.

Sec. 45. Section 554.8405, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8405 REPLACEMENT OF LOST, DESTROYED, OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

1. If an owner of a certificated security, whether in registered or bearer form, claims that the certificate has been lost, destroyed, or wrongfully taken, the issuer shall issue a new certificate if the owner:

a. so requests before the issuer has notice that the certificate has been acquired by a protected purchaser;

b. files with the issuer a sufficient indemnity bond; and

c. satisfies other reasonable requirements imposed by the issuer.

2. If, after the issue of a new security certificate, a protected purchaser of the original certificate presents it for registration of transfer, the issuer shall register the transfer unless an overissue would result. In that case, the issuer's liability is governed by section 554.8210. In addition to any rights on the indemnity bond, an issuer may recover the new certificate from a person to whom it was issued or any person taking under that person, except a protected purchaser.

Sec. 46. Section 554.8406, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8406 OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED, OR WRONGFULLY TAKEN SECURITY CERTIFICATE.

If a security certificate has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after the owner has notice of it and the issuer registers a transfer of the security before receiving notification, the owner may not assert against the issuer a claim for registering the transfer under section 554.8404 or a claim to a new security certificate under section 554.8405.

Sec. 47. Section 554.8407, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

554.8407 AUTHENTICATING TRUSTEE, TRANSFER AGENT, AND REGISTRAR.

A person acting as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of a transfer of its securities, in the issue of new security certificates or uncertificated securities, or in the cancellation of surrendered security certificates has the same obligation to the holder or owner of a certificated or uncertificated

security with regard to the particular functions performed as the issuer has in regard to those functions.

PART 5
SECURITY ENTITLEMENTS

Sec. 48. NEW SECTION. 554.8501 SECURITIES ACCOUNT - ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES INTERMEDIARY.

1. "Securities account" means an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

2. Except as otherwise provided in subsections 4 and 5, a person acquires a security entitlement if a securities intermediary:

a. indicates by book entry that a financial asset has been credited to the person's securities account;

b. receives a financial asset from the person or acquires a financial asset for the person and, in either case, accepts it for credit to the person's securities account; or

c. becomes obligated under other law, regulation, or rule to credit a financial asset to the person's securities account.

3. If a condition of subsection 2 has been met, a person has a security entitlement even though the securities intermediary does not itself hold the financial asset.

4. If a securities intermediary holds a financial asset for another person, and the financial asset is registered in the name of, payable to the order of, or specially indorsed to the other person, and has not been indorsed to the securities intermediary or in blank, the other person is treated as holding the financial asset directly rather than as having a security entitlement with respect to the financial asset.

5. Issuance of a security is not establishment of a security entitlement.

Sec. 49. NEW SECTION. 554.8502 ASSERTION OF ADVERSE CLAIM AGAINST ENTITLEMENT HOLDER.

An action based on an adverse claim to a financial asset, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who acquires a security entitlement under section 554.8501 for value and without notice of the adverse claim.

Sec. 50. NEW SECTION. 554.8503 PROPERTY INTEREST OF ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES INTERMEDIARY.

1. To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in section 554.8511.

2. An entitlement holder's property interest with respect to a particular financial asset under subsection 1 is a pro rata property interest in all interests in that financial asset held by the securities intermediary, without regard to the time the entitlement holder acquired the security entitlement or the time the securities intermediary acquired the interest in that financial asset.

3. An entitlement holder's property interest with respect to a particular financial asset under subsection 1 may be enforced against the securities intermediary only by exercise of the entitlement holder's rights under sections 554.8505 through 554.8508.

4. An entitlement holder's property interest with respect to a particular financial asset under subsection 1 may be enforced against a purchaser of the financial asset or interest therein only if:

a. insolvency proceedings have been initiated by or against the securities intermediary;

b. the securities intermediary does not have sufficient interests in the financial asset to satisfy the security entitlements of all of its entitlement holders to that financial asset;

c. the securities intermediary violated its obligations under section 554.8504 by transferring the financial asset or interest therein to the purchaser; and

d. the purchaser is not protected under subsection 5. The trustee or other liquidator, acting on behalf of all entitlement holders having security entitlements with respect to a particular financial asset, may recover the financial asset, or interest therein, from the purchaser. If the trustee or other liquidator elects not to pursue that right, an entitlement holder whose security entitlement remains unsatisfied has the right to recover its interest in the financial asset from the purchaser.

5. An action based on the entitlement holder's property interest with respect to a particular financial asset under subsection 1, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against any purchaser of a financial asset or interest therein who gives value, obtains control, and does not act in collusion with the securities intermediary in violating the securities intermediary's obligations under section 554.8504.

Sec. 51. NEW SECTION. 554.8504 DUTY OF SECURITIES INTERMEDIARY TO MAINTAIN FINANCIAL ASSET.

1. A securities intermediary shall promptly obtain and thereafter maintain a financial asset in a quantity corresponding to the aggregate of all security entitlements it has established in favor of its entitlement holders with respect to that financial asset. The securities intermediary may maintain those financial assets directly or through one or more other securities intermediaries.

2. Except to the extent otherwise agreed by its entitlement holder, a securities intermediary may not grant any security interests in a financial asset it is obligated to maintain pursuant to subsection 1.

3. A securities intermediary satisfies the duty in subsection 1 if:

a. the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

b. in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to obtain and maintain the financial asset.

4. This section does not apply to a clearing corporation that is itself the obligor of an option or similar obligation to which its entitlement holders have security entitlements.

Sec. 52. NEW SECTION. 554.8505 DUTY OF SECURITIES INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS.

1. A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset. A securities intermediary satisfies the duty if:

a. the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

b. in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to attempt to obtain the payment or distribution.

2. A securities intermediary is obligated to its entitlement holder for a payment or distribution made by the issuer of a financial asset if the payment or distribution is received by the securities intermediary.

Sec. 53. NEW SECTION. 554.8506 DUTY OF SECURITIES INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT HOLDER.

A securities intermediary shall exercise rights with respect to a financial asset if directed to do so by an entitlement holder. A securities intermediary satisfies the duty if:

1. the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

2. in the absence of agreement, the securities intermediary either places the entitlement holder in a position to exercise the rights directly or exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

Sec. 54. NEW SECTION. 554.8507 DUTY OF SECURITIES INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER.

1. A securities intermediary shall comply with an entitlement order if the entitlement order is originated by the appropriate person, the securities intermediary has had reasonable opportunity to assure itself that the entitlement order is genuine and authorized, and the securities intermediary has had reasonable opportunity to comply with the entitlement order. A securities intermediary satisfies the duty if:

a. the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

b. in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to comply with the entitlement order.

2. If a securities intermediary transfers a financial asset pursuant to an ineffective entitlement order, the securities intermediary shall reestablish a security entitlement in favor of the person entitled to it, and pay or credit any payments or distributions that the person did not receive as a result of the wrongful transfer. If the securities intermediary does not reestablish a security entitlement, the securities intermediary is liable to the entitlement holder for damages.

Sec. 55. NEW SECTION. 554.8508 DUTY OF SECURITIES INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER FORM OF SECURITY HOLDING.

A securities intermediary shall act at the direction of an entitlement holder to change a security entitlement into another available form of holding for which the entitlement holder is eligible, or to cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary. A securities intermediary satisfies the duty if:

1. the securities intermediary acts as agreed upon by the entitlement holder and the securities intermediary; or

2. in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

Sec. 56. NEW SECTION. 554.8509 SPECIFICATION OF DUTIES OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION - MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER.

1. If the substance of a duty imposed upon a securities intermediary by sections 554.8504 through 554.8508 is the subject of other statute, regulation, or rule, compliance with that statute, regulation, or rule satisfies the duty.

2. To the extent that specific standards for the performance of the duties of a securities intermediary or the exercise of the rights of an entitlement holder are not specified by other statute, regulation, or rule or by agreement between the securities intermediary and entitlement holder, the securities intermediary shall perform its duties and the entitlement holder shall exercise its rights in a commercially reasonable manner.

3. The obligation of a securities intermediary to perform the duties imposed by sections 554.8504 through 554.8508 is subject to:

a. rights of the securities intermediary arising out of a security interest under a security agreement with the entitlement holder or otherwise; and

b. rights of the securities intermediary under other law, regulation, rule, or agreement to withhold performance of its duties as a result of unfulfilled obligations of the entitlement holder to the securities intermediary.

4. Sections 554.8504 through 554.8508 do not require a securities intermediary to take any action that is prohibited by other statute, regulation, or rule.

Sec. 57. NEW SECTION. 554.8510 RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.

1. An action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

2. If an adverse claim could not have been asserted against an entitlement holder under section 554.8502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

3. In a case not covered by the priority rules in Article 9, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Purchasers who have control rank equally, except that a securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Sec. 58. NEW SECTION. 554.8511 PRIORITY AMONG SECURITY INTERESTS AND ENTITLEMENT HOLDERS.

1. Except as otherwise provided in subsections 2 and 3, if a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

2. A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.

3. If a clearing corporation does not have sufficient financial assets to satisfy both its obligations to entitlement holders who have security entitlements with respect to a financial asset and its obligation to a creditor of the clearing corporation who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders.

Sec. 59. Section 554.9103, subsection 6, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

6. INVESTMENT PROPERTY.

a. This subsection applies to investment property.

b. Except as otherwise provided in paragraph "f", during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby are governed by the local law of that jurisdiction.

c. Except as otherwise provided in paragraph "f", perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in section 554.8110, subsection 4.

d. Except as otherwise provided in paragraph "f", perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in section 554.8110, subsection 5.

e. Except as otherwise provided in paragraph "f", perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(1) If an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subparagraph (1), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraph (1) or (2), the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account.

(4) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraph (1) or (2) and an account statement does not identify an office serving the commodity customer's account as provided in subparagraph (3), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

f. Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located.

Sec. 60. Section 554.9105, subsection 1, paragraphs h and i, Code 1995, are amended to read as follows:

h. "Goods" include all things which are movable at the time the security interest attaches or which are fixtures (section 554.9313), but do not include money, documents, instruments, investment property, accounts, chattel paper, general intangibles or minerals or the like (including oil and gas) before extraction. "Goods" also include standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

i. "Instrument" means a negotiable instrument (defined in section 554.3104), ~~or a certificated security (defined in section 554.8102)~~ or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment. The term does not include investment property;

Sec. 61. Section 554.9105, subsection 2, Code 1995, is amended to read as follows:

2. Other definitions applying to this Article and the sections in which they appear are:

"Account"	Section 554.9106
"Attach"	Section 554.9203
"Commodity contract"	Section 554.9115
"Commodity customer"	Section 554.9115
"Commodity intermediary"	Section 554.9115
"Construction mortgage"	Section 554.9313(1)
"Consumer goods"	Section 554.9109(1)
"Control"	Section 554.9115
"Equipment"	Section 554.9109(2)
"Farm products"	Section 554.9109(3)
"Fixture"	Section 554.9313
"Fixture filing"	Section 554.9313
"General intangibles"	Section 554.9106
"Inventory"	Section 554.9109(4)
"Investment property"	Section 554.9115
"Lien creditor"	Section 554.9301(3)
"Proceeds"	Section 554.9306(1)
"Purchase money security interest"	Section 554.9107
"United States"	Section 554.9103

Sec. 62. Section 554.9105, subsection 3, Code 1995, is amended to read as follows:

3. The following definitions in other Articles apply to this Article:

"Broker"	Section 554.8102
"Certificated security"	Section 554.8102
"Check"	Section 554.3104
"Clearing corporation"	Section 554.8102
"Contract for sale"	Section 554.2106
"Control"	Section 554.8106
"Delivery"	Section 554.8301
"Entitlement holder"	Section 554.8102
"Financial asset"	Section 554.8102
"Holder in due course"	Section 554.3302
"Note"	Section 554.3104
"Sale"	Section 554.2106
"Securities intermediary"	Section 554.8102
"Security"	Section 554.8102
"Security certificate"	Section 554.8102
"Security entitlement"	Section 554.8102
"Uncertificated security"	Section 554.8102

Sec. 63. Section 554.9106, Code 1995, is amended to read as follows:

554.9106 DEFINITIONS: "ACCOUNT" - "GENERAL INTANGIBLES."

"Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, investment property, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

Sec. 64. NEW SECTION. 554.9115 INVESTMENT PROPERTY.

1. In this Article:

a. "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

b. "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or other contract that, in each case, is:

(1) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or

(2) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

c. "Commodity customer" means a person for whom a commodity intermediary carries a commodity contract on its books.

d. "Commodity intermediary" means:

(1) a person who is registered as a futures commission merchant under the federal commodities laws; or

(2) a person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws.

e. "Control" with respect to a certificated security, uncertificated security, or security entitlement has the meaning specified in section 554.8106. A secured party has control over a commodity contract if by agreement among the commodity customer, the commodity intermediary, and the secured party, the commodity intermediary has agreed that it will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer. If a commodity customer grants a security interest in a commodity contract to its own commodity intermediary, the commodity intermediary as secured party has control. A secured party has control over a securities account or commodity account if the secured party has control over all security entitlements or commodity contracts carried in the securities account or commodity account.

f. "Investment property" means:
(1) a security, whether certificated or uncertificated;
(2) a security entitlement;
(3) a securities account;
(4) a commodity contract; or
(5) a commodity account.

2. Attachment or perfection of a security interest in a securities account is also attachment or perfection of a security interest in all security entitlements carried in the securities account. Attachment or perfection of a security interest in a commodity account is also attachment or perfection of a security interest in all commodity contracts carried in the commodity account.

3. A description of collateral in a security agreement or financing statement is sufficient to create or perfect a security interest in a certificated security, uncertificated security, security entitlement, securities account, commodity contract, or commodity account whether it describes the collateral by those terms, or as investment property, or by description of the underlying security, financial asset, or commodity contract. A description of investment property collateral in a security agreement or financing statement is sufficient if it identifies the collateral by specific listing, by category, by quantity, by a computational or allocational formula or procedure, or by any other method, if the identity of the collateral is objectively determinable.

4. Perfection of a security interest in investment property is governed by the following rules:

a. a security interest in investment property may be perfected by control.

b. except as otherwise provided in paragraphs "c" and "d", a security interest in investment property may be perfected by filing.

c. if the debtor is a broker or securities intermediary, a security interest in investment property is perfected when it attaches. The filing of a financing statement with respect to a security interest in investment property granted by a broker or securities intermediary has no effect for purposes of perfection or priority with respect to that security interest.

d. if a debtor is a commodity intermediary, a security interest in a commodity contract or a commodity account is perfected when it attaches. The filing of a financing statement with respect to a security interest in a commodity contract or a commodity account granted by a commodity intermediary has no effect for purposes of perfection or priority with respect to that security interest.

5. Priority between conflicting security interests in the same investment property is governed by the following rules:

a. a security interest of a secured party who has control over investment property has priority over a security interest of a secured party who does not have control over the investment property.

b. except as otherwise provided in paragraphs "c" and "d", conflicting security interests of secured parties each of whom has control rank equally.

c. except as otherwise agreed by the securities intermediary, a security interest in a security entitlement or a securities account granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party.

d. except as otherwise agreed by the commodity intermediary, a security interest in a commodity contract or a commodity account granted to the debtor's own commodity intermediary has priority over any security interest granted by the debtor to another secured party.

e. conflicting security interests granted by a broker, a securities intermediary, or a commodity intermediary which are perfected without control rank equally.

f. in all other cases, priority between conflicting security interests in investment property is governed by section 554.9312, subsections 5, 6, and 7. Section 554.9312, subsection 4, does not apply to investment property.

6. If a security certificate in registered form is delivered to a secured party pursuant to agreement, a written security agreement is not required for attachment or enforceability of the security interest, delivery suffices for perfection of the security interest, and the

security interest has priority over a conflicting security interest perfected by means other than control, even if a necessary indorsement is lacking.

Sec. 65. NEW SECTION. 554.9116 SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.

1. If a person buys a financial asset through a securities intermediary in a transaction in which the buyer is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary, the securities intermediary has a security interest in the buyer's security entitlement securing the buyer's obligation to pay. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

2. If a certificated security, or other financial asset represented by a writing which in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment is delivered pursuant to an agreement between persons in the business of dealing with such securities or financial assets and the agreement calls for delivery versus payment, the person delivering the certificate or other financial asset has a security interest in the certificated security or other financial asset securing the seller's right to receive payment. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

Sec. 66. Section 554.9203, subsection 1, Code 1995, is amended to read as follows:

1. Subject to the provisions of section 554.4210 on the security interest of a collecting bank, ~~section 554.8321 on security interests in securities~~ sections 554.9115 and 554.9116 on security interests in investment property, and section 554.9113 on a security interest arising under the Article on Sales, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

a. the collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

b. value has been given; and

c. the debtor has rights in the collateral.

Sec. 67. Section 554.9301, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. in the case of accounts, ~~and~~ general intangibles, and investment property, a person who is not a secured party and who is a transferee to the extent that that person gives value without knowledge of the security interest and before it is perfected.

Sec. 68. Section 554.9302, subsection 1, paragraphs b, f, and g, Code 1995, are amended to read as follows:

b. a security interest temporarily perfected in instruments, certificated securities, or documents without delivery under section 554.9304 or in proceeds for a ten-day period under section 554.9306;

f. a security interest of a collecting bank (section 554.4210) ~~or in securities (section 554.8321)~~ or arising under the Article on Sales (see section 554.9113) or covered in subsection 3 of this section;

g. an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.~~;~~

Sec. 69. Section 554.9302, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. a security interest in investment property which is perfected without filing under section 554.9115 or section 554.9116.

Sec. 70. Section 554.9303, subsection 1, Code 1995, is amended to read as follows:

1. A security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken. Such steps are specified in sections 554.9115, 554.9302, 554.9304, 554.9305 and 554.9306. If such steps are taken before the security interest attaches, it is perfected at the time when it attaches.

Sec. 71. Section 554.9304, subsections 1, 4, and 5, Code 1995, are amended to read as follows:

1. A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than ~~certificated securities or~~ instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subsections 4 and 5 of this section and section 554.9306, subsections 2 and 3, on proceeds.

4. A security interest in instruments, ~~(other than~~ certificated securities~~)~~, or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

5. A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument, ~~(other than~~ a certificated ~~securities)~~, security, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

a. makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to section 554.9312, subsection 3; or

b. delivers the instrument or certificated security to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal, or registration of transfer.

Sec. 72. Section 554.9305, Code 1995, is amended to read as follows:

554.9305 WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.

A security interest in letters of credit and advices of credit (subsection 2 "a" of section 554.5116), goods, instruments ~~(other than certificated securities)~~, money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this Article. The security interest may be otherwise perfected as provided in this Article before or after the period of possession by the secured party.

Sec. 73. Section 554.9306, subsection 1, Code 1995, is amended to read as follows:

1. "Proceeds" include whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Any payments or distributions made with respect to investment property collateral are proceeds. Money, checks, deposit accounts and the like are "cash proceeds". All other proceeds are "noncash proceeds".

Sec. 74. Section 554.9306, subsection 3, paragraph b, Code 1995, is amended to read as follows:

b. a filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds; ~~or~~

Sec. 75. Section 554.9306, subsection 3, Code 1995, is amended by adding the following new paragraph after paragraph b and relettering subsequent paragraphs:

NEW PARAGRAPH. c. the original collateral was investment property and the proceeds are identifiable cash proceeds; or

Sec. 76. Section 554.9309, Code 1995, is amended to read as follows:

554.9309 PROTECTION OF PURCHASERS OF INSTRUMENTS AND DOCUMENTS AND SECURITIES.

Nothing in this Article limits the rights of a holder in due course of a negotiable instrument (section 554.3302) or a holder to whom a negotiable document of title has been duly negotiated (section 554.7501) or a ~~bona fide~~ protected purchaser of a security (section ~~554.8302~~ 554.8303) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this Article does not constitute notice of the security interest to such holders or purchasers.

Sec. 77. Section 554.9312, subsections 1 and 7, Code 1995, are amended to read as follows:

1. The rules of priority stated in other sections of this Part and in the following sections shall govern when applicable: section 554.4210 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 554.9103 on security interests related to other jurisdictions; section 554.9114 on consignments; section 554.9115 on security interest in investment property.

7. If future advances are made while a security interest is perfected by filing, the taking of possession, or under section ~~554.8321 on securities~~ 554.9115 or section 554.9116 on investment property, the security interest has the same priority for the purposes of subsection 5 or section 554.9115, subsection 5, with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Sec. 78. Section 554.10104, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 79. Section 633.89, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A fiduciary as defined in section 633.3, ~~subsection 17,~~ holding securities, and a bank as defined in section 524.103, ~~subsection 7,~~ which is holding securities as a managing agent or as a custodian, including a custodian for a fiduciary, may deposit securities in a clearing corporation, as defined in section 554.8102, ~~subsection 3,~~ which is located within or without the state of Iowa, if the clearing corporation is federally regulated. A depositing bank is subject to rules adopted by the superintendent of banking, with respect to state banks, and by the comptroller of the currency, with respect to national banking associations.

Sec. 80. SAVINGS CLAUSE.

1. This Act does not affect an action or proceeding commenced before this Act takes effect.

2. If a security interest in a security is perfected at the date this Act takes effect, and the action by which the security interest was perfected would suffice to perfect a security interest under this Act, no further action is required to continue perfection. If a security interest in a security is perfected at the date this Act takes effect but the action by which the security interest was perfected would not suffice to perfect a security interest under this Act, the security interest remains perfected for a period of four months after the effective date and continues perfected thereafter if appropriate action to perfect under this Act is taken within that period. If a security interest is perfected at the date this Act takes effect and the security interest can be perfected by filing under this Act, a financing statement signed by the secured party instead of the debtor may be filed within that period to continue perfection or thereafter to perfect.

Sec. 81. REPEALS.

1. Sections 554.8308 through 554.8321, Code 1995, are repealed.
2. Section 554.8408, Code 1995, is repealed.

Sec. 82. Sections 633.130 through 633.138, Code 1995, are repealed.

Sec. 83. PREVAILING STATUTE. If 1996 Iowa Acts, Senate File 2270,* or 1996 Iowa Acts, House File 2402,** is enacted, either of those Acts prevails over the amendments to section 554.5114 in this Act.

Sec. 84. EFFECTIVE DATE. This Act becomes effective on July 1, 1997.

Approved April 18, 1996

CHAPTER 1139

COUNTY RECOVERY OF COSTS RELATED TO HOMICIDE VICTIMS

S.F. 2359

AN ACT relating to the source of payment of the fee and expenses of a county medical examiner related to services provided for a person whose death affects the public interest.

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

Section 1. Section 331.802, subsection 2, Code 1995, is amended to read as follows:

2. If a person's death affects the public interest, the county medical examiner shall conduct a preliminary investigation of the cause and manner of death, prepare a written report of the findings, promptly submit the full report to the state medical examiner on forms prescribed for that purpose, and submit a copy of the report to the county attorney. For each preliminary investigation and the preparation and submission of the required reports, the county medical examiner shall receive a fee determined by the board plus the examiner's actual expenses. The fee and expenses shall be paid by the county ~~for which the service is provided~~ of the person's residence. However, if the person's death is caused by a defendant for whom a judgment of conviction and sentence is rendered under section 707.2, 707.3, 707.4, 707.5, or 707.6A, the county of the person's residence may recover from the defendant the fee and expenses. The fee and expenses of the county medical examiner who performs an autopsy or conducts an investigation of a person who dies after being brought into this state for emergency medical treatment by or at the direction of an out-of-state law enforcement officer or public authority shall be paid by the state. A claim for payment shall be filed with the Iowa department of public health.

Sec. 2. NEW SECTION. 910.3A NOTIFICATION OF A HOMICIDE VICTIM'S COUNTY OF RESIDENCE.

The county attorney of a county in which a judgment of conviction and sentence under section 707.2, 707.3, 707.4, 707.5, or 707.6A is rendered against a defendant relating to a person's death, shall notify in writing the clerk of the district court of the county of the person's residence. Such notification shall be for the purpose of the county of the person's residence recovering from the defendant the fee and expenses incurred investigating the person's death pursuant to section 331.802, subsection 2.

Approved April 18, 1996

*Chapter 1026 herein

**House File 2402 withdrawn

CHAPTER 1140

ELIGIBILITY FOR COUNTY GENERAL ASSISTANCE

H.F. 2399

AN ACT relating to eligibility of persons for county general assistance.

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

Section 1. Section 252.25, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The board of supervisors of each county shall provide for the assistance of poor persons lawfully in ~~its~~ the county who are ineligible for, or are in immediate need and are awaiting approval and receipt of, assistance under programs provided by state or federal law, or whose actual needs cannot be fully met by the assistance furnished under those programs. The county board of supervisors shall establish general rules as ~~its~~ the board's members deem necessary to properly discharge their responsibility under this section.

Approved April 18, 1996

CHAPTER 1141

CHILD SUPPORT ENFORCEMENT

S.F. 2344

AN ACT relating to child support enforcement.

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

DIVISION I
REVIEW AND ADJUSTMENT OF SUPPORT ORDERS

Section 1. Section 252H.8, subsection 1, paragraphs a and b, Code 1995, are amended by striking the paragraphs.

Sec. 2. Section 252H.8, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a timely written request for a hearing is received by the unit ~~and the granting of the request is not precluded pursuant to subsection 1~~, a hearing shall be held in district court, and the unit shall certify the matter to the district court in the county in which the order subject to adjustment or modification is filed. The certification shall include the following, as applicable:

Sec. 3. Section 252H.17, subsection 2, Code 1995, is amended to read as follows:

2. A challenge shall be submitted, in writing, to the local child support office that issued the notice of decision, within ~~the following time frames:~~

~~a. If the notice of decision indicates that an adjustment is not appropriate, a challenge shall be submitted within thirty days of the date of issuance of the notice.~~

~~b. If the notice of decision indicates that an adjustment is appropriate, a challenge shall be submitted within~~ ten days of the issuance of the notice.

DIVISION II
SUSPENSION AND REINSTATEMENT OF ORDERS

Sec. 4. Section 252B.20, subsections 4 and 8, Code 1995, are amended to read as follows:

4. An order suspending an accruing support obligation entered by the court pursuant to this section shall be considered a temporary order for the period of six months from the date of filing of the suspension order. However, the six-month period shall not include any time during which an application for reinstatement is pending before the court.

8. If the order suspending a support obligation has been on file with the court for a period exceeding six months as computed pursuant to subsection 4, the order becomes final by operation of law and terminates the support obligation, and thereafter, a party seeking to establish a support obligation against either party shall bring a new action for support as provided by law.

DIVISION III
GENETIC TESTING

Sec. 5. Section 252F.3, subsection 4, paragraph b, Code 1995, is amended to read as follows:

b. If paternity establishment was contested and paternity tests conducted, a court hearing on the issue of paternity shall be scheduled no earlier than fifty days from the date paternity test results are issued to all parties by the unit, unless the parties mutually agree to waive the time frame pursuant to section ~~255F.8~~ 252F.8.

Sec. 6. Section 252F.3, subsection 6, paragraph d, Code 1995, is amended to read as follows:

d. If a paternity test is ordered under this section, the administrator shall direct that inherited characteristics~~, including but not limited to blood types,~~ be analyzed and interpreted, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results.

DIVISION IV
DISESTABLISHMENT/REESTABLISHMENT OF PATERNITY

Sec. 7. Section 598.21, subsection 4A, paragraph c, subparagraph (2), unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

If the court overcomes a prior determination of paternity, the previously established father shall be relieved of support obligations as specified in section 600B.41A, subsection 4. In any action to overcome paternity other than through a pending dissolution action, the provisions of section 600B.41A apply. Overcoming paternity under this paragraph does not bar subsequent actions to establish paternity. A subsequent action to establish paternity against the previously established father is not barred if it is subsequently determined that the written statement attesting that the established father is not the biological father of the child may have been submitted erroneously, and that the person previously determined not to be the child's father during the dissolution action may actually be the child's biological father.

DIVISION V
INCOME WITHHOLDING

Sec. 8. Section 252D.2, subsection 2, Code 1995, is amended to read as follows:

2. The payor shall withhold and transmit the amount specified in the order or in the child support recovery unit's notice of the order of assignment to the clerk of the district court until the notice that the motion to quash has been granted is received.

Sec. 9. Section 252D.11, subsection 3, Code 1995, is amended to read as follows:

3. The payor shall withhold and transmit the amount specified in the order or in the child support recovery unit's notice of 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. 10. Section 252D.17, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The ~~child support recovery unit or the~~ district court shall provide notice by sending a copy of the order for income withholding to the obligor's employer, trustee, or other payor of income by regular mail, with proof of service completed according to rule of civil procedure 82. The child support recovery unit shall provide notice of the income withholding order by sending a notice of the order to the obligor's employer, trustee, or other payor of income by regular mail. Proof of service may be completed according to rule of civil procedure 82. The order or the child support recovery unit's notice of the order may be sent to the employer, trustee, or other payor of income on the same date that the order is sent to the clerk of court for filing. In addition to the amount to be withheld for payment of support, the order or the child support recovery unit's notice of the order shall include all of the following information regarding the duties of the payor in implementing the withholding order:

Sec. 11. Section 252D.17, subsections 4, 7, 9, and 11, Code Supplement 1995, are amended to read as follows:

4. The income withholding order is binding on an existing or future employer, trustee, or other payor ten days after receipt of the copy of the order or the child support recovery unit's notice of the order, and is binding whether or not the copy of the order received is file-stamped.

7. The payor shall deliver or send a copy of the order or the child support recovery unit's notice of the order to the ~~person named in the order~~ obligor within one business day after receipt of the order or the child support recovery unit's notice of the order.

9. If the payor fails to withhold income in accordance with the provisions of the order or the child support recovery unit's notice of the order, the payor is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor.

11. Any payor who discharges an obligor, refuses to employ an obligor, or takes disciplinary action against an obligor based upon income withholding is guilty of a simple misdemeanor. A withholding order or the child support recovery unit's notice of the order has the same force and effect as any other district court order, including, but not limited to, contempt of court proceedings for noncompliance.

Sec. 12. Section 252D.18A, unnumbered paragraph 1, Code 1995, is amended to read as follows:

When the obligor is responsible for paying more than one support obligation and the employer or the income payor has received more than one income withholding order or the child support recovery unit's notice of an order for the obligor, the payor shall withhold amounts in accordance with all of the following:

Sec. 13. Section 252D.18A, subsection 3, paragraph a, Code 1995, is amended to read as follows:

a. To arrive at the amount to be withheld for each obligee, the payor shall total the amounts due for current support under the income withholding orders and the child support recovery unit's notices of orders and determine the proportionate share for each obligee. The proportionate share shall be determined by dividing the amount due for current support for each order or child support recovery unit's notice of order by the total due for current support for all orders and child support recovery unit's notices of orders. The results are the percentages of the obligor's net income which shall be withheld for each obligee.

Sec. 14. Section 252D.23, Code Supplement 1995, is amended to read as follows:

252D.23 FILING OF WITHHOLDING ORDER - ORDER EFFECTIVE AS DISTRICT COURT ORDER.

An income withholding order entered by the child support recovery unit pursuant to this chapter shall be filed with the clerk of the district court. For the purposes of demonstrating compliance by the employer, trustee, or other payor, the copy of the withholding order or the child support recovery unit's notice of the order received, whether or not the copy of the order is file-stamped, shall have all the force, effect, and attributes of a docketed order of the district court including, but not limited to, availability of contempt of court proceedings against an employer, trustee, or other payor for noncompliance. However, any information contained in the income withholding order or the child support recovery unit's notice of the order related to the amount of the accruing or accrued support obligation which does not reflect the correct amount of support due does not modify the underlying support judgment.

Sec. 15. Section 252G.3, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. The address to which income withholding orders or the child support recovery unit's notices of orders and garnishments should be sent.

DIVISION VI
FULL FAITH AND CREDIT OF CHILD SUPPORT ORDERS

Sec. 16. Section 252A.3, subsection 8, Code 1995, is amended by striking the subsection.

Sec. 17. NEW SECTION. 252A.4A CHOICE OF LAW.

In a proceeding to establish, modify, or enforce a child support order the forum state's law shall apply except as follows:

1. In interpreting a child support order, a court shall apply the law of the state of the court or administrative agency that issued the order.

2. In an action to enforce a child support order, a court shall apply the statute of limitations of the forum state or the state of the court or administrative agency that issued the order, whichever statute provides the longer period of limitations.

Sec. 18. Section 252A.5, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~A~~ Unless prohibited pursuant to section 252A.20, a proceeding to compel support of a dependent may be maintained under this chapter in any of the following cases:

Sec. 19. Section 252A.6, subsection 15, Code 1995, is amended to read as follows:

15. ~~Any~~ Except as provided in section 252A.20, any order of support issued by a court of the state acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both. This subsection also applies to orders entered following an administrative process including, but not limited to, the administrative processes provided pursuant to chapters 252C and 252F.

Sec. 20. Section 252A.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 17. A court or administrative agency of a state that has issued a child support order consistent with 28 U.S.C. § 1738B has continuing, exclusive jurisdiction over the order if the state is the state in which the child is residing or the state is the residence of the petitioner or respondent unless the court or administrative agency of another state, acting in accordance with 28 U.S.C. § 1738B, has modified the order.

Sec. 21. Section 252A.8, Code 1995, is amended to read as follows:

252A.8 ADDITIONAL REMEDIES.

~~This~~ Unless otherwise provided pursuant to 28 U.S.C. § 1738B, this chapter shall be construed to furnish an additional or alternative civil remedy and shall in no way affect or

impair any other remedy, civil or criminal, provided in any other statute and available to the petitioner in relation to the same subject matter.

Sec. 22. Section 252A.19, subsection 1, Code 1995, is amended to read as follows:

1. Upon registration of the ~~registered~~ foreign support order ~~shall be treated in the same manner as a support order issued by a court of this state. The order shall have the same effect and shall be subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.~~, both of the following shall apply:

a. The order is enforceable in the same manner and is subject to the same enforcement procedures as a support order issued by a court of this state.

b. The order may be modified only as provided in section 252A.20.

Sec. 23. Section 252A.20, Code 1995, is amended to read as follows:

252A.20 MODIFICATION OR ADJUSTMENT OF A REGISTERED FOREIGN SUPPORT ORDER AND OF AN IOWA ORDER REGISTERED IN A FOREIGN JURISDICTION.

1. An order which has been registered in a court of this state pursuant to section 252A.18 may be modified or adjusted following registration, ~~subject to all~~ if one of the following applies:

a. ~~The modification or adjustment of the order does not affect the underlying judgment in the foreign jurisdiction, unless provided pursuant to the statute of the foreign jurisdiction.~~ The court of the rendering state no longer has continuing, exclusive jurisdiction of the order because that state no longer is the residence of the child or the petitioner or respondent.

b. ~~The modification or adjustment of the underlying judgment by a foreign jurisdiction does not affect the registered order in this state unless confirmed by a court of this state.~~ The petitioner and respondent have filed a written statement with the court where the order is registered consenting to that court determining the modification and assuming continuing, exclusive jurisdiction over the order.

2. A support order issued in a court of this state may be registered in a foreign jurisdiction and, following registration, may be modified or adjusted ~~subject to the following~~ if either of the following applies:

a. ~~The modification or adjustment of the registered order by a foreign jurisdiction does not affect the underlying judgment in this state unless confirmed by a court of this state.~~ The court of this state no longer has continuing, exclusive jurisdiction of the order because this state no longer is the residence of the child, or of the petitioner or respondent.

b. ~~The modification or adjustment of the underlying judgment by a court of this state following registration in a foreign jurisdiction does not affect the registered order unless provided by the statute of the foreign jurisdiction.~~ The petitioner and respondent have filed a written statement with the court where the order is registered consenting to that court determining the modification and assuming continuing, exclusive jurisdiction over the order.

3. A court or administrative agency of a state that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under this section.

4. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order shall not be grounds for a hearing, modification, adjustment, or other action under this chapter.

Sec. 24. Section 252E.4, subsection 1, Code 1995, is amended to read as follows:

1. When a support order requires an obligor to provide coverage under a health benefit plan, the district court or the department may enter an ex parte order directing an employer to take all actions necessary to enroll an obligor's dependent for coverage under a health benefit plan. The department may amend the information in the ex parte order regarding health insurance provisions if necessary to comply with health insurance requirements including but not limited to the provisions of section 252E.2, subsection 2.

Sec. 25. Section 252E.13, subsections 1 and 3, Code 1995, are amended to read as follows:

1. ~~When~~ Subject to 28 U.S.C. § 1738B, 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.

3. ~~The~~ Subject to 28 U.S.C. § 1738B, the department may amend information concerning the provisions regarding health benefits in a court or administrative order~~, if necessary to comply with section 252E.2, subsection 2,~~ if notice of the amendment is provided to the court and to the parties to the order and if the amendment is filed with the clerk of court.

Sec. 26. NEW SECTION. 598.2A CHOICE OF LAW.

In a proceeding to establish, modify, or enforce a child support order the forum state's law shall apply except as follows:

1. In interpreting a child support order, a court shall apply the law of the state of the court or administrative agency that issued the order.

2. In an action to enforce a child support order, a court shall apply the statute of limitations of the forum state or the state of the court or administrative agency that issued the order, whichever statute provides the longer period of limitations.

Sec. 27. Section 598.14, unnumbered paragraph 2, Code 1995, is amended to read as follows:

~~After~~ Subject to 28 U.S.C. § 1738B, after notice and hearing subsequent changes in temporary orders may be made by the court on application of either party demonstrating a substantial change in the circumstances occurring subsequent to the issuance of such order. If the order is not so modified it shall continue in force and effect until the action is dismissed or a decree is entered dissolving the marriage.

Sec. 28. Section 598.21, subsection 8, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

~~The~~ Subject to 28 U.S.C. § 1738B, 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:

Sec. 29. Section 598.21, subsection 9, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

~~Notwithstanding~~ Subject to 28 U.S.C. § 1738B, but notwithstanding subsection 8, a substantial change of circumstances exists when the court order for child support varies by ten percent or more from the amount which would be due pursuant to the most current child support guidelines established pursuant to subsection 4 or the obligor has access to a health benefit plan, the current order for support does not contain provisions for medical support, and the dependents are not covered by a health benefit plan provided by the obligee, excluding coverage pursuant to chapter 249A or a comparable statute of a foreign jurisdiction.

Sec. 30. Section 600B.31, Code 1995, is amended to read as follows:

600B.31 CONTINUING JURISDICTION.

~~The~~ Subject to 28 U.S.C. § 1738B, the court has continuing jurisdiction over proceedings brought to compel support and to increase or decrease the amount thereof until the judgment of the court has been completely satisfied, and also has continuing jurisdiction to determine the custody in accordance with the interests of the child.

Sec. 31. Section 600B.34, Code 1995, is amended to read as follows:

600B.34 FOREIGN JUDGMENTS.

~~The~~ Subject to 28 U.S.C. § 1738B, the judgment of the court of another state rendered in proceedings to compel support of a child born out of wedlock, and directing payment either of a fixed sum or of sums payable from time to time, may be sued upon in this state

and made a domestic judgment so far as not inconsistent with the laws of this state, and the same remedies may thereupon be had upon such judgment as if it had been recovered originally in this state.

Sec. 32. Section 626A.2, Code 1995, is amended to read as follows:

626A.2 FILING AND STATUS OF FOREIGN JUDGMENTS.

1. A copy of a foreign judgment authenticated in accordance with an Act of Congress or the statutes of this state may be filed in the office of the clerk of the district court of a county of this state which would have venue if the original action was being commenced in this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of the district court of this state and may be enforced or satisfied in like manner.

2. In a proceeding to enforce a child support order, the law of this state shall apply except as follows:

a. In interpreting a child support order, a court shall apply the law of the state of the court that issued the order.

b. In an action to enforce a child support order, a court shall apply the statute of limitations of this state or the state of the court that issued the order, whichever statute provides the longer period of limitations.

DIVISION VII
INTEREST ACCRUAL

Sec. 33. Section 535.3, Code 1995, is amended to read as follows:

535.3 INTEREST ON JUDGMENTS AND DECREES.

1. Interest shall be allowed on all money due on judgments and decrees of courts at the rate of ten percent per year, unless a different rate is fixed by the contract on which the judgment or decree is rendered, in which case the judgment or decree shall draw interest at the rate expressed in the contract, not exceeding the maximum applicable rate permitted by the provisions of section 535.2, which rate must be expressed in the judgment or decree. The interest shall accrue from the date of the commencement of the action, except as otherwise provided in subsection 3.

2. This section does not apply to the award of interest for judgments and decrees subject to section 668.13.

3. Interest on periodic payments for child, spousal, or medical support shall not accrue until thirty days after the payment becomes due and owing.

Approved April 18, 1996

CHAPTER 1142

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
S.F. 2071

AN ACT creating an advisory commission on intergovernmental relations, specifying its membership and its powers and duties, providing for other properly related matters, and providing an effective date.

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

Section 1. NEW SECTION. 28J.1 FINDINGS AND OBJECTIVES.

The general assembly finds that there is a need for an intergovernmental body to study and report on the following:

1. Current pattern of local governmental structure.
2. Powers and functions of local governments, including their fiscal powers.
3. Existing, necessary, and desirable relationships among local governments and the state.
4. Necessary and desirable allocation of state and local fiscal resources.
5. Necessary and desirable roles of the state as the creator of local government systems.
6. Special problems in interstate areas facing their general local governments, interstate regional units, and areawide bodies.

The studies, where possible, shall be conducted in conjunction with studies of commissions on intergovernmental relations of other states.

Sec. 2. NEW SECTION. 28J.2 COMMISSION CREATED - MEMBERSHIP.

1. An Iowa advisory commission on intergovernmental relations is created.
2. The membership of the commission shall be:

a. Four elected or appointed state officers, four elected or appointed county officers, four elected or appointed city officers, four elected or appointed officers of school corporations, and one member or staff member of a regional council of governments established under chapter 28H, appointed by the governor.

b. Two state senators appointed by the majority leader of the senate.

c. Two state representatives appointed by the speaker of the house of representatives.

3. In making all appointments, consideration shall be given to gender, race, or ethnic representation, population and demographic factors, and representation of different geographic regions. All appointments shall comply with sections 69.16 and 69.16A.

4. The initial chairperson of the commission shall be designated by the governor from among the commission members for a term of one year. Subsequent chairpersons shall be elected by the commission from among its membership for a term of one year. A vice chairperson may be elected by the commission from among its membership for a one-year term. In case of the absence or disability of the chairperson and vice chairperson, the members of the commission shall elect a temporary chairperson by a majority vote of those members who are present and voting.

5. The members shall be appointed to two-year staggered terms and the terms shall commence on February 1 of the year of appointment. If a vacancy occurs, a successor shall be appointed to serve the unexpired term. If a member ceases to be an officer or employee of the governmental unit or agency which qualifies the person for membership on the commission, a vacancy exists and a successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.

6. Of the members who are county officers appointed by the governor, not more than two shall be members of the same political party. Of the members appointed by the majority leader of the senate and the speaker of the house of representatives, not more than one from each house shall be a member of the same political party.

7. A majority of the commission constitutes a quorum.

Sec. 3. NEW SECTION. 28J.3 POWERS AND DUTIES.

The commission shall:

1. Engage in activities and make studies and investigations as necessary or desirable to accomplish the purposes specified in section 28J.1.
2. Encourage and, where appropriate, coordinate studies relating to intergovernmental relations conducted by universities, state, local, and federal agencies, and research and consulting organizations.
3. Review the recommendations of national commissions studying federal, state, and local government relationships and problems and assess their possible application to this state.
4. Carry out studies and investigations relating to intergovernmental problems and relations as requested by the legislative council.

Sec. 4. NEW SECTION. 28J.4 ORGANIZATIONS - MEETINGS.

1. The commission shall meet quarterly and at other times as necessary. The commission may hold public hearings on matters within its purview.

2. The commission may establish committees as it deems advisable and feasible, whose membership shall include at least one member of the commission, but only the commission may take final action on a proposal or recommendation of a committee.

3. The commission is not an agency as defined in, or for the purpose of, chapter 17A.

4. All meetings of the commission or a committee established by the commission at which public business is discussed or formal action is taken, shall comply with the requirements of chapter 21.

Sec. 5. NEW SECTION. 28J.5 STAFF - FACILITIES - EXPENSES.

1. The commission and committees established by the commission may accept technical and operational assistance from the staff of the legislative service bureau and the legislative fiscal bureau, other state or federal agencies, units of local governments, or any other public or private source. The directors of the legislative service bureau and the legislative fiscal bureau may assign professional, technical, legal, clerical, or other staff, as necessary and authorized by the legislative council for continued operation of the commission. However, the technical and operational assistance shall be provided within existing appropriations made to or with existing resources of the legislative service bureau and legislative fiscal bureau to carry out their powers and duties.

2. The legislative council may also provide available facilities and equipment as requested by the commission.

3. The members of the commission are entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties. Each member may also be eligible to receive compensation as provided in section 7E.6. The expenses shall be paid from funds appropriated pursuant to section 2.12.

Sec. 6. NEW SECTION. 28J.6 REPORTS.

The commission shall submit an annual report of its findings and recommendations to the governor, president of the senate, speaker of the house, and the majority and minority leaders of each house, and make the report available to legislators upon request. The report shall also be made available to the public.

Sec. 7. NEW SECTION. 28J.7 INFORMATION.

The commission may request from any state agency or official the information and assistance as needed to perform the duties of the commission. A state agency or official shall furnish the information or assistance requested within the authority and resources of the state agency or official. This section does not require the production or opening of any public record which is required by law to be kept confidential.

Sec. 8. NEW SECTION. 28J.8 FUTURE REPEAL.

This chapter is repealed effective July 1, 2002.

Approved April 18, 1996

CHAPTER 1143

CONDUCT OF RAFFLES

S.F. 2012

AN ACT relating to the conduct of raffles.

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

Section 1. Section 99B.5, subsection 1, paragraph g, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

g. The actual retail value of any prize does not exceed two hundred dollars. If a prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts shall not exceed two hundred dollars. However, either a fair sponsor or a qualified organization, but not both, may hold one raffle per calendar year at which prizes having a combined value of more than two hundred dollars may be offered. If the prize is merchandise, its value shall be determined by the purchase price paid by the fair sponsor or qualified organization.

Sec. 2. Section 99B.5, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 3. A licensee under this section may hold one real property raffle per calendar year at which the value of the real property may exceed two hundred dollars in lieu of the annual raffle authorized in subsection 1, paragraph "g", if all of the following requirements are met:

a. The licensee has submitted the special real property raffle license application and a fee of one hundred dollars to the department, has been issued a license, and prominently displays the license at the drawing area of the raffle.

b. The real property was acquired by gift or donation or has been owned by the licensee for a period of at least five years.

c. All other requirements of this section and section 99B.2 are met, except that the cost to participate in the raffle may exceed one dollar for each participant.

d. Receipts from the raffle are kept in a separate financial account.

e. A cumulative report for the raffle on a form determined by the department and one percent of the gross receipts are submitted to the department within sixty days of the raffle drawing. The one percent of the gross receipts shall be retained by the department to pay for the cost of the special audit.

NEW SUBSECTION. 4. For each real property raffle license issued, the department shall conduct a special audit of the raffle to verify compliance with the appropriate requirements of this chapter.

Sec. 3. Section 99B.7, subsection 1, paragraph d, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Cash prizes shall not be awarded in games other than bingo and raffles. The value of a prize shall not exceed two hundred dollars and merchandise prizes shall not be repurchased. If a prize consists of more than one item, unit, or part, the aggregate value of all items, units, or parts shall not exceed two hundred dollars. However, one raffle may be conducted per calendar year at which prizes having a combined value of more than two hundred dollars may be awarded. If the prize is merchandise, its value shall be determined by purchase price paid by the organization or donor.

Sec. 4. Section 99B.7, subsection 1, Code 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. q. A licensee under this section may hold one real property raffle per calendar year at which the value of the real property may exceed two hundred dollars in lieu of the annual raffle authorized in subsection 1, paragraph "d", if all of the following requirements are met:

(1) The licensee has submitted the special real property raffle property license application and a fee of one hundred dollars to the department, has been issued a license, and prominently displays the license at the drawing area of the raffle.

(2) The real property was acquired by gift or donation or has been owned by the licensee for a period of at least five years.

(3) All other requirements of this section and section 99B.2 are met, except that the cost to participate in the raffle may exceed one dollar for each participant.

(4) Receipts from the raffle are kept in a separate financial account.

(5) A cumulative report for the raffle on a form determined by the department and one percent of the gross receipts are submitted to the department within sixty days of the raffle drawing. The one percent of the gross receipts shall be retained by the department to pay for the cost of the special audit.

NEW PARAGRAPH. r. For each real property license issued, the department shall conduct a special audit of the raffle to verify compliance with the appropriate requirements of this chapter.

Approved April 18, 1996

CHAPTER 1144

SPECIAL CENSUS CERTIFICATION

H.F. 2488

AN ACT relating to special census certification and providing an effective date.

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

Section 1. The results of a special census conducted in 1995 and filed with the secretary of state for certification after December 31, 1995, shall be considered timely for purposes of determining population-based allocations of funds under section 312.3, subsection 2, or section 405A.3 for the fiscal year beginning July 1, 1996, and subsequent fiscal years, if the special census results could not have been obtained for filing prior to December 31, 1995, due to federal offices being closed and if the special census results are filed by the governing body of the city with the secretary of state within 30 days of the effective date of this Act.

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

Approved April 18, 1996

CHAPTER 1145

SALES, SERVICES, AND USE TAX EXEMPTION FOR AGRICULTURAL PACKAGING MATERIALS

S.F. 2097

AN ACT providing a sales, services, and use tax exemption on certain packaging materials used in agricultural, livestock, or dairy production.

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

Section 1. Section 422.45, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 50. The gross receipts from the sale of property which is a container, label, carton, pallet, packing case, wrapping, baling wire, twine, bag, bottle, shipping case, or other similar article or receptacle sold for use in agricultural, livestock, or dairy production.

Sec. 2. APPLICABILITY. This Act applies to sales occurring on or after July 1, 1996.

Approved April 23, 1996

CHAPTER 1146

TAXATION OF ORGANIZED HEALTH CARE DELIVERY SYSTEMS

H.F. 2432

AN ACT relating to the taxation of payments received by organized health care delivery systems.

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

Section 1. NEW SECTION. 135.120 TAXATION OF ORGANIZED DELIVERY SYSTEMS.

Payments received by an organized delivery system licensed by the director for health care services, insurance, indemnity, or other benefits to which an enrollee is entitled through an organized delivery system authorized under 1993 Iowa Acts, chapter 158, and payments by an organized delivery system licensed by the director to providers for health care services, to insurers, or corporations authorized under chapter 514 for insurance, indemnity, or other service benefits authorized under 1993 Iowa Acts, chapter 158, are not premiums received and taxable under the provisions of section 432.1 for the first five years of the existence of the organized delivery system, its successors or assigns, or the first five years after the effective date of this section, whichever is the later. 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.

Sec. 2. Section 1 of this Act is to be codified as a separate division in chapter 135 unless the Code editor determines a more appropriate chapter.

Approved April 23, 1996

CHAPTER 1147

PRACTICE OF DENTISTRY

H.F. 2201

AN ACT relating to defining the practice of dentistry.

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

Section 1. Section 153.13, subsection 2, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

2. Persons who perform examination, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background experience, and expertise are common to the practice of dentistry.

Approved April 23, 1996

CHAPTER 1148

MORTUARY SCIENCE AND CREMATION

S.F. 259

AN ACT relating to the practice of mortuary science, cremation, and licensing of funeral establishments and providing penalties.

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

Section 1. Section 147.14, subsection 1, Code 1995, is amended to read as follows:

1. For podiatry, barbering, ~~mortuary science,~~ and social work, three members each, licensed to practice the profession for which the board conducts examinations, and two members who are not licensed to practice the profession for which the board conducts examinations and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

Sec. 2. Section 147.14, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. For mortuary science examiners, four members licensed to practice mortuary science, one member owning, operating, or employed by a crematory, and two members not licensed to practice mortuary science and not a crematory owner, operator, or employee who shall represent the general public. A majority of the members of the board constitutes a quorum.

Sec. 3. Section 156.1, Code 1995, is amended to read as follows:

156.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Board" ~~shall mean~~ means the board of mortuary science examiners.

2. "Cremation" means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

3. "Cremation establishment" means a place of business as defined by the board which provides any aspect of cremation services.

~~2.~~ 4. "Funeral director" ~~shall mean~~ means a person licensed by the board to practice mortuary science.

5. "Funeral establishment" means a place of business as defined by the board devoted to providing any aspect of mortuary science.

6. "Intern" means a person registered by the board to practice mortuary science under the direct supervision of a funeral director.

~~3.~~ 7. "Mortuary science" ~~shall mean~~ means the engaging in any of the following:

a. Preparing, for ~~the~~ burial or disposal, or directing and supervising ~~the~~ burial or disposal of dead human bodies except supervising cremations.

b. ~~Furnishing~~ Making funeral arrangements or furnishing any funeral services~~, or embalming~~, in connection with ~~the~~ disposition of dead human bodies or sale of any casket, vault, urn, or other burial receptacle.

c. Using the words, "funeral director", "mortician" or any other title implying that the person is engaged as a funeral director as defined in this section.

d. Embalming by disinfecting or preserving dead human bodies, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by direct application into the organs or cavities for the purpose of preservation or disinfection.

Nothing contained in this chapter shall be construed as prohibiting the operation of any funeral home, ~~or~~ funeral establishment, or cremation establishment by any person, heir, fiduciary, firm, co-operative burial association, or corporation~~; provided that~~. However, each such person, firm, co-operative burial association, or corporation shall ~~employ~~ ensure that all mortuary science services are provided by a funeral director, and shall keep the Iowa department of public health advised of the name of the funeral director.

Sec. 4. Section 156.2, Code 1995, is amended to read as follows:

156.2 PERSONS EXCLUDED.

Section 156.1 shall not be construed to include the following classes of persons:

1. Manufacturers, wholesalers, ~~and jobbers~~ distributors, and retailers of caskets, vaults, urns, or other burial receptacles not engaged in the other functions of furnishing of funeral services or embalming as above defined.

~~2. Those who distribute or sell caskets, vaults, or any other burial receptacles and who do not furnish any funeral service or embalming, except a registered apprentice under the personal direction of a funeral director.~~

~~3.~~ 2. Those who use bodies for scientific purposes as defined in sections 142.1, 142.2, and 142.5; or those who make scientific examinations of dead bodies~~,~~; or perform autopsies.

~~4.~~ 3. Physicians or institutions who preserve parts of human bodies either for scientific purposes or for use as evidence in prospective legal cases.

~~5.~~ 4. Persons ~~burying~~ who, without compensation, bury their own dead under a burial ~~permit from the registrar of vital statistics~~ transit permit secured pursuant to section 144.32.

Sec. 5. Section 156.4, subsections 1 and 5, Code 1995, are amended to read as follows:

1. The practice of a funeral director must be conducted from a funeral establishment ~~equipped for the care and preparation for burial or transportation of dead human bodies~~ licensed by the board.

5. After the applicant shall have completed satisfactorily the course of instruction in mortuary science in an accredited school approved by the board, the applicant must pass the examination prescribed by the board as provided in section 147.34. The applicant may then receive ~~a class "A" certificate of apprenticeship~~ an internship certificate and shall then complete a minimum ~~of one additional year of apprenticeship~~ one-year internship as determined by the board. ~~The apprentice shall assist in the direction of not less than twenty-five funerals under the direct supervision of a funeral director. The apprentice shall arterially embalm not less than twenty-five dead human bodies under the direct supervision of~~

~~a funeral director. The~~ After completion of the internship, the applicant shall demonstrate proficiency as directed by the board ~~of mortuary science examiners by practical examination~~.

Sec. 6. Section 156.8, Code 1995, is amended to read as follows:

156.8 ~~APPRENTICESHIP~~ INTERNSHIPS.

The board shall, by rule, provide for ~~apprenticeships~~ internships in ~~funeral directing~~ mortuary science, and shall regulate the registration, training, and fee for ~~apprenticeships~~ internships.

Sec. 7. Section 156.9, Code 1995, is amended to read as follows:

156.9 REVOCATION OF LICENSE.

1. Notwithstanding section 147.87 and in addition to the provisions of sections 147.58 through 147.71, the board may restrict, suspend, or revoke a license to practice mortuary science or place a licensee on probation. The board shall adopt rules of procedure pursuant to chapter 17A by which to restrict, suspend, or revoke a license. The board may also adopt rules pursuant to chapter 17A relating to conditions of license reinstatement.

2. ~~The~~ In addition to the grounds stated in sections 147.55 and 272C.10, the board may revoke or suspend the license of a funeral director for any one of the following acts:

~~1.~~ a. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.

~~2.~~ b. Executing a death certificate or ~~shipping paper~~ burial transit permit for use ~~of~~ by anyone except a funeral director or a ~~registered apprentice~~ certified intern who is working under the ~~immediate personal~~ direct supervision of a funeral director unless otherwise allowed under section 144.32.

~~3.~~ c. ~~Any of the applicable grounds for revocation or suspension of a license provided in chapters 147 and 272C~~ Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science.

d. Willful or repeated violations of this chapter, or the rules adopted pursuant to this chapter.

Sec. 8. Section 156.10, Code 1995, is amended to read as follows:

156.10 INSPECTION.

The director of public health shall inspect all places where dead human bodies are prepared or held for burial, ~~or~~ entombment~~;~~, or cremation, and ~~to prescribe~~ shall adopt and enforce such rules and regulations in connection ~~therewith~~ with the inspection as shall be necessary for the preservation of the public health.

An inspection fee for each place where dead human bodies are prepared for burial or cremation shall be fifteen dollars per year, which shall be collected by the director of public health. ~~The inspection fees collected under this section shall be paid to the treasurer of state who shall maintain a trust fund to be used only for paying the cost of inspection of such places.~~

Sec. 9. NEW SECTION. 156.14 FUNERAL ESTABLISHMENT AND CREMATION ESTABLISHMENT LICENSE.

1. A person shall not establish, conduct, or maintain a funeral establishment or a cremation establishment in this state without a license. The license shall be identified as an establishment license.

a. An establishment license issued by the board under this chapter shall be issued for a site and in the name of the individual in charge and is not transferable or assignable.

b. A license is required for each place of practice.

c. The license of the establishment shall be displayed.

2. The board shall specify by rule the licensing procedures to be followed, including specifications of forms for use in applying for an establishment license and fees for filing an application. The board shall specify by rule minimum standards for professional responsibility in the conduct of a funeral establishment or a cremation establishment.

3. To qualify for a funeral establishment or a cremation establishment license, the applicant shall submit to the board a license fee as determined by the board and a completed application on a form prescribed by the board that shall include the following information and be given under oath:

a. Ownership of the establishment.

b. Location of the establishment.

c. The license number of each funeral director employed by the establishment at the time of the application.

d. The trade or corporate name of the establishment.

e. The name of the individual in charge, who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.

4. A person who falsely makes the affidavit prescribed in subsection 3 is subject to all penalties prescribed for making a false affidavit.

Sec. 10. NEW SECTION. 156.15 FUNERAL ESTABLISHMENTS AND CREMATION ESTABLISHMENTS - LICENSE REQUIRED - DISCIPLINE, VIOLATIONS, AND PENALTIES.

1. A funeral establishment or cremation establishment shall not be operated until a license or renewal certificate has been issued to the establishment by the board.

2. The board shall refuse to issue an establishment license when an applicant fails to meet the requirements of section 156.14. The board may refuse to issue or renew a license or may impose a penalty, not to exceed ten thousand dollars, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

a. Been convicted of a felony or a misdemeanor involving moral turpitude, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer has been convicted of a felony or a misdemeanor involving moral turpitude, under the laws of this state, another state, or the United States.

b. Violated this chapter or any rule adopted under this chapter or that any owner or employee of the establishment has violated this chapter or any rule adopted under this chapter.

c. Knowingly aided, assisted, procured, advised, or allowed a person to unlawfully practice mortuary science.

d. Failed to engage in or ceased to engage in the business described in the application for a license.

3. Failed to keep and maintain records as required by this chapter or rules adopted under this chapter.

Sec. 11. Section 331.805, subsection 3, paragraph b, Code 1995, is amended to read as follows:

b. If the next of kin, guardian, or other person authorized to act on behalf of a deceased person has requested that the body of the deceased person be cremated, a permit for cremation must be obtained from a medical examiner. However, a permit is not required if the deceased person was a member of an established religion whose tenets are opposed to the inspection or examination of the body of a deceased person. Cremation permits by the medical examiner must be made on the most current forms prepared at the direction of and approved by the state medical examiner, with copies forwarded to the state medical examiner's office. Costs for the cremation permit issued by a medical examiner shall not exceed ~~twenty-five~~ thirty-five dollars. The costs shall be borne by the family, next of kin, guardian of the decedent, or other person.

Approved April 23, 1996

CHAPTER 1149

BOILERS AND UNFIRED STEAM PRESSURE VESSELS

S.F. 2453

AN ACT relating to boilers and unfired steam pressure vessels by providing for the inspection of certain unfired steam pressure vessels, the procedure for adopting rules, and providing an effective date.

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

Section 1. Section 89.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A rule adopted pursuant to this section which adopts standards by reference to another publication shall be exempt from the requirements of section 17A.6, subsection 4, if the following conditions exist:

a. The cost of the publication is an unreasonable expense when compared to the anticipated usage of the publication.

b. A copy of the publication is available from an entity located within the state capitol complex.

c. The rule identifies the location where the publication is available.

d. The administrative rules coordinator approves the exemption.

Sec. 2. PRESSURE VESSEL INTERNAL INSPECTIONS – EXTENSION. Notwithstanding section 89.3, unfired steam pressure vessels used as dryer rollers, steam condensate separators, or condensate receivers, manufactured on or after January 1, 1994, with an allowable pressure of one hundred fifty pounds per square inch and the safety relief valve set at a pressure of one hundred fifty pounds per square inch, shall be inspected externally on an annual basis and shall be inspected internally for the second time before December 31, 1997.

Sec. 3. EFFECTIVE DATE. Section 1 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 23, 1996

CHAPTER 1150

ACCESS TO CRIMINAL HISTORY AND RELATED RECORDS

H.F. 2448

AN ACT relating to access to criminal history and other records maintained by state agencies.

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

Section 1. Section 22.7, subsection 9, Code Supplement 1995, is amended to read as follows:

9. Criminal identification files of law enforcement agencies. However, records of current and prior arrests and criminal history data shall be public records.

Sec. 2. Section 216A.136, Code 1995, is amended to read as follows:

216A.136 STATISTICAL ANALYSIS CENTER — ACCESS TO RECORDS.

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.~~ Notwithstanding any other provision of state law, unless prohibited by federal law or regulation, the division shall be granted access, for purposes of research and evaluation, to criminal history records, official juvenile court records, juvenile court social records, and any other data collected or under control of the board of parole, department of corrections, district departments of correctional services, department of human services, judicial department, and department of public safety. Any record, data, or information obtained by the division under this section and the division itself are subject to the federal and state confidentiality laws and regulations which are applicable to the original record, data, or information obtained by the division and to the original custodian of the record, data, or information. The access shall include but is not limited to all of the following:

1. Juvenile court records and all other information maintained under sections 232.147 through 232.153.
2. Child abuse information under sections 235A.15 through 235A.19.
3. Dependent adult abuse records maintained under chapter 235B.
4. Criminal history and intelligence data maintained under chapter 692.
5. Sex offender registry information maintained under chapter 692A.
6. Presentence investigation reports maintained under section 901.4.
7. Corrections records maintained under sections 904.601 and 904.602.
8. Community-based correctional program records maintained under chapter 905.
9. Parole records maintained under chapter 906.
10. Deferred judgment, deferred or suspended sentence, and probation records maintained under chapter 907.
11. Violation of parole or probation records maintained under chapter 908.
12. Fines and victim restitution records maintained under chapters 909 and 910.

Sec. 3. Section 692.2, subsections 1 through 5, Code Supplement 1995, are amended by striking the subsections and inserting in lieu thereof the following:

1. The department may provide copies or communicate information from criminal history data to the following:

a. Criminal or juvenile justice agencies.

b. A person or public or private agency, upon written application on a form approved by the commissioner of public safety and provided by the department to law enforcement agencies, subject to the following restrictions:

(1) A request for criminal history data must be submitted in writing by mail or as otherwise provided by rule. However, the department shall accept a request presented in person if it is from an individual or an individual's attorney and requests the individual's personal criminal history data.

(2) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required.

(3) Criminal history data that does not contain any disposition data after eighteen months from the date of arrest may only be disseminated by the department to criminal or juvenile justice agencies, to the person who is the subject of the criminal history data or the person's attorney, or to a person requesting the criminal history data with a signed release from the person who is the subject of the criminal history data authorizing the requesting person access to criminal history data.

(4) Upon receipt of official notification of the successful completion of probation following a deferred judgment, criminal history data regarding the person who successfully completed the probation shall only be disseminated by the department to a criminal or

juvenile justice agency, to the person who is the subject of the criminal history data or the person's attorney, or to another person with a signed release from the person who is the subject of the criminal history data authorizing the requesting person access to the criminal history data.

(5) Any release of criminal history data by the department shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."

2. Requests for criminal history data from criminal or juvenile justice agencies shall take precedence over all other requests.

3. A person who requests criminal history data shall not be liable for damages to the person whose criminal history data is requested for actions the person requesting the information may reasonably take in reliance on the accuracy and completeness of the criminal history data received from the department if all of the following are true:

a. The person requesting the criminal history data in good faith believes the criminal history data to be accurate and complete.

b. The person requesting the criminal history data has complied with the requirements of this chapter.

c. The identifying information submitted to the department by the person requesting the criminal history data is accurate regarding the person whose criminal history data is sought.

4. Unless otherwise provided by law, access under this section to criminal history data by a person or public or private agency does not create a duty upon a person, or employer, member, or volunteer of a public or private agency to examine the criminal history data of an applicant, employee, or volunteer.

5. A person other than the department of public safety shall not disseminate criminal history data maintained by the department to persons who are not criminal or juvenile justice agencies.

Sec. 4. Section 692.2, subsection 6, Code Supplement 1995, is amended to read as follows:

~~6.~~ 5. The department may charge a fee to any nonlaw-enforcement person or agency to conduct criminal history ~~record~~ data checks ~~and otherwise administer this section and other sections of the Code providing access to criminal history records. The fee shall be set by the commissioner of public safety equal to the cost incurred not to exceed twenty dollars for each individual check requested.~~ Notwithstanding any other limitation, the department ~~is authorized to~~ may use revenues generated from the fee to administer this section and other sections of the Code providing access to criminal history data and to employ ~~clerical~~ personnel to process criminal history data checks ~~for nonlaw enforcement purposes~~.

~~In cases in which members of the department are participating in the investigation or arrest, or where officers of other criminal or juvenile justice agencies participating in the investigation or arrest consent, the department may disseminate criminal history data and intelligence data when the dissemination complies with section 692.3.~~ However, the fee for conducting a criminal history data check for a person seeking release of a certified copy of the person's own criminal history data to a potential employer, if that employer requests the release in writing, shall not be paid by the person but shall be paid by the employer.

Sec. 5. Section 692.5, unnumbered paragraph 3, Code 1995, is amended to read as follows:

Upon the request of the petitioner, the record and evidence in a judicial review proceeding shall be closed to all but the court and its officers, and access thereto shall be refused unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. ~~No~~ A person, other than the petitioner, shall not permit a copy of any of the testimony

or pleadings or the substance thereof to be made available to any person other than a party to the action or the party's attorney. Violation ~~of the provisions~~ of this section shall be a public offense, punishable under section 692.7. The provisions of this section shall be the sole right of action against the department, its subdivisions, or employees regarding improper storage or release of criminal history data.

Sec. 6. Section 692.7, subsection 1, Code 1995, is amended to read as follows:

1. ~~Any~~ A person who willfully requests, obtains, or seeks to obtain criminal history data under false pretenses, or who willfully communicates or seeks to communicate criminal history data to any agency or person except in accordance with this chapter, or ~~any~~ a person connected with ~~any~~ a research program authorized pursuant to this chapter who willfully falsifies criminal history data or any records relating thereto, shall, upon conviction, for each such offense be guilty of an aggravated misdemeanor. ~~Any person who knowingly, but without criminal purposes, communicates or seeks to communicate criminal history data except in accordance with this chapter shall be guilty of a simple misdemeanor.~~

Sec. 7. NEW SECTION. 692.8A REDISSEMINATION OF INTELLIGENCE DATA.

A criminal or juvenile justice agency, state or federal regulatory agency, or a peace officer shall not disseminate intelligence data, which has been received from the department or bureau or from any other source, outside the agency or the peace officer's agency unless all of the following apply:

1. The intelligence data is for official purposes in connection with prescribed duties of a criminal or juvenile justice agency.
2. The agency maintains a list of the persons receiving the intelligence data and the date and purpose of the dissemination.
3. The request for intelligence data is based upon name, fingerprints, or other individually identified characteristics.

Sec. 8. Section 692.18, unnumbered paragraph 2, Code 1995, is amended to read as follows:

~~Criminal history data and intelligence~~ Intelligence data in the possession of the department or bureau, or disseminated by the department or bureau, are not public records within the provisions of chapter 22.

Sec. 9. Section 692.20, Code 1995, is amended to read as follows:

692.20 MOTOR VEHICLE OPERATOR'S RECORD EXEMPT.

The provisions of ~~sections~~ section 692.2 ~~and 692.3~~ shall not apply to the certifying of an individual's operating record pursuant to section 321A.3.

Sec. 10. Section 692.3, Code Supplement 1995, is repealed.

Approved April 23, 1996

CHAPTER 1151

MINIMUM SENTENCE FOR CERTAIN FORCIBLE FELONS
AND RELATED MATTERS
S.F. 2114

AN ACT relating to the amount of prison time served by persons convicted of certain forcible felonies, by limiting the reduction of sentence for certain forcible felons, providing for a sentencing task force and a departmental study, and making other related changes.

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

Section 1. Section 902.11, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A person serving a sentence for conviction of a felony, other than a forcible felony under section 902.12, who has a criminal record of one or more prior convictions for a forcible felony or a crime of a similar gravity in this or any other state, shall be denied parole or work release unless the person has served at least one-half of the maximum term of the defendant's sentence. However, the mandatory sentence provided for by this section does not apply if either of the following apply:

Sec. 2. Section 902.11, subsection 1, Code 1995, is amended to read as follows:

1. The ~~sentence being served is for a felony other than a forcible felony and the~~ sentences for the prior forcible felonies expired at least five years before the date of conviction for the present felony.

Sec. 3. NEW SECTION. 902.12 MINIMUM SENTENCE - ELIGIBILITY OF FORCIBLE FELONS FOR PAROLE OR WORK RELEASE.

Except as otherwise provided in section 903A.2, a person serving a sentence for conviction of the following forcible felonies shall serve one hundred percent of the maximum term of the person's sentence and shall not be released on parole or work release:

1. Murder in the second degree in violation of section 707.3.
2. Sexual abuse in the second degree in violation of section 709.3.
3. Kidnapping in the second degree in violation of section 710.3.
4. Robbery in the first or second degree in violation of section 711.2 or 711.3.

Sec. 4. Section 903A.2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

~~Each~~ Unless an inmate is sentenced pursuant to section 902.12, an 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~~ Unless an inmate is sentenced pursuant to section 902.12, 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. However, if an inmate is sentenced under section 902.12, the total number of days which may be accumulated by the inmate to reduce the inmate's sentence shall not exceed fifteen percent of the inmate's total sentence of confinement. 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. 5. SENTENCING TASK FORCE. The legislative council is requested to establish a task force to study currently available sentencing and incarceration options. The task force may, but is not limited to, the review of the following: the availability of jail, community

corrections, and prison beds; the potential impact of the use of split sentencing on jail, community corrections, and prison bed space; security needs and costs associated with the implementation of hard labor requirements for persons incarcerated in corrections institutions; and the nature and costs associated with other sentencing options. The legislative council may employ a consultant to assist the task force. The task force shall have the following membership:

1. Five ex officio, nonvoting members each from the senate and the house of representatives.
2. A representative from the division of criminal and juvenile justice planning of the department of human rights.
3. A representative from an association of sheriffs and deputy sheriffs.
4. Three representatives from the department of corrections, two of whom shall be correctional officers who are members of a statewide employee organization.
5. A representative from a county board of supervisors.
6. A representative from the board of parole.
7. A district director of a judicial district department of correctional services.
8. A district judge.
9. A justice of the supreme court.

The task force shall not hold any meetings prior to November 5, 1996. However, the consultant shall be employed prior to that date and operate under guidance from the acting co-chairpersons of the task force prior to the first meeting of the task force.

The task force shall submit findings and any recommendations in a report to the general assembly by January 1, 1997.

Sec. 6. RISK ASSESSMENT STUDY. The department of corrections, in consultation with the board of parole and the division of criminal and juvenile justice planning of the department of human rights, shall conduct a study of the various risk assessment tools currently used in the Iowa corrections system to determine the relative risk posed by a criminal offender and the prospects for the offender's rehabilitation, and make findings and recommendations regarding the implementation and use of a risk assessment tool during or as part of the presentence investigation process. In conducting the study, the department shall also consult with faculty members with expertise in risk assessment who are from Iowa institutions of higher education which offer degree programs in criminology. The recommendations and any corresponding findings shall be submitted in a report to the general assembly by January 1, 1997.

Approved April 23, 1996

CHAPTER 1152

MOTOR VEHICLES AND AIRCRAFT – MISCELLANEOUS PROVISIONS

S.F. 2266

AN ACT making transportation-related Code changes including providing for a temporary registration permit, increasing registration fees for certain trailers, and providing an effective date.

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

Section 1. Section 321.17, Code 1995, is amended to read as follows:

321.17 MISDEMEANOR TO VIOLATE REGISTRATION PROVISIONS.

It is a simple misdemeanor ~~punishable as provided in section 321.482,~~ for any person to drive or move or for an owner knowingly to permit to be driven or moved upon ~~any~~ the highway ~~any~~ a vehicle of a type required to be registered ~~hereunder~~ under this chapter which is not registered, or for which the appropriate fee has not been paid ~~when and as required hereunder~~ except as provided in section 321.109, subsection 3.

Sec. 2. Section 321.20A, Code Supplement 1995, is amended to read as follows:

321.20A CERTIFICATE OF TITLE - COMMERCIAL ~~MOTOR~~ VEHICLES.

1. Notwithstanding other provisions of this chapter, the owner of a commercial ~~motor~~ vehicle ~~with a gross vehicle weight rating of twenty-six thousand one pounds or more,~~ subject to the proportional registration provisions of chapter 326, may make application to the department for a certificate of title. The application for certificate of title shall be made within fifteen days of purchase or transfer and accompanied by a ten dollar title fee and appropriate use tax.

2. A commercial ~~motor~~ vehicle issued a certificate of title under this section shall not be subject to registration fees until the commercial ~~motor~~ vehicle is driven upon the highways. The registration fee due shall be prorated for the remaining unexpired months of the registration year. Ownership of ~~a~~ the commercial ~~motor~~ vehicle ~~issued a certificate of title under this section~~ shall not be transferred until registration fees have been paid to the department.

3. ~~The certificate of title provision for commercial motor vehicles with a gross vehicle weight rating of twenty-six thousand one pounds or more~~ This section shall apply to owners with fleets of more than fifty commercial ~~motor~~ vehicles based in Iowa under the proportional registration provisions of chapter 326. The original certificate of title shall be delivered to the owner if no security interest or encumbrance appears on the certificate, otherwise the certificate of title shall be delivered by the department to the person holding the first security interest or encumbrance as shown on the certificate of title.

Sec. 3. Section 321.69, subsection 3, Code Supplement 1995, is amended to read as follows:

3. The damage disclosure statement shall be provided by the transferor to the transferee at or before the time of sale. If the transferor is not a resident of this state the transferee shall not be required to submit a damage disclosure statement from the transferor with the transferee's application for title unless the state of the transferor's residence requires a damage disclosure statement. However, the transferee shall submit a damage disclosure statement with the transferee's application for title indicating whether a salvage or rebuilt title had ever existed for the vehicle, whether the vehicle had incurred prior damage of three thousand dollars or more per incident, and the year, make, and vehicle identification number of the motor vehicle. The transferee shall not be required to indicate whether the vehicle had incurred prior damage of three thousand dollars or more per incident under this subsection if the transferor's certificate of title is from another state and if it indicates that the vehicle is salvaged and not rebuilt or is another state's salvage certificate of title.

Sec. 4. Section 321.109, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The owner of an unregistered motor vehicle or motor vehicle for which the registration is delinquent, may make application to the county treasurer of the county of residence or if the unregistered or delinquent motor vehicle is purchased by a nonresident of the state, to the county treasurer in the county of purchase, for a temporary thirty-day permit for a fee of twenty-five dollars. The permit shall authorize the motor vehicle to be driven or towed upon the highway, but shall not authorize a motor truck or truck tractor to haul or tow a load. The permit fee shall not be considered a registration fee or exempt the owner from payment of all other fees, registration fees, and penalties due. If the registration fee for the motor vehicle is delinquent, the registration fee and penalty shall continue to accrue until paid. The permit fee shall not be prorated, refunded, or used as credit as provided under section 321.46. The permit shall be displayed in the upper left-

hand corner of the rear window of all motor vehicles, except motorcycles. Permits issued for a motorcycle shall be attached to the rear of the motorcycle.

Sec. 5. Section 321.123, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

All trailers except farm trailers and mobile homes, unless otherwise provided in this section, are subject to a registration fee of ~~six~~ ten dollars ~~for trailers with a gross weight of one thousand pounds or less and ten dollars for other trailers~~. Trailers for which the empty weight is two thousand pounds or less are exempt from the certificate of title and lien provisions of this chapter. Fees collected under this section shall not be reduced or prorated under chapter 326.

Sec. 6. Section 321.123, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

Travel trailers and fifth-wheel travel trailers, except those in manufacturer's or dealer's stock, shall be subject to an annual fee of twenty cents per square foot of floor space computed on the exterior overall measurements, but excluding three feet occupied by any trailer hitch as provided by and certified to by the owner, to the nearest whole dollar, which amount shall not be prorated or refunded; except the annual fee for travel trailers of any type, when registered in Iowa for the first time or when removed from a manufacturer's or dealer's stock, shall be prorated on a monthly basis. It is further provided the annual fee thus computed shall be limited to seventy-five percent of the full fee after the vehicle is more than six model years old.

Sec. 7. Section 321.166, subsection 2, Code 1995, is amended to read as follows:

2. Every registration plate or pair of plates shall display a registration plate number which shall consist of alphabetical or numerical characters or a combination thereof and the name of this state, which may be abbreviated. Every registration plate issued by the county treasurer shall display the name of the county ~~except plates issued for truck tractors, motorcycles, motorized bicycles, travel trailers, semitrailers and trailers~~ including any plate issued pursuant to section 321.34, except Pearl Harbor, purple heart, collegiate, fire fighter, and congressional medal of honor registration plates. ~~The year of expiration or the date of expiration shall be displayed on vehicle registration plates, except plates issued under section 321.19.~~ Special truck registration plates shall display the word "special".

Sec. 8. Section 321.166, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If the department reissues a new registration plate design for a special registration plate under section 321.34, all persons who have purchased or obtained the special registration plates shall not be required to pay the issuance fee.

Sec. 9. Section 321.176A, subsection 2, Code 1995, is amended to read as follows:

2. A firefighter while operating a fire vehicle for a volunteer or paid fire organization or a peace officer, as defined in section 801.4, while operating a commercial motor vehicle for a law enforcement agency under conditions necessary to preserve life or property or to execute related governmental functions.

Sec. 10. Section 321.181, Code 1995, is amended to read as follows:

321.181 TEMPORARY PERMIT.

The department may issue a temporary permit to an applicant for 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 the applicant's privilege to receive the motor vehicle license. The permit must be in the applicant's immediate possession while operating a motor vehicle. The temporary permit shall be invalid and returned to the department when the applicant's license is issued or when the license is denied.

Sec. 11. Section 321.190, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. The department shall not issue a card to a person holding a motor vehicle license. However, a card may be issued to a person holding a temporary permit under section 321.181. 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.

Sec. 12. Section 321.191, subsection 9, Code 1995, is amended to read as follows:

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, or barred. 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.

Sec. 13. Section 321.208, subsections 7 and 8, Code Supplement 1995, are amended to read as follows:

7. 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~~ thirty days' advance notice, disqualify the person from operating a commercial motor vehicle upon a highway.

8. 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 an 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 an 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 an alcohol concentration as defined in section 321J.1 of 0.04 or more, shall, without preliminary hearing and upon ~~twenty~~ thirty days' advance notice, disqualify the person from operating a commercial motor vehicle upon a highway.

The effective date of disqualification shall be ~~twenty~~ thirty days after notification. Immediate notice of disqualification may be served on a person operating a commercial motor vehicle who refused to submit to a test or whose test results indicate an alcohol concentration of 0.04 or more by the peace officer administering the chemical test or the department may notify the person by certified mail. If immediate notice is served, the peace officer shall take the commercial driver's license or permit of the driver, if issued within the state, and issue a temporary commercial driver's license effective for only ~~twenty~~ thirty days. The peace officer shall immediately send the person's commercial driver's license to the department in addition to the officer's certification required by this subsection.

Sec. 14. Section 321.209, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department ~~shall~~, upon ~~twenty~~ thirty days' notice and without preliminary hearing, shall revoke the license or operating privilege of an operator upon receiving a record of the operator's conviction for any of the following offenses, when such conviction has become final:

Sec. 15. Section 321.210, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Prior to a suspension taking effect under paragraph "a", "b", "c", "d", "e", or "f", the licensee shall have received ~~twenty~~ thirty 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.

Sec. 16. Section 321.213B, Code 1995, is amended to read as follows:

321.213B ~~REVOCATION~~ SUSPENSION FOR FAILURE TO ATTEND.

The department shall establish procedures by rule for ~~revoking~~ suspending the license of a juvenile who is in violation of section 299.1B or issuing the juvenile a temporary restricted license under section 321.215 if the juvenile is employed at least twenty hours per week.

Sec. 17. Section 321.215, subsection 2, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

Upon conviction and the suspension or revocation of a person's motor vehicle license under section 321.205 for a drug or drug-related offense; 321.209, subsection 5, 6, or 8; section 321.210; 321.210A; or 321.513; or upon the denial of issuance of a motor vehicle license under section 321.560, based solely on offenses enumerated in section 321.555, subsection 1, paragraph "c", or section 321.555, subsection 2; or a juvenile, whose license has been suspended under section 321.213A for a violation of chapter 124 or 453B, or section 126.3, ~~and upon the denial by the director of an application for a temporary restricted license,~~ a person may ~~apply to~~ petition 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 petition shall include a current certified copy of the petitioner's official driving record issued by the department. The application may be granted only if all of the following criteria are satisfied:

Sec. 18. Section 321.383, subsections 2 and 3, Code 1995, are amended to read as follows:

2. When operated on a highway in this state at a speed of ~~twenty-five~~ thirty miles per hour or less, every farm tractor, or tractor with towed equipment, self-propelled implement of husbandry, road construction or maintenance vehicle, road grader, horse-drawn vehicle, or any other vehicle principally designed for use off the highway and any such tractor, implement, vehicle or grader when manufactured for sale or sold at retail after the thirty-first of December, 1971, shall be identified with a reflective device of a type approved by the director; however, this provision shall not apply to such vehicles when traveling in any escorted parade. The reflective device shall be visible from the rear and mounted in a manner approved by the director. ~~All vehicles specified in this section shall be equipped with such reflective device after the thirty-first of December, 1971.~~ The director, when approving ~~such~~ the device, shall be guided as far as practicable by the standards of the American society of agricultural engineers. ~~No~~ A vehicle, other than those specified in this section, shall not display a reflective device ~~approved for the use herein described~~. On vehicles ~~specified herein~~ operating at speeds above ~~twenty-five~~ thirty miles per hour, the reflective device shall be removed or hidden from view.

3. Garbage collection vehicles, when operated on the streets or highways of this state at speeds of ~~twenty-five~~ thirty miles per hour or less, may display a reflective device of a type and in a manner approved by the director. At speeds in excess of ~~twenty-five~~ thirty miles per hour the device shall not be visible.

Sec. 19. Section 321E.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department and local authorities may in their discretion and upon application and with good cause being shown issue permits for the movement of construction machinery or asphalt repavers being temporarily moved on streets, roads or highways and for vehicles with indivisible loads which exceed the maximum dimensions and weights specified in sections 321.452 to 321.466, but not to exceed the limitations imposed in sections 321E.1 to 321E.15 except as provided in ~~sections~~ section 321E.29 ~~and 321E.30~~. Vehicles permitted to transport indivisible loads may exceed the width and length limitations specified in sections 321.454 and 321.457 for the purpose of picking up an indivisible load or returning from delivery of the indivisible load. Permits issued may be single-trip permits or annual permits. Permits shall be in writing and shall be carried in the cab of the vehicle

for which the permit has been issued and shall be available for inspection at all times. The vehicle and load for which the permit has been issued shall be open to inspection by a peace officer or an authorized agent of a permit granting authority. When in the judgment of the issuing authority in cities and counties the movement of a vehicle with an indivisible load or construction machinery which exceeds the maximum dimensions and weights will be unduly hazardous to public safety or will cause undue damage to streets, avenues, boulevards, thoroughfares, highways, curbs, sidewalks, trees, or other public or private property, the permit shall be denied and the reasons for denial endorsed on the application. Permits shall designate the days when and routes upon which loads and construction machinery may be moved within a county on other than primary roads.

Sec. 20. Section 321E.7, subsection 2, Code 1995, is amended to read as follows:

2. Special mobile equipment, as defined in section 321.1, subsection 75, is not subject to the requirements for distance in feet between the extremes of any group of axles or the extreme axles of the vehicle or combination of vehicles as required by this chapter when being moved upon the highways~~, except the interstate road system, as defined in section 306.3, subsection 4~~ if the operator has a permit issued under this chapter.

Sec. 21. Section 321E.9, subsection 2, Code 1995, is amended to read as follows:

2. Vehicles with indivisible loads exceeding the width, length, and total gross weight provided in subsection 1, may be moved in special or emergency situations, provided the ~~gross weight on any one axle shall not exceed the maximum prescribed in section 321.463~~ permitting authority has reviewed the route and has approved the movement of the vehicle and load. The vehicle and load shall be accompanied by an escort as required by rules adopted pursuant to chapter 17A. The issuing authority may impose any special restrictions as deemed necessary on movements or exempt movements from the restrictions of section 321E.11 by permit under this subsection.

Sec. 22. Section 321J.4, subsection 8, Code Supplement 1995, 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 upon the expiration of the minimum period of ineligibility for a temporary restricted license provided for under this section or section 321J.9, 321J.12, or 321J.20 for an order to the department to require the department to issue a temporary restricted license to the person notwithstanding section 321.560. The petition shall include a current certified copy of the petitioner's official driving record issued by the department. Upon the filing of a petition for a temporary restricted license under this section, the clerk of the district court in the county where the violation that resulted in the revocation occurred shall send notice of the petition to the department and the prosecuting attorney. The department and the prosecuting attorney shall each be given an opportunity to respond to and request a hearing on the petition. The court shall determine if the temporary restricted license is necessary for the person to maintain the person's present employment. However, a temporary restricted license shall not be ordered or issued for violations of section 321J.2A or to persons under the age of twenty-one who commit violations under section 321J.2. If the court determines that the temporary restricted license is necessary for the person to maintain the person's present employment, and that the minimum period of ineligibility for receipt of a temporary license has expired, 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. 23. Section 328.26, Code 1995, is amended to read as follows:

328.26 APPLICATION FOR REGISTRATION.

Every application for registration pursuant to sections 328.19 to 328.22 shall be made upon such forms, and shall contain such information, as the department may prescribe, and every application shall be accompanied by the full amount of the registration fee.

When an aircraft is registered to a person for the first time the ~~application for registration shall be accompanied by evidence that~~ fee submitted to the department shall include the tax imposed by section 422.43 or section 423.2 ~~has been paid~~ or evidence of the exemption of the aircraft from the tax imposed under section 422.43 or 423.2.

Sec. 24. Section 328.46, Code 1995, is amended to read as follows:

328.46 PENALTY FOR DELAY.

If a transfer of ownership of an aircraft subject to registration is not completed~~, as herein provided,~~ within ~~five~~ thirty days of the actual change of possession, a penalty of five dollars shall accrue against ~~said~~ the aircraft and ~~no~~ a certificate of registration ~~therefor~~ shall ~~thereafter issue~~ not be issued until ~~said~~ the penalty is paid.

Sec. 25. Section 328.51, Code 1995, is amended to read as follows:

328.51 ACCRUAL OF PENALTY.

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

Sec. 26. Sections 321.240 and 321E.30, Code 1995, are repealed.

Sec. 27. EFFECTIVE DATE. Sections 1, 4, 7, and 8 of this Act take effect January 1, 1997.

Approved April 23, 1996

CHAPTER 1153

JUDICIAL ADMINISTRATION - MISCELLANEOUS PROVISIONS

S.F. 2413

AN ACT relating to judicial administration, including the definition of a judicial officer, the administrative authority of certain judges within a district, and the retirement age of an associate juvenile judge and associate probate judge.

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

Section 1. Section 4.1, subsection 12, Code Supplement 1995, is amended to read as follows:

12. "Judicial officer" means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, an associate juvenile judge, an associate probate

judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.9206.

Sec. 2. Section 602.1101, subsection 8, Code 1995, is amended to read as follows:

8. "Judicial officer" means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, an associate juvenile judge, an associate probate judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.9206.

Sec. 3. Section 602.1211, subsection 3, Code 1995, is amended to read as follows:

3. A chief judge may appoint from among the other ~~district judges~~ judicial officers of the district, excluding the magistrates, one or more assistants to serve throughout the judicial district. A chief judge may remove a person from the position of assistant. An assistant shall have administrative duties as specified in court rules or in the order of appointment. An appointment or removal shall be made by judicial order and shall be filed with the clerk of the district court in each county in the judicial district.

Sec. 4. Section 602.1213, subsection 1, Code 1995, is amended to read as follows:

1. The ~~district judges~~ judicial officers within a judicial district, excluding the magistrates, may convene as an administrative body as necessary to:

a. Prescribe local court procedures, subject to the approval of the supreme court.

b. Advise the chief judge respecting supervision and administration of the judicial district.

c. Exercise other duties, as established by law or by the supreme court.

Sec. 5. Section 602.1610, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. The mandatory retirement age is seventy-two years for all district associate judges, associate juvenile judges, associate probate judges, and judicial magistrates. However, the mandatory retirement age does not apply to an associate juvenile judge or associate probate judge who is seventy-two years of age or older on July 1, 1996.

Sec. 6. Section 602.6404, subsection 1, Code 1995, is amended to read as follows:

1. A magistrate shall be a resident of the county of appointment during the magistrate's term of office. A magistrate shall serve within the judicial district in which appointed, as directed by the chief judge, provided that the chief judge may assign a magistrate to hold court outside of the county of the magistrate's residence ~~only if it is necessary~~ for the orderly administration of justice. A magistrate is subject to reassignment under section 602.6108.

Sec. 7. Section 633.18, subsection 2, Code 1995, is amended to read as follows:

2. The ~~district judges~~ judicial officers of a judicial district, excluding the magistrates, acting under section 602.1213 may prescribe rules for probate actions and proceedings within the district, but these rules must be consistent with this chapter, and are subject to the approval of the supreme court.

Approved April 23, 1996

CHAPTER 1154

INSTRUMENTS AFFECTING REAL ESTATE - CORPORATE SEAL REQUIREMENT
S.F. 2422

AN ACT removing the requirement that a corporation which has adopted a corporate seal affix the seal to all documents affecting real estate executed by the corporation.

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

Section 1. Section 558.2, Code 1995, is amended to read as follows:

558.2 CORPORATION HAVING SEAL.

In the execution of any written instrument conveying, encumbering, or affecting real estate by a corporation that has adopted a corporate seal, the seal of such corporation ~~shall~~ may but need not be attached or affixed to such written instrument.

Sec. 2. Section 558.3, Code 1995, is amended to read as follows:

558.3 CORPORATION NOT HAVING SEAL.

If the corporation has not adopted a corporate seal, such fact ~~shall~~ may but need not be stated in such written instrument.

Sec. 3. Section 558.39, subsection 3, Code 1995, is amended to read as follows:

3. In the case of corporations or joint-stock associations:

On this ..... day of ....., A.D. 19...., before me, a ..... (Insert title of acknowledging officer) in and for said county, personally appeared ....., to me personally known, who being by me duly (sworn or affirmed) did say that that person is ..... (Insert title of executing officer) of said (corporation or association)~~, that (the seal affixed to said instrument is the seal of said or no seal has been procured by the said) (corporation or association)~~ and that said instrument was signed ~~and sealed~~ on behalf of the said (corporation or association) by authority of its board of (directors or trustees) and the said ..... acknowledged the execution of said instrument to be the voluntary act and deed of said (corporation or association) by it voluntarily executed.

Sec. 4. Section 558.39, subsection 3A, Code 1995, is amended to read as follows:

3A. In the case of limited liability companies:

On this ..... day of ....., A.D. 19...., before me, a ..... (Insert title of acknowledging officer) in and for said county, personally appeared ....., to me personally known, who being by me duly (sworn or affirmed) did say that that person is ..... (Insert title of executing member) of said (limited liability company)~~, that (the seal affixed to said instrument is the seal of said or no seal has been procured by the said) (limited liability company)~~ and that said instrument was signed ~~and sealed~~ on behalf of the said (limited liability company) by authority of its managers and the said ..... acknowledged the execution of said instrument to be the voluntary act and deed of said (limited liability company) by it voluntarily executed.

Sec. 5. Section 558.39, subsection 6, Code 1995, is amended to read as follows:

6. In the case of a corporate fiduciary:

On this ..... day of ....., 19.., before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared ..... and ....., to me personally known, who, being by me duly sworn, did say that they are the ..... and ....., respectively, of the corporation executing the foregoing instrument; ~~that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation;~~ that the instrument was signed ~~(and sealed)~~ on behalf of the corporation by authority of its Board of Directors; that ..... and ..... acknowledged the execution of the instrument to be the voluntary act and deed of the corporation and of the fiduciary, by it, by them and as the fiduciary voluntarily executed.

Sec. 6. Section 558.39, subsection 7, Code 1995, is amended to read as follows:

7. In the case of a limited partnership with corporate general partner:

On this ..... day of ....., 19...., before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared ....., to me personally known, who being by me duly sworn did say that the person is the ..... of ....., the General Partner of ....., a ..... limited partnership, executing the foregoing instrument, ~~that no seal has been procured by the corporation;~~ that the instrument was signed on behalf of the corporation as General Partner of ....., a ..... limited partnership, by authority of the corporation's Board of Directors; and that ..... as that officer acknowledged execution of the instrument to be the voluntary act and deed of the corporation and limited partnership by it and by the officer voluntarily executed.

Sec. 7. Section 558.39, subsection 9, Code 1995, is amended to read as follows:

9. In the case of joint ventures:

On this ..... day of ....., 19...., before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared ..... and ....., to me personally known, who, being by me duly sworn, did say that they are the ..... and ....., respectively, of ....., an Iowa corporation, a joint venturer of ....., a joint venture, executing the foregoing instrument, ~~that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation;~~ that the instrument was signed ~~(and sealed)~~ on behalf of the corporation as a joint venturer of ....., a joint venture, by authority of its Board of Directors; and that ..... and ....., as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the corporation and joint venture, by the corporation and joint venture and by them voluntarily executed.

Sec. 8. Section 558.39, subsection 13, Code 1995, is amended to read as follows:

13. In the case of corporations or national banking associations acting as custodians pursuant to chapter 565B or any other Uniform Transfers to Minors Act:

On this ..... day of ....., 19...., before me, the undersigned, a Notary Public in and for said State, personally appeared ..... and ....., to me personally known, who, by me duly sworn, did say that they are the ..... and ....., respectively, of the Corporation executing the foregoing instrument; ~~that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation;~~ that the instrument was signed ~~(and sealed)~~ on behalf of the Corporation by authority of its Board of Directors; that ..... and ..... acknowledged the execution of the instrument as custodian of ..... (name of minor), under the ..... (State) Uniform Transfers to Minors Act, to be the voluntary act and deed of the person and of the custodian.

(In all cases add signature and title of the officer taking the acknowledgment, and strike from between the parentheses the word or clause not used, as the case may be.)

Sec. 9. Section 589.6, Code 1995, is amended to read as follows:

589.6 INSTRUMENTS AFFECTING REAL ESTATE.

All instruments in writing executed by a corporation before July 1, 1996, which are more than ~~ten years earlier~~ one year old, conveying, encumbering, or affecting real estate, including releases, satisfactions of mortgages, judgments, or any other liens by entry of the release or satisfaction upon the page where the lien appears recorded or entered, where the corporate seal of the corporation has not been affixed or attached, and which are otherwise legally and properly executed, are legal, valid, and binding as though the corporate seal had been attached or affixed.

Approved April 23, 1996

CHAPTER 1155

MUSIC LICENSING FEES

H.F. 230

AN ACT relating to procedural requirements for the enforcement of certain copyrights.

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

Section 1. NEW SECTION. 549.1 SHORT TITLE.

This chapter may be cited as the "Music Licensing Fees Act".

Sec. 2. NEW SECTION. 549.2 DEFINITIONS.

As used in this chapter:

1. "Copyright owner" means the owner of a copyright of a nondramatic musical work recognized and enforceable under the copyright laws of the United States under 17 U.S.C. § 101 et seq.

2. "Performing rights society" means an association or corporation, including an agent or employee of the association or corporation, that licenses the public performance of a nondramatic musical work on behalf of a copyright owner, including the American society of composers, authors and publishers (ASCAP), broadcast music, inc. (BMI), and the society of European stage authors and composers, inc. (SESAC).

3. "Proprietor" means the owner of a retail establishment, restaurant, inn, bar, tavern, or any other similar place of business located in this state in which the public may assemble and in which nondramatic musical works may be performed, broadcast, or otherwise transmitted.

4. "Royalty" or "royalties" means the license fee or fees payable by a proprietor to a performing rights society for the public performance of a nondramatic musical work.

Sec. 3. NEW SECTION. 549.3 LICENSING NEGOTIATIONS.

1. A performing rights society shall not enter onto the business premises of a proprietor for the purpose of discussing a contract for the payment of royalties by the proprietor, unless the performing rights society identifies itself to the proprietor and describes to the proprietor the purpose for entering onto the proprietor's business premises.

2. A performing rights society shall not enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless at the time of the offer, or any later time, but not later than seventy-two hours prior to the execution of the contract, the performing rights society provides to the proprietor, in writing, all of the following:

a. A schedule of the rates and terms of royalties under the contract.

b. Upon the request of the proprietor, the opportunity to review the most current available list of the members or affiliates represented by the performing rights society.

c. Notice that the performing rights society will make available, upon the written request of a proprietor, at the sole expense of the proprietor, the most current available listing of the copyrighted nondramatic musical or similar works in the performing rights society's repertory, provided that the notice shall specify the means by which the listing can be secured.

d. Notice that the performing rights society complies with federal law and orders of courts having appropriate jurisdiction regarding the rates and terms of royalties and the circumstances under which licenses for rights of public performance are offered to any proprietor.

Sec. 4. NEW SECTION. 549.4 ROYALTY CONTRACT REQUIREMENTS.

A contract for the payment of royalties between a performing rights society and a proprietor executed in this state shall meet all of the following requirements:

1. Be in writing.

2. Be signed by the parties.

3. Include, at a minimum, the following information:

a. The proprietor's name and business address and the name and location of each place of business to which the contract applies.

b. The name of the performing rights society.

c. The duration of the contract.

d. The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of rates for the duration of the contract.

Sec. 5. NEW SECTION. 549.5 IMPROPER LICENSING PRACTICES.

A performing rights society shall not collect, or attempt to collect, from a proprietor licensed by that performing rights society, a royalty payment except as provided in a contract executed pursuant to the provisions of this chapter.

Sec. 6. NEW SECTION. 549.6 INVESTIGATIONS.

This chapter shall not be construed to prohibit a performing rights society from conducting investigations to determine the existence of music use by a proprietor or informing a proprietor of the proprietor's obligations under the federal copyright law, 17 U.S.C. § 101 et seq.

Sec. 7. NEW SECTION. 549.7 REMEDIES - INJUNCTION.

A person who suffers a violation of this chapter may bring an action to recover actual damages and reasonable attorney's fees and to seek an injunction or any other available remedy.

Sec. 8. NEW SECTION. 549.8 REMEDIES CUMULATIVE.

The rights, remedies, and prohibitions contained in this chapter shall be in addition to and cumulative of any other right, remedy, or prohibition accorded by common law or state or federal law. This chapter shall not be construed to deny, abrogate, or impair any such common law or statutory right, remedy, or prohibition.

Sec. 9. NEW SECTION. 549.9 EXCEPTIONS.

This chapter shall not apply to a contract between a performing rights society or a copyright owner and a broadcaster licensed by the federal communications commission, or to a contract with a cable operator, programmer, or other transmission service. This chapter shall not apply to a nondramatic musical or similar work performed in synchronization with an audio or visual film or tape. This chapter shall also not apply to the gathering of information to determine compliance with or activities related to the enforcement of section 714.15.

Approved April 23, 1996

CHAPTER 1156

MULTIDISCIPLINARY COMMUNITY SERVICES TEAMS

S.F. 2294

AN ACT creating multidisciplinary community services teams and providing a penalty.

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

Section 1. NEW SECTION. 331.909 MULTIDISCIPLINARY COMMUNITY SERVICES TEAMS.

1. A county or multicounty consortium of agencies providing health, counseling, economic assistance, education, law enforcement, or therapeutic services may establish a multidisciplinary team for the more effective planning and delivery of services to an individual or family under the following conditions:

a. The team complies with federal regulations regarding confidentiality.

b. The agencies comprising the team have written confidentiality standards.

c. The agencies comprising the team enter into an annual interagency agreement to comply with confidentiality standards specified in the agreement.

d. An agency initiating a multidisciplinary team obtains a signed agreement from an individual authorizing the team to share information concerning the individual or the individual's family on a confidential basis.

2. The activities of a multidisciplinary community services team shall not duplicate the activities of a multidisciplinary team for child abuse under section 235A.13, dependent adult abuse activities under section 235B.6, area education agency activities under section 294A.14, or child victim services provided under section 910A.16.

3. A multidisciplinary community services team shall select a chairperson and other officers as deemed necessary by the members of the team. A multidisciplinary community services team is not a governmental body as defined in section 21.2 and is not subject to the provisions of chapter 21, relating to open meetings. Notwithstanding chapter 22, the confidentiality of information in the possession of a multidisciplinary team which is required by law to be confidential shall be maintained except as specifically provided by this section.

4. The members of a multidisciplinary community services team are expressly authorized to orally disclose personally identifying information to one another which is otherwise required by law to be confidential. Disclosure of confidential information other than oral information between team members under provisions of this section is expressly prohibited.

5. A member of a multidisciplinary community services team shall not use confidential information obtained from another team member except in the best interests of the subject of the confidential information and shall not disclose such information to another person except as otherwise authorized by law. A member of a multidisciplinary community services team who willfully uses or discloses confidential information in violation of this section commits a serious misdemeanor. Notwithstanding section 903.1, the penalty for a person convicted pursuant to this subsection is a fine of not more than five hundred dollars in the case of a first offense and not more than five thousand dollars in the case of each subsequent offense.

Approved April 23, 1996

CHAPTER 1157

OPEN ENROLLMENT – INSTRUCTIONAL SUPPORT FOR REORGANIZED SCHOOL DISTRICTS

S.F. 2201

AN ACT relating to the open enrollment application and implementation process and to instructional support for reorganized school districts.

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

Section 1. Section 282.18, subsection 2, Code 1995, is amended to read as follows:

2. By ~~October 30~~ January 1 of the preceding school year, the parent or guardian shall

send notification to the district of residence, 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 for enrollment in the receiving district.~~ 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~~ January 1 of the previous year, and one of the criteria defined in subsection 18 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 directors of a school district may adopt a policy granting the superintendent of the district authority to approve open enrollment applications that are timely filed. However, the board of directors shall not grant the superintendent authority to deny open enrollment applications, except as provided in subsection 4. The board of the district of residence, or the superintendent with the board's authority to only approve applications, shall take action on the request no later than ~~November 30~~ February 1 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 at any time prior to the start of the school year. The board of the receiving district, or the superintendent with the board's authority to approve applications only, shall take action to approve or disapprove the request no later than ~~December 31~~ March 1 of the preceding school year. The board of the receiving 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. If the request is granted, the board shall transmit a copy of the form to the school district of residence within five days after board action.

Sec. 2. Section 282.18, subsections 7, 8, and 18, Code 1995, are amended to read as follows:

7. A request under this section is for a period of not less than one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian may petition the current receiving district by ~~October 30~~ January 1 of the previous school year for permission to enroll the pupil in a different district for a period of not less than one year. Upon receipt of such a request, the current receiving district board may act on the request to transfer to the other school district at the next regularly scheduled board meeting after 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 the court-ordered or voluntary desegregation plan of the district. A denial of a request to change district enrollment within the approved period is subject to appeal under section 290.1. However, a pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

8. 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~~ state cost per pupil ~~of~~ for the ~~two districts~~ previous school year, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 4, for ~~each~~ the previous school year multiplied by the state cost for the previous year. The district of residence shall also transmit the phase III moneys allocated to the district for the previous year 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.

18. 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 removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, 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.

Sec. 3. Section 282.18, subsection 12, Code 1995, is amended by striking the subsection.

Sec. 4. INSTRUCTIONAL SUPPORT FOR REORGANIZED SCHOOL DISTRICTS. Notwithstanding section 257.18, subsection 3, and section 257.27, a school district participating in an instructional support program on or after July 1, 1995, which reorganizes effective July 1, 1996, may continue to participate in the instructional support program for the budget year beginning July 1, 1996. The percent of income surtax imposed for the budget year beginning July 1, 1996, by the board of directors of the school district that reorganizes effective July 1, 1996, shall not exceed seventeen percent.

Approved April 23, 1996

CHAPTER 1158

POSTSECONDARY SCHOOLS AND LOAN PROGRAMS

S.F. 2157

AN ACT relating to postsecondary educational programs, the duties of the college student aid commission in administering the Iowa guaranteed loan program, creating a chiropractic loan revolving fund, providing for matters related to the chiropractic graduate student forgivable loan program, modifying the registration requirements for postsecondary schools, and increasing registration fees.

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

Section 1. Section 261.37, subsections 3 and 6, Code 1995, are amended to read as follows:

3. Collect an insurance premium of not more than ~~one percent per annum of the principal amount of any loan guaranteed, beginning with the date of disbursement and ending one year after the date on which the borrower expects to complete the course of study for which the loan was made~~ the amount authorized by the federal Higher Education Act of 1965. ~~Such~~ The premium shall be collected by the lender upon the disbursement of the loan and shall be remitted promptly to the commission.

6. To reimburse eligible lenders for ~~one hundred percent of the principal and accrued interest~~ the amount authorized by the federal Higher Education Act of 1965 on defaulted loans guaranteed by the commission upon receipt of written notice of ~~such~~ the default accompanied by evidence that the lender has exercised the required degree of diligence in efforts to collect the loan.

Sec. 2. Section 261.71, subsection 1, paragraph d, Code Supplement 1995, is amended to read as follows:

d. The student has ~~made application for, using the procedures specified in section 261.16, and~~ received a loan from moneys ~~through~~ appropriated to the college student aid commission ~~from the funds allocated~~ for ~~loans under~~ this ~~section~~ program.

Sec. 3. Section 261.71, subsection 2, Code Supplement 1995, is amended to read as follows:

2. Of the moneys loaned to an eligible student, for each year of up to and including four years of practice in Iowa, ~~the~~ an amount ~~of~~ equal to twenty-five percent of the original principal and the proportionate share of accrued interest, or one thousand one hundred dollars, whichever is greater, shall be forgiven. If a student fails to complete a year of practice in the state, as practice is defined by the college student aid commission, the loan amount for that year shall not be forgiven. Forgivable loans made to eligible students shall not become due, for repayment purposes, until one year after the student has ~~completed the student's residency~~ graduated. A loan that has not been forgiven may be sold to a bank, savings and loan association, credit union, or nonprofit agency eligible to participate in the guaranteed student loan program under the federal Higher Education Act of 1965, 20 U.S.C. § 1071 et seq., by the commission when the loan becomes due for repayment.

Sec. 4. NEW SECTION. 261.72 CHIROPRACTIC LOAN REVOLVING FUND.

A chiropractic loan revolving fund is created in the state treasury as a separate fund under the control of the commission. The commission shall deposit payments made by chiropractic loan recipients and the proceeds from the sale of chiropractic loans, less costs of collection of delinquent chiropractic loans, into the chiropractic loan revolving fund. Moneys credited to the fund shall be used to supplement moneys appropriated for the chiropractic forgivable loan program, for loan forgiveness to eligible chiropractic physicians and to pay for loan or interest repayment defaults by eligible chiropractic physicians. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 5. Section 261B.2, subsection 1, Code 1995, is amended to read as follows:

1. "Degree" means a postsecondary credential conferring on the recipient the title ~~or symbol which signifies or purports to signify completion of the requirements of an academic, educational, or professional program of study beyond the secondary school level~~ of associate, bachelor, master, or doctor, or an equivalent title, signifying educational attainment based on any one or a combination of study or the equivalent experience or achievement testing. A postsecondary degree under this chapter shall not include an honorary degree or other unearned degree.

Sec. 6. Section 261B.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Presence" means maintaining an address within Iowa.

Sec. 7. Section 261B.3, Code 1995, is amended to read as follows:

261B.3 REGISTRATION.

1. A school that maintains or conducts one or more courses of instruction, including courses of instruction by correspondence, offered in this state or which has a presence in this state and offers courses in other states or foreign countries shall register annually with the secretary. Registration shall be made on application forms approved and supplied by the secretary and at the time and in the manner prescribed by the secretary. Upon receipt of a complete and accurate registration application, the secretary shall issue ~~a certificate of registration~~ an acknowledgment of document filed and send it to the school.

2. The secretary may request additional information as necessary to enable the secretary to determine the accuracy and completeness of the information contained in the registration application. If the secretary believes that false, misleading, or incomplete

information has been submitted in connection with an application for registration, the secretary may deny registration. The secretary shall conduct a hearing on the denial if a hearing is requested by a school. The secretary may withhold ~~a certificate of registration~~ an acknowledgment of document filed pending the outcome of the hearing. Upon a finding after the hearing that information contained in the registration application is false, misleading, or incomplete, the secretary shall deny ~~a certificate of registration~~ an acknowledgment of document filed to the school. The secretary shall make the final decision on each registration. ~~The~~ However, the decision of the secretary is subject to judicial review in accordance with section 17A.19.

3. The secretary shall utilize the advisory committee created in section 261B.10 in reviewing new and continuing registrations.

4. The secretary shall adopt rules under chapter 17A for the implementation of this chapter.

Sec. 8. NEW SECTION. 261B.3A REQUIREMENT.

A school offering courses or programs of study leading to a degree in the state of Iowa shall be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency and be approved for operation by the appropriate state agencies in all other states in which it operates or maintains a presence. A school is exempt from this section if the programs offered by the school are limited to nondegree specialty vocational training programs.

Sec. 9. Section 261B.4, subsections 2 and 11, Code 1995, are amended to read as follows:

2. The principal location of the school in this state, in other states, and in foreign countries, and the location of the place or places in this state, in other states, and in foreign countries where instruction is likely to be given.

11. The names or titles and a description of the courses and degrees to be offered ~~in this state~~.

Sec. 10. Section 261B.4, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. The academic and instructional methodologies and delivery systems to be used by the school and the extent to which the school anticipates each methodology and delivery system will be used, including but not limited to, classroom instruction, correspondence, electronic telecommunications, independent study, and portfolio experience evaluation.

Sec. 11. Section 261B.8, Code 1995, is amended to read as follows:

261B.8 REGISTRATION FEES.

The secretary shall collect an initial registration fee of ~~fifty~~ one thousand dollars and an annual renewal of registration fee of ~~twenty-five~~ five hundred dollars from each registered school.

Sec. 12. Section 261B.10, Code 1995, is amended to read as follows:

261B.10 ADVISORY COMMITTEE.

The state advisory committee for postsecondary school registration is created. The committee shall consist of the secretary of state and seven members appointed by the coordinating council for post-high school education. Members shall serve for staggered four-year terms and shall include representatives from public and private two-year and four-year colleges, universities, and specialized and vocational schools.

The committee shall meet at least annually to advise the secretary and other agencies in matters relating to the administration of this chapter and to serve as a resource and advisory board to the secretary as needed. The secretary shall serve as chairperson of the advisory committee and may call meetings and set the agenda as needed.

Sec. 13. Section 261B.11, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 9. Postsecondary educational institutions licensed by the state of Iowa to conduct business in the state.

NEW SUBSECTION. 10. Accredited higher education institutions that meet the criteria established under section 261.92, subsection 1.

Approved April 24, 1996

CHAPTER 1159

REGULATION OF INDUSTRIAL LOAN COMPANIES

H.F. 2453

AN ACT relating to the regulation of industrial loan companies by establishing certain requirements applicable to a change of control, providing for the appointment of the superintendent or the federal deposit insurance corporation as receiver, and requiring an industrial loan company to obtain federal deposit insurance for certain debt instruments, and making a penalty applicable.

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

Section 1. Section 536A.12, Code 1995, is amended to read as follows:

536A.12 CONTINUING LICENSE - ANNUAL FEE - CHANGE OF LOCATION - CHANGE OF CONTROL.

1. Each such license remains in full force and effect until surrendered, revoked, or suspended, or until there is a change of control on or after January 1, 1996. A licensee ~~shall~~, on or before the second day of January, shall pay to the superintendent the sum of fifty dollars as an annual license fee for the succeeding calendar year. When a licensee changes its place of business from one location to another in the same city, it shall at once give written notice to the superintendent who shall attach to the license in writing the superintendent's record of the change and the date of the change, which is authority for the operation of the business under that license at the new place of business.

2. A person who proposes to purchase or otherwise acquire, directly or indirectly, any of the outstanding shares of an industrial loan company which would result in a change of control of the industrial loan company, shall first apply in writing to the superintendent for a certificate of approval for the proposed change of control. The superintendent shall grant the certificate if the superintendent is satisfied that the person who proposes to obtain control of the industrial loan company is qualified by character, experience, and financial responsibility to control and operate the industrial loan company in a sound and legal manner, and that the interests of the thrift certificate holders, creditors, and shareholders of the industrial loan company, and of the public generally, shall not be jeopardized by the proposed change of control. If a board member of the industrial loan company has reason to believe any of the requirements of this subsection have not been complied with, the board member shall promptly report in writing such facts to the superintendent. If there is any doubt as to whether a change in the ownership of the outstanding shares is sufficient to result in control of the industrial loan company, or to effect a change in the control of the industrial loan company, such doubt shall be resolved in favor of reporting the facts to the superintendent.

3. a. For purposes of this section, "control" means control as defined in section 524.103. However, a change of control does not occur when a majority shareholder of an industrial

loan company transfers the shareholder's shares of the industrial loan company to a revocable trust, so long as the transferor retains the power to revoke the trust and take possession of such shares.

b. Notwithstanding the provisions of paragraph "a", a change of control is deemed to occur two years after the death of the majority shareholder, whether the shareholder's shares of the industrial loan company are held in a revocable trust or otherwise.

Sec. 2. Section 536A.19, Code 1995, is amended to read as follows:

536A.19 RECEIVERSHIP - LIQUIDATION.

1. If the superintendent ~~shall revoke~~ revokes the license of any industrial loan company the superintendent shall promptly report the revocation to the attorney general ~~of Iowa~~ who may apply to the district court of the county in which the licensee had conducted its business for the appointment of a receiver to take possession of the assets of the corporation for the purpose of liquidating its affairs. The court shall appoint the superintendent as receiver unless the superintendent has tendered the appointment to the federal deposit insurance corporation, in which case the court shall appoint the federal deposit insurance corporation as receiver. The affairs of the industrial loan company, after such appointment, shall be under the direction of the court. The attorney general shall represent the superintendent in all proceedings connected with the receivership.

2. When an insured industrial loan company has ceased to carry on its business, the superintendent may tender the appointment as receiver of the insured industrial loan company to the federal deposit insurance corporation. If the federal deposit insurance corporation accepts the appointment as receiver, the rights of depositors and other creditors of the insured industrial loan company shall be determined in accordance with the laws of this state.

3. The federal deposit insurance corporation as receiver shall possess all of the powers, rights, and privileges of the superintendent in connection with the liquidation.

4. If the federal deposit insurance corporation pays or makes available for payment the insured deposit liabilities of an insured industrial loan company, the federal deposit insurance corporation, whether or not it has become receiver, shall be subrogated to all rights of the owners of such deposits against the insured industrial loan company in the same manner and to the same extent as subrogation of the federal deposit insurance corporation is provided for in applicable federal law with respect to a national bank.

Sec. 3. Section 536A.22, Code 1995, is amended to read as follows:

536A.22 THRIFT CERTIFICATES.

Licensed industrial loan companies may sell senior debt to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness if such debt instruments are insured by a federal deposit insurance agency. Licensees selling debt instruments on January 1, 1996, may continue to do so without obtaining federal deposit insurance until there is a change of control of the licensee which occurs on or after January 1, 1996. If there is a change of control of a licensee on or after January 1, 1996, and the licensee has sold senior debt instruments that are not insured by a federal deposit insurance agency, such outstanding senior debt instruments that do not have a stated maturity date shall be redeemed within six months of the date of the change of control. Such outstanding senior debt instruments with stated maturity dates shall be redeemed on their stated maturity dates.

PARAGRAPH DIVIDED. The total amount of such thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness outstanding and in the hands of the general public shall not at any time exceed ten times the total amount of capital, surplus, undivided profits, and subordinated debt that gives priority to such securities of the issuing industrial loan company. The sale of such securities is subject to the provisions of chapter 502 and rules adopted by the superintendent of banking pursuant to chapter 17A, and shall not be construed to be exempt by

reason of the provisions of section 502.202, subsection 10, except that the sale of thrift certificates or installment thrift certificates which are redeemable by the holder either upon demand or within a period not in excess of five years are exempt from sections 502.201 and 502.602.

For purposes of this section, "control" means control as defined in section 524.103.

Approved April 24, 1996

CHAPTER 1160

MISCELLANEOUS INSURANCE DIVISION REGULATORY PROVISIONS

H.F. 2498

AN ACT relating to entities and subject matter under the regulatory authority of the division of insurance, including prearranged funeral contracts, cemeteries, residential service contracts, and business opportunities, and establishing fees.

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

Section 1. Section 523A.2, subsection 1, paragraph c, Code Supplement 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner, by rule, may waive receipt of any or all of the information listed in this lettered paragraph and adopt a shorter form of annual report. The shorter form may be used for all establishments or for establishments meeting specified criteria. If the commissioner does adopt a shorter form of annual report, the commissioner shall retain the authority to require all of the information listed above for audit purposes or otherwise. The commissioner may accept annual reports submitted in an electronic format, such as computer diskettes.

Sec. 2. Section 523A.2, subsection 1, paragraph d, Code Supplement 1995, is amended to read as follows:

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. The commissioner may accept annual reports submitted in an electronic format, such as computer diskettes.

Sec. 3. Section 523A.10, subsections 4 and 5, Code 1995, are amended to read as follows:

4. 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~~ An initial permit under this section shall expire one year from the date the application is filed. The permit may be renewed for a period of four years.

5. The initial application fee shall be five dollars. The renewal fee shall be twenty dollars.

Sec. 4. Section 523A.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding chapter 22, keep confidential the information obtained in the course of an investigation. However, if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public,

the commissioner may share information with other regulatory authorities or governmental agencies, or may publish information concerning a violation of this chapter or a rule or order under this chapter.

Sec. 5. Section 523A.12, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The permit holder is found to have sold the establishment and has not filed notice of the sale with the commissioner prior to the sale. The permit shall be revoked thirty days following such sale.

Sec. 6. Section 523A.14, Code 1995, is amended to read as follows:

523A.14 INJUNCTIONS.

The attorney general or the commissioner 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 or the commissioner 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. 7. Section 523A.19, subsection 2, Code 1995, is amended to read as follows:

2. The attorney general or the commissioner 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. 8. Section 523B.8, subsections 1 and 4, Code 1995, are amended to read as follows:

1. If it appears to the administrator that a person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule or order adopted or issued under this chapter, the administrator may issue an order directed at the person requiring the person to cease and desist from engaging in the act or practice. The person named in the order may, within fourteen days ~~after receipt~~ of the date of the order, file a written request for a hearing. The hearing shall be held in accordance with chapter 17A.

Any consent agreement between the administrator and the seller may be filed in the miscellaneous docket of the clerk of the district court.

4. If it appears to the administrator that a person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this chapter, or of a rule or order adopted or issued under this chapter, the administrator may take either or both of the following actions:

a. Notify the attorney general who shall bring an action in the district court to enjoin the acts or practices constituting the violation and to enforce compliance with this chapter or any rule or order adopted or issued pursuant to this chapter. Upon a proper showing a permanent or temporary injunction shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

b. ~~Sue on behalf of a purchaser to enforce the purchaser's rights.~~ Bring an action in district court. Upon proper showing by the administrator, the court may enter an order of rescission, restitution, or disgorgement, as well as prejudgment and postjudgment interest, directed at any person who has engaged in an act constituting a violation of this chapter. The administrator shall not be required to post bond.

Sec. 9. Section 523B.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Notwithstanding chapter 22, keep confidential the information obtained in the course of an investigation. However, if the administrator determines

that it is necessary or appropriate in the public interest or for the protection of the public, the administrator shall share information with other regulatory authorities or governmental agencies, or may publish information concerning a violation of this chapter or a rule or order under this chapter.

Sec. 10. Section 523C.16, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A service contract, guarantee or warranty issued by a manufacturer, third party or retail company, covering the repair, maintenance or replacement of individual appliances and other individual items of merchandise marketed and sold by a retail company, in the ordinary course of business.

Sec. 11. Section 523E.2, subsection 1, paragraph c, Code Supplement 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner, by rule, may waive receipt of any or all of the information listed in this lettered paragraph and adopt a shorter form of annual report. The shorter form may be used for all establishments or for establishments meeting specified criteria. If the commissioner does adopt a shorter form of annual report, the commissioner shall retain the authority to require all of the information listed above for audit purposes or otherwise. The commissioner may accept annual reports submitted in an electronic format, such as computer diskettes.

Sec. 12. Section 523E.2, subsection 1, paragraph d, Code Supplement 1995, is amended to read as follows:

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. The commissioner may accept annual reports submitted in an electronic format, such as computer diskettes.

Sec. 13. Section 523E.10, subsections 3 and 4, Code 1995, are amended to read as follows:

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~~ An initial permit under this section shall expire one year from the date the application is filed. The permit may be renewed for a period of four years.

4. The initial application fee shall be five dollars and the renewal fee shall be twenty 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.

Sec. 14. Section 523E.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding chapter 22, keep confidential the information obtained in the course of an investigation. However, if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public, the commissioner may share information with other regulatory authorities or governmental agencies, or may publish information concerning a violation of this chapter or a rule or order under this chapter.

Sec. 15. Section 523E.12, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The permit holder is found to have sold the establishment and has not filed notice of the sale with the commissioner prior to the sale. The permit shall be revoked thirty days following such sale.

Sec. 16. Section 523E.14, Code 1995, is amended to read as follows:

523E.14 INJUNCTIONS.

The attorney general or the commissioner 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 or the commissioner 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. 17. Section 523E.19, subsection 2, Code 1995, is amended to read as follows:

2. The attorney general or the commissioner 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. 18. Section 523I.3, subsections 2 and 3, Code Supplement 1995, are amended to read as follows:

2. Applications for a permit shall be made to and filed with the commissioner on forms approved by the commissioner ~~and accompanied by a filing fee of twenty dollars~~. If the application contains the following information, the commissioner shall issue the license:

a. The name and principal address of the applicant.

b. The identity of the applicant's owner or owners.

c. Evidence of a trust fund for cemetery maintenance and care in compliance with section 566A.3 or 566A.4.

3. Each permit issued under this chapter shall expire on June 30 of the fourth year following the date of issuance.

Sec. 19. Section 566A.3, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

~~Any~~ Except for political subdivisions of the state, any such organization subject to the provisions of this chapter which is organized or commences business in the state of Iowa after July 4, 1953 and desires to operate as a perpetual care cemetery shall, before selling or disposing of any interment space or lots, establish a minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in cash. The perpetual care and maintenance guarantee fund shall be permanently set aside in trust to be administered under the jurisdiction of the district court of the county wherein the cemetery is located. Notwithstanding chapter 633, annual reports shall not be required unless specifically required by the district court. Reports shall be filed as necessary to approve trustees, trust agreements and amendments, changes in fees or expenses, and other matters within the district court's jurisdiction. The district court so having jurisdiction shall have full jurisdiction over the approval of trustees, reports and accounting of trustees, amount of surety bond required, and investment of funds. Only the income from such fund shall be used for the care and maintenance of the cemetery for which it was established.

Sec. 20. Sections 523A.23 and 523E.22, Code Supplement 1995, are repealed.

Approved April 24, 1996

CHAPTER 1161

LEAD ABATEMENT AND INSPECTION

S.F. 2301

AN ACT relating to lead abatement and inspection, training and certification requirements, providing penalties, and providing a contingent effective date.

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

Section 1. NEW SECTION. 135.105A LEAD INSPECTOR AND LEAD ABATER TRAINING AND CERTIFICATION ESTABLISHED.

1. The department shall establish a program for the training and certification of lead inspectors and lead abaters who provide inspections and abatement for monetary compensation. The department shall maintain a listing, available to the public and to city and county health departments, of lead inspectors and lead abaters who have successfully completed the training program and have been certified by the department. A person may be certified as both a lead inspector and a lead abater. However, a person who is certified as both a lead inspector and as a lead abater shall not provide both inspection and abatement services at the same site unless a written consent or waiver, following full disclosure by the person, is obtained from the owner or manager of the site.

2. The department shall also establish a program for the training of painting, demolition, and remodeling contractors and those who provide mitigation control services for monetary compensation. The training shall be completed on a voluntary basis.

3. A person who owns or manages real property is not required to obtain certification to perform mitigation control or abatement measures of property which the person owns or manages. However, the department shall encourage property owners and managers to complete the training course to ensure the use of appropriate and safe mitigation and abatement procedures.

4. A person shall not perform lead abatement or lead inspections for compensation unless the person has completed a training program approved by the department and has obtained certification. A person who violates this section is subject to a civil penalty not to exceed five thousand dollars for each offense.

Sec. 2. NEW SECTION. 135.105B VOLUNTARY GUIDELINES - HEALTH AND ENVIRONMENTAL MEASURES - CONFIRMED CASES OF LEAD POISONING.

1. The department may develop voluntary guidelines which may be used to develop and administer local programs to address the health and environmental needs of children who are confirmed as lead poisoned.

2. The voluntary guidelines may be based upon existing local ordinances that address the medical case management of children's health needs and the mitigation of the environmental factors which contributed to the lead poisoning.

3. Following development of the voluntary guidelines, cities or counties may elect to utilize the guidelines in developing and administering local programs through city or county health departments on a city, county, or multicounty basis or may request that the state develop and administer the local program. However, cities and counties are not required to develop and administer local programs based upon the guidelines.

Sec. 3. ADOPTION OF RULES. The department shall adopt rules regarding training, certification, suspension, and revocation requirements and shall implement the training and certification program established in section 135.105A. The department shall seek federal funding and shall establish fees in amounts sufficient to defray the costs of the training and certification program.

Sec. 4. CONTINGENT EFFECTIVE DATE. This Act takes effect only after the department obtains certification from the United States environmental protection agency as an

accredited program to train and certify lead inspectors and abaters. However, the department may establish a temporary program for the voluntary certification of lead inspectors and lead abaters during the period prior to obtaining certification as an accredited program from the United States environmental protection agency.

Approved April 24, 1996

CHAPTER 1162

ACCESS TO LIST OF INTERPRETERS - DEAF AND HARD OF HEARING
S.F. 2321

AN ACT relating to the nonconfidentiality of information regarding the qualifications of interpreters for the deaf services division of the department of human rights.

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

Section 1. Section 622B.4, Code 1995, is amended to read as follows:
622B.4 LIST.
The division of deaf services of the department of human rights shall prepare and continually update a listing of qualified and available interpreters. The courts and administrative agencies shall maintain a directory of qualified interpreters for deaf and hard-of-hearing persons as furnished by the department of human rights. The division of deaf services shall maintain ~~information on the qualifications~~ a list of interpreters~~, which information is confidential except~~ which shall be made available to a court, administrative agency, or interested parties to an action using the services of an interpreter.

Approved April 24, 1996

CHAPTER 1163

JUROR AND WITNESS FEES AND EXPENSES
S.F. 2207

AN ACT relating to the reimbursement of jurors and witnesses for transportation and mileage expenses.

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

Section 1. Section 607A.3, Code 1995, is amended by adding the following new subsection:
NEW SUBSECTION. 2A. "Disabled" means a person who is not physically able to operate a motor vehicle or use public transportation without assistance due to a physical disability.

Sec. 2. Section 607A.8, Code 1995, is amended to read as follows:
607A.8 FEES AND EXPENSES FOR JURORS.
Grand jurors and petit jurors in all courts shall receive ten dollars as compensation for

each day's service or attendance, including attendance required for the purpose of being considered for service, reimbursement for mileage expenses at the rate specified in ~~section 70A.9 or~~ section 602.1509 for each mile traveled each day to and from their residences to the place of service or attendance, and reimbursement for actual expenses of parking, as determined by the clerk. A juror who is disabled may receive reimbursement for the costs of alternate transportation from the disabled juror's residence to the place of service or attendance. A juror shall not receive reimbursement for mileage expenses or actual expenses of parking when the juror travels in a vehicle for which another juror is receiving reimbursement for mileage and parking expenses.

Sec. 3. Section 622.69, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Witnesses shall receive ten dollars for each full day's attendance, and five dollars for each attendance less than a full day, and mileage expenses ~~at the rate specified in section 70A.9~~ pursuant to section 602.1509 for each mile actually traveled.

Approved April 24, 1996

CHAPTER 1164

CONTROLLED SUBSTANCES

S.F. 2154

† **AN ACT** relating to certain drug offenses and penalties by increasing the penalties for certain offenses involving methamphetamine, creating new offenses involving ephedrine, and expanding the types of real property within one thousand feet of which a person who unlawfully possesses a substance is subject to an increased penalty.

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

Section 1. Section 124.401, subsection 1, paragraph a, subparagraph (2), subparagraph subdivision (d), Code 1995, is amended to read as follows:

(d) Methamphetamine, its salts, isomers, or salts of isomers.

(e) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph subdivisions (a) through ~~(c)~~ (d).

Sec. 2. Section 124.401, subsection 1, paragraph b, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) More than five grams but not more than five kilograms of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

Sec. 3. Section 124.401, subsection 1, paragraph c, Code 1995, is amended by adding the following new subparagraph (6) and renumbering the subsequent subparagraph:

NEW SUBPARAGRAPH. (6) Five grams or less of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

Sec. 4. Section 124.401, Code 1995, is amended by adding the following new subsections:

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

NEW SUBSECTION. 2A. It is unlawful for any person to sell, distribute, or make available any product containing ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, if the person knows, or should know, that the product may be used as a precursor to any illegal substance or an intermediary to any controlled substance. A person who violates this subsection commits a serious misdemeanor.

NEW SUBSECTION. 2B. It is unlawful for any person to possess any product containing ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, with the intent to use the product as a precursor to any illegal substance or an intermediary to any controlled substance. A person who violates this subsection commits a class "D" felony.

Sec. 5. Section 124.401A, Code 1995, is amended to read as follows:

124.401A ENHANCED PENALTY FOR 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 or possesses with intent to distribute a substance or counterfeit substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, 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, public swimming pool, public recreation center, or on a marked school bus, may~~, at the judge's discretion,~~ be sentenced up to an additional term of confinement of five years.

Sec. 6. Section 124.401B, Code 1995, is amended to read as follows:

124.401B POSSESSION OF CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY – ADDITIONAL PENALTY.

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, 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, public swimming pool, public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

Sec. 7. Section 232.22, subsection 1, paragraph e, subparagraph (3), Code Supplement 1995, is amended to read as follows:

(3) A mixture or substance containing methamphetamine, its salts, isomers, ~~and~~ or salts of isomers, or analogs of methamphetamine, and if the act was committed by an adult, it would be a violation of section 124.401, subsection 1~~, paragraph "c", subparagraph (6)~~.

Sec. 8. EPHEDRINE STUDY. The board of pharmacy examiners and the department of public safety shall conduct a study of uses not approved by the United States food and drug administration, and uses as a precursor in the production of illegal substances, of ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine. The study shall include a review of regulations in other states relating to, but not limited to, inappropriate or illegal uses of ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine. The secretary of the

board of pharmacy examiners and the commissioner of public safety shall report the findings and recommendations of the study to the general assembly on or before January 2, 1997.

Approved April 24, 1996

CHAPTER 1165

DEPARTMENT OF CORRECTIONS - MISCELLANEOUS PROVISIONS

S.F. 2289

† **AN ACT** relating to the department of corrections, including operating while intoxicated violator facilities, reimbursement by parole violators, tort claims protection for certain persons, and inmate accounts.

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

Section 1. Section 669.2, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

"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, nurses, physician assistants, and other medical personnel, who render services to patients ~~and~~ or inmates of state institutions under the jurisdiction of the department of human services, and employees of the commission of veterans affairs, 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 904.703, are to be considered employees of the state.

Sec. 2. Section 904.513, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

904.513 ASSIGNMENT OF OWI VIOLATORS TO TREATMENT FACILITIES.

1. The department of corrections, in cooperation with the judicial district departments of correctional services, shall establish in each judicial district a continuum of programming for the supervision and treatment of offenders convicted of violating chapter 321J who are sentenced to the custody of the director. The continuum shall include a range of sanctioning options that include, but are not limited to, prisons and residential facilities. The department of corrections shall develop standardized assessment criteria for the assignment of offenders pursuant to this chapter. Assignment shall be for the purposes of risk management and substance abuse treatment and may include education or work programs when the offender is not participating in other program components. Assignment may also be made on the basis of the offender's treatment program performance, as a disciplinary measure, for medical needs, and for space availability at community residential facilities. If there is insufficient space at a community residential facility the court may order an offender to be released to the supervision of the judicial district department of correctional services or held in jail.

2. Upon request by the director a county shall provide temporary confinement for

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

offenders allegedly violating the conditions of assignment to a program under this chapter, if space is available in the county. The department shall negotiate a reimbursement rate with each county. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. A county holding offenders in jail due to insufficient space in a community residential facility shall be reimbursed. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director.

3. The department shall adopt rules for the implementation of this section. The rules shall include the requirement that the treatment programs established pursuant to this chapter meet the licensure standards of the division of substance abuse for the department of public health. The rules shall also include provisions for the funding of the program by means of self-contribution by the offenders, insurance reimbursement on behalf of offenders, or other forms of funding, program structure, criteria for the evaluation of offenders and programs, and all other issues the director shall deem appropriate.

Sec. 3. Section 904.702, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

If allowances are paid pursuant to section 904.701, the director shall establish an inmate account, for deposit of those allowances and for deposit of moneys sent to the inmate from a source other than the department of corrections. The director may deduct an amount, not to exceed ten percent of the amount of the allowance, unless the inmate requests a larger amount, to be deposited into the inmate savings fund as required under section 904.508, subsection 2. The director shall deduct from the inmate account an amount established by the inmate's restitution plan of payment. The director shall also deduct from any remaining account balance an amount sufficient to pay all or part of any judgment against the inmate, including but not limited to judgments for taxes and child support, and court costs and fees assessed either as a result of the inmate's confinement or amounts required to be paid under section 610A.1. Written notice of the amount of the deduction shall be given to the inmate, who shall have five days after receipt of the notice to submit in writing any and all objections to the deduction to the director, who shall consider the objections prior to transmitting the deducted amount to the clerk of the district court. The director need give only one notice for each action or appeal under section 610A.1 for which periodic deductions are to be made. The director shall next deduct from any remaining account balance an amount sufficient to pay all or part of any costs assessed against the inmate for misconduct or damage to the property of others. The director may deduct from the inmate's account an amount sufficient to pay for the inmate's share of the costs of health services requested by the inmate and for the treatment of injuries inflicted by the inmate on the inmate or others. The director may deduct and disburse an amount sufficient for industries' programs to qualify under the eligibility requirements established in the Justice Assistance Act of 1984, Pub. L. No. 98-473, including an amount to pay all or part of the cost of the inmate's incarceration. The director may pay all or any part of remaining allowances paid pursuant to section 904.701 directly to a dependent of the inmate, or may deposit the allowance to the account of the inmate, or may deposit a portion and allow the inmate a portion for the inmate's personal use.

Sec. 4. NEW SECTION. 906.18 PAROLE VIOLATORS - REIMBURSEMENT TO DEPARTMENT.

The department of corrections shall arrange for the return of parolees who escape from the facility to which they are assigned or violate the conditions of supervision. The parolee shall reimburse the department of corrections for the costs incurred because of the escape or violation. The amount of reimbursement shall be the actual cost incurred by the department, and shall be credited to the support account from which the billing occurred. The department shall adopt rules to implement this section.

Approved April 24, 1996

CHAPTER 1166

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS

S.F. 2168

AN ACT updating the Iowa Code references to the Internal Revenue Code and providing a retroactive applicability date and an effective date.

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

Section 1. Section 15A.9, subsection 8, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

For the 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, ~~1995~~ 1996. The credit authorized in this subsection is in lieu of the credit authorized in section 422.33, subsection 5.

Sec. 2. Section 422.3, subsection 4, Code Supplement 1995, is amended to read as follows:

4. "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 ~~April 15, 1995~~ March 20, 1996, whichever is applicable.

Sec. 3. Section 422.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. If a taxpayer repays in the current tax year certain amounts of income that were subject to tax under this division in a prior year and a tax benefit would be allowed under similar circumstances under section 1341 of the Internal Revenue Code, a tax benefit shall be allowed on the Iowa return. The tax benefit shall be the reduced tax for the current tax year due to the deduction for the repaid income or the reduction in tax for the prior year or years due to exclusion of the repaid income. The reduction in tax shall qualify as a refundable tax credit on the return for the current year pursuant to rules prescribed by the director.

Sec. 4. RETROACTIVE APPLICABILITY. Section 3 of this Act, amending section 422.5, applies retroactively to January 1, 1992, for tax years beginning on or after that date. The remainder of this Act applies retroactively to January 1, 1995, for tax years beginning on or after that date.

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

Approved April 24, 1996

CHAPTER 1167

TAX ADMINISTRATION AND RELATED MATTERS

S.F. 2455

AN ACT relating to the administration of taxes; electronic filing of tax returns and payments; imposition of the penalty for willfully filing a false claim for refund; low income, elderly, and disabled property tax credit filing and certification dates; computation of the real estate transfer tax; repeal of obsolete property tax provision; and providing effective and retroactive applicability dates.

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

Section 1. Section 421.17, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. The director may establish criteria allowing for the use of electronic filing or the use of alternative filing methods of any return, deposit, or document required to be filed for taxes administered by the department. The director may also establish criteria allowing for payment of taxes, penalty, interest, and fees by electronic funds transfer or other alternative methods.

The director shall adopt rules setting forth procedures for use in electronic filing and electronic funds transfer or other alternative methods and standards that provide for acceptance of a signature in a form other than the handwriting of a person. The rules shall also take into consideration any undue hardship electronic filing or electronic funds transfer or other alternative methods create for filers.

Sec. 2. Section 421.27, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. IMPROPER RECEIPT OF REFUND OR CREDIT. A person who makes an erroneous application for refund shall be liable for any overpayment received plus interest at the rate in effect under section 421.7. In addition, a person who willfully makes a false or frivolous application for refund with intent to evade tax is guilty of a fraudulent practice and is liable for a penalty equal to seventy-five percent of the refund claimed. Repayments, penalties, and interest due under this subsection may be collected and enforced in the same manner as the tax imposed.

Sec. 3. Section 425.20, unnumbered paragraph 2, Code 1995, is amended to read as follows:

A claim for credit for property taxes due shall not be paid or allowed unless the claim is filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the property taxes are due. However, in case of sickness, absence, or other disability of the claimant, or if in the judgment of the county treasurer good cause exists, the county treasurer may extend the time for filing a claim for credit through September 30 of the same calendar year. The county treasurer shall ~~submit the claim~~ certify to the director of revenue and finance on or before ~~August~~ May 1 of each year the total amount of dollars due for claims allowed.

Sec. 4. Section 425.23, subsection 3, paragraph a, Code 1995, is amended to read as follows:

a. A person who is eligible to file a claim for credit for property taxes due and who has a household income of six thousand dollars or less and who has an unpaid special assessment levied against the homestead may file a claim for a special assessment credit with the county treasurer ~~that the claimant had a household income of six thousand dollars or less and that an unpaid special assessment is presently levied against the homestead~~. The department shall provide to the respective treasurers the forms 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, interest for late payment shall not accrue against the amount of the unpaid special assessment due and payable. The claim filed by the claimant constitutes a claim for credit of an amount equal to the actual amount due upon the unpaid special assessment, plus interest, payable during the fiscal year for which the claim is filed against the homestead of the claimant. However, where the claimant is an individual described in section 425.17, subsection 2, paragraph "b", and the tentative credit is determined according to the schedule in section 425.23, subsection 1, paragraph "b", subparagraph (2), 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. ~~The department of revenue and finance shall, upon the filing of the claim with the department by the treasurer, pay that amount of the unpaid special assessment during the current fiscal year to the treasurer.~~ The treasurer shall ~~submit the claims~~ certify to the director of revenue and finance not later than October 15 of each year the total amount of dollars due for claims allowed. ~~The director of revenue and finance shall certify the amount of reimbursement due each county for unpaid 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~~ by November 15 of each year, drawn upon warrants payable to the respective 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 treasurer shall credit any moneys received from the department against the amount of the unpaid special assessment due and payable on the homestead of the claimant.

Sec. 5. Section 427.1, subsection 27, Code Supplement 1995, is amended by striking the subsection.

Sec. 6. Section 428A.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

There is imposed on each deed, instrument, or writing by which any lands, tenements, or other realty in this state are granted, assigned, transferred, or otherwise conveyed, a tax determined in the following manner: When there is no consideration or when the deed instrument or writing is executed and tendered for recording as an instrument corrective of title, and so states, there is no tax. When there is consideration and the actual market value of the real property transferred is in excess of five hundred dollars, the tax is eighty cents for each five hundred dollars or fractional part of five hundred dollars in excess of five hundred dollars. The term "consideration", as used in this chapter, means the full amount of the actual sale price of the real property involved, paid or to be paid, including the amount of an encumbrance or lien on the property, ~~whether~~ if assumed ~~or not~~ by the grantee. It is presumed that the sale price so stated includes the value of all personal property transferred as part of the sale unless the dollar value of personal property is stated on the instrument of conveyance. When the dollar value of the personal property included in the sale is so stated, it shall be deducted from the consideration shown on the instrument for the purpose of determining the tax.

Sec. 7. Section 435.22, subsection 5, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A claim for credit for mobile home tax due shall not be paid or allowed unless the claim is actually filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the home taxes are due and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the home for six months or more during the fiscal year beginning in the calendar year in which the claim is filed. However, in case of sickness, absence, or other disability of the claimant, or if in the judgment of the county treasurer good cause exists, the county treasurer may extend the time for filing a claim for credit through September 30 of the same calendar year. The county treasurer

shall ~~submit the claim~~ certify to the director of revenue and finance on or before ~~August 1~~ November 15 each year the total dollar amount due for claims allowed.

Sec. 8. Sections 1, 2, 3, 4, and 7 of this Act, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1996. Sections 3, 4, and 7 of this Act apply to claims filed on or after January 1, 1996.

Approved April 24, 1996

CHAPTER 1168

TUITION AND TEXTBOOK INCOME TAX PROVISIONS

S.F. 2467

AN ACT increasing the nonpublic school tax credit and eliminating the nonpublic school tax deduction for amounts paid for tuition and textbooks for nonpublic elementary and secondary schools under the state individual income tax and providing effective and applicability date provisions.

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

Section 1. Section 422.9, subsection 2, paragraph f, Code Supplement 1995, is amended by striking the paragraph.

Sec. 2. Section 422.12, subsection 2, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

~~For those who do not itemize their deductions, a~~ A tuition credit equal to ~~five~~ ten percent of the first one thousand dollars which the taxpayer has paid to others for each dependent in grades kindergarten through twelve, for tuition and textbooks of each dependent in attending an elementary or secondary school situated in Iowa, which school is accredited or approved under section 256.11, which is not operated for profit, and which adheres to the provisions of the federal Civil Rights Act of 1964 and chapter 216. As used in this subsection, "textbooks" means books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state and does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to inculcate those tenets, doctrines, or worship, and does not include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or programs of a similar nature. Notwithstanding any other provision, all other credits allowed under sections 422.12 and 422.12B shall be deducted before the tuition credit under this subsection. ~~The credit in this subsection does not apply to a taxpayer whose net income, as properly computed for state tax purposes, is forty-five thousand dollars or more. In the case where the taxpayer is married, whether filing jointly or separately, the credit does not apply if the combined net income of the taxpayer and spouse is forty-five thousand dollars or more.~~ The department, when conducting an audit of a taxpayer's return, shall also audit the tuition tax credit portion of the tax return.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to January 1, 1996, for tax years beginning on or after that date.

Approved April 25, 1996

CHAPTER 1169

THIRD-PARTY PAYMENT OF CERTAIN HEALTH CARE PROVIDERS

H.F. 2144

AN ACT relating to the payment by third parties of physician assistants and advanced registered nurse practitioners.

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

Section 1. NEW SECTION. 514C.11 SERVICES PROVIDED BY LICENSED PHYSICIAN ASSISTANTS AND LICENSED ADVANCED REGISTERED NURSE PRACTITIONERS.

Notwithstanding section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall include a provision for the payment of necessary medical or surgical care and treatment provided by a physician assistant licensed pursuant to chapter 148C, or provided by an advanced registered nurse practitioner licensed pursuant to chapter 152 and performed within the scope of the license of the licensed physician assistant or the licensed advanced registered nurse practitioner if the policy or contract would pay for the care and treatment if the care and treatment were provided by a person engaged in the practice of medicine and surgery or osteopathic medicine and surgery under chapter 148 or 150A. The policy or contract shall provide that policyholders and subscribers under the policy or contract may reject the coverage for services which may be provided by a licensed physician assistant or licensed advanced registered nurse practitioner if the coverage is rejected for all providers of similar services. A policy or contract subject to this section shall not impose a practice or supervision restriction which is inconsistent with or more restrictive than the restriction already imposed by law. This section applies to services provided under a policy or contract delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1996, and to an existing policy or contract, on the policy's or contract's anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is later. This section does not apply to policyholders or subscribers eligible for coverage under Title XVIII of the federal Social Security Act or any similar coverage under a state or federal government plan. For the purposes of this section, third-party payment or prepayment includes an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, an individual or group health maintenance organization contract issued and regulated under chapter 514B, an organized delivery system contract regulated under rules adopted by the director of public health, or a preferred provider organization contract regulated pursuant to chapter 514F. Nothing in this section shall be interpreted to require an individual or group health maintenance organization, an organized delivery system, or a preferred provider organization or arrangement to provide payment or prepayment for services provided by a licensed physician assistant or licensed advanced registered nurse practitioner unless the physician assistant's supervising physician, the physician-physician assistant team, the advanced registered nurse practitioner, or the advanced registered nurse practitioner's collaborating physician has entered into a contract or other agreement to provide services with the individual or group health maintenance organization, the organized delivery system, or the preferred provider organization or arrangement.

Approved April 25, 1996

CHAPTER 1170

LIMITED LIABILITY COMPANIES AND CORPORATIONS - MISCELLANEOUS PROVISIONS

H.F. 2370

AN ACT relating to limited liability companies and corporations, including the period within which a limited liability company subject to dissolution may be continued, use of trade names by corporations and limited liability companies, certain reporting and filing requirements and procedures, and providing an exemption from the real estate transfer tax for certain transfers involving limited liability companies.

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

Section 1. Section 428A.2, subsection 14, Code Supplement 1995, is amended to read as follows:

14. The making or delivering of instruments of transfer resulting from a corporate merger, consolidation, or reorganization or a merger, consolidation, or reorganization of a limited liability company under the laws of the United States or any state thereof, where such instrument states such fact on the face thereof.

Sec. 2. Section 490.121, subsection 1, paragraph a, Code 1995, is amended by striking the paragraph.

Sec. 3. Section 490.125, subsection 3, Code 1995, is amended to read as follows:

3. If the secretary of state refuses to file a document, the secretary of state shall return it to the domestic or foreign corporation or its representative ~~within ten days after the document was received by the secretary of state~~, together with a brief, written explanation of the reason for the refusal.

Sec. 4. Section 490.401, subsection 4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A corporation may use the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the proposed user corporation ~~meets~~ submits documentation to the satisfaction of the secretary of state establishing one of the following conditions:

Sec. 5. Section 490.502, subsection 1, paragraphs b and d, Code 1995, are amended by striking the paragraphs.

Sec. 6. Section 490.503, Code 1995, is amended to read as follows:

490.503 RESIGNATION OF REGISTERED AGENT.

1. A registered agent may resign the agent's agency appointment by signing and delivering to the secretary of state for filing the signed original ~~and two exact or conformed copies of a~~ statement of resignation. The statement may include a statement that the registered office is also discontinued. The registered agent shall send a copy of the statement of resignation by certified mail to the corporation at its principal office and to the registered office, if not discontinued. The registered agent shall certify to the secretary of state that the copies have been sent to the corporation, including the date the copies were sent.

~~2. After filing the statement the secretary of state shall mail one copy to the registered office, if not discontinued, and the other copy to the corporation at its principal office.~~

~~3.~~ 2. The agency appointment is terminated, and the registered office discontinued if so provided, on the ~~thirty-first day after the~~ date on which the statement was filed.

Sec. 7. Section 490.504, subsection 3, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

3. A corporation may be served pursuant to this section, as provided in other provisions of this chapter, or as provided in sections 617.3 through 617.6, unless the manner of service is otherwise specifically provided for by statute.

Sec. 8. Section 490.902, Code 1995, is amended to read as follows:

490.902 FOREIGN INSURANCE COMPANIES BECOMING DOMESTIC.

The secretary of state, upon a corporation complying with this section and upon the filing of articles of incorporation and upon receipt of the fees as provided in this chapter, shall issue ~~a certificate of incorporation~~ an acknowledgment of receipt of document as of the date of the ~~corporation's original incorporation in its state of original incorporation~~ filing of the articles of incorporation with the secretary of state. The ~~certificate of incorporation~~ acknowledgment of receipt of document shall state on its face that it is issued in accordance with this section. ~~The secretary of state shall forward the articles as provided in this chapter to the county recorder where the principal place of business of the corporation is to be located.~~ The secretary of state shall then notify the appropriate officer of the state or country of the corporation's last domicile that the corporation is now a domestic corporation domiciled in this state. This section applies to life insurance companies, and to insurance companies doing business under chapter 515.

Sec. 9. Section 490.1420, subsection 1, Code 1995, is amended by striking the subsection.

Sec. 10. Section 490.1420, subsection 2, Code 1995, is amended to read as follows:

2. The corporation has not delivered an 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, or has not paid the filing fee as provided in section 490.122, within sixty days after it is due.

Sec. 11. Section 490.1421, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The secretary of state's administrative dissolution of a corporation pursuant to this section appoints the secretary of state the corporation's agent for service of process in any proceeding based on a cause of action which arose during the time the corporation was authorized to transact business in this state. Service of process on the secretary of state under this subsection is service on the corporation. Upon receipt of process, the secretary of state shall serve a copy of the process on the corporation as provided in section 490.504. This subsection does not preclude service on the corporation's registered agent, if any.

Sec. 12. Section 490.1422, subsection 1, Code 1995, is amended to read as follows:

1. A corporation administratively dissolved under section 490.1421 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the corporation at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution ~~either did not exist or~~ have been eliminated.

c. State a corporate name that satisfies the requirements of section 490.401.

d. State the ~~state~~ federal tax identification number of the corporation.

Sec. 13. Section 490.1422, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. The secretary of state shall refer the ~~state~~ federal tax identification number contained in the application for reinstatement to the department of revenue and finance. The department of revenue and finance shall report to the secretary of state the tax status of the corporation. If the department reports to the secretary of state that a filing delinquency or liability exists against the corporation, the secretary of state shall not cancel the certificate of dissolution until the filing delinquency or liability is satisfied.

Sec. 14. Section 490.1503, subsection 2, Code 1995, is amended to read as follows:

2. The foreign corporation shall deliver ~~with~~ the completed application to the secretary of state, and also deliver to the secretary of state a certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated which is dated no earlier than ninety days prior to the date the application is filed with the secretary of state.

Sec. 15. Section 490.1506, subsection 4, Code 1995, is amended to read as follows:

4. A foreign corporation may use in this state the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation has ~~done~~ filed documentation satisfactory to the secretary of state of the occurrence of any of the following:

a. ~~Merged~~ The foreign corporation has merged with the other corporation.

b. ~~Been~~ The foreign corporation has been formed by reorganization of the other corporation.

c. ~~Acquired~~ The foreign corporation has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

Sec. 16. Section 490.1508, subsection 1, paragraphs b and d, Code 1995, are amended by striking the paragraphs.

Sec. 17. Section 490.1509, Code 1995, is amended to read as follows:

490.1509 RESIGNATION OF REGISTERED AGENT OF FOREIGN CORPORATION.

1. The registered agent of a foreign corporation may resign the agency appointment by signing and delivering to the secretary of state for filing the signed original ~~and two exact or conformed copies of a~~ statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued. The registered agent shall send a copy of the statement of resignation by certified mail to the corporation at its principal office and to the registered office, if not discontinued. The registered agent shall certify to the secretary of state that the copies have been sent to the corporation, including the date the copies were sent.

~~2. After filing the statement, the secretary of state shall attach the filing receipt to one copy and mail the copy and receipt to the registered office if not discontinued. The secretary of state shall mail the other copy of the foreign corporation to its principal office address shown in its most recent annual report.~~

~~3.~~ 2. The agency appointment is terminated, and the registered office discontinued if so provided, on the ~~thirty-first day after the~~ date on which the statement was filed.

Sec. 18. Section 490.1520, subsection 2, paragraph e, Code 1995, is amended by striking the paragraph.

Sec. 19. Section 490.1530, subsection 2, Code 1995, is amended by striking the subsection.

Sec. 20. Section 490.1622, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. The names and ~~business~~ addresses of ~~its directors and principal officers~~ the president, secretary, treasurer, and one member of the board of directors.

Sec. 21. Section 490.1622, subsection 1, paragraphs e, f, g, and h, Code 1995, are amended by striking the paragraphs.

Sec. 22. Section 490A.1301, subsection 3, Code Supplement 1995, is amended to read as follows:

3. Unless otherwise provided in the articles of organization or an operating agreement, upon the death, insanity, retirement, resignation, withdrawal, expulsion, bankruptcy, or dissolution of a member or occurrence of any other event that terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is continued by the consent of the members in the manner stated in the articles of organization or an operating agreement or if not so stated, by the unanimous consent of the remaining members within ninety days of the occurrence of the event.

Sec. 23. Section 547.1, Code 1995, is amended to read as follows:

547.1 USE OF TRADE NAME - VERIFIED STATEMENT REQUIRED.

A person or copartnership shall not engage in or conduct a business under a trade name, or an assumed name of a character other than the true surname of each person owning or having an interest in the business, unless the person first records with the county recorder of the county in which the business is to be conducted a verified statement showing the name, post office address, and residence address of each person owning or having an interest in the business, and the address where the business is to be conducted. However, this provision does not apply to any corporation or limited liability company incorporated or organized in this state or any foreign corporation or foreign limited liability company authorized to do business in this state or doing business pursuant to an exemption in chapter 490 or 490A.

Approved April 25, 1996

CHAPTER 1171

HANDICAPPED PARKING

S.F. 2085

AN ACT relating to handicapped parking and providing a penalty.

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

Section 1. Section 321.23, subsection 4, Code 1995, is amended to read as follows:

4. A vehicle which does not meet the equipment requirements of this chapter due to the particular use for which it is designed or intended, may be registered by the department upon payment of appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition. A person is not required to have a certificate of title to register a vehicle under this subsection. If the owner elects to have a certificate of title issued for the vehicle, a fee of ten dollars shall be paid by the person making the application upon issuance of a certificate of title. If the department's inspection reveals that the vehicle may be safely operated only under certain conditions or on certain types of roadways, the department may restrict the registration to limit operation of the vehicle to the appropriate conditions or roadways. This subsection does not apply to snowmobiles as defined in section 321G.1. Section 321.382 does not apply to a vehicle registered under this subsection which is operated exclusively by a handicapped person who has obtained a handicapped ~~identification device~~ parking permit as provided in section 321L.2, if the handicapped ~~identification device~~ parking permit is carried in or on the vehicle and shown to a peace officer on request.

Sec. 2. Section 321.34, subsection 7, Code Supplement 1995, 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 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~~. 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. 3. Section 321.166, subsection 6, Code Supplement 1995,* is amended to read as follows:

6. Registration plates issued a disabled veteran under the provisions of section 321.105, shall display the alphabetical characters "DV" which shall precede the registration plate number. The plates may also display a handicapped ~~identification~~ parking sticker if issued to the disabled veteran by the department under section 321L.2.

Sec. 4. Section 321L.1, subsections 4 and 6, Code 1995, are amended to read as follows:

4. "Handicapped ~~identification device" or "device"~~ parking permit" means ~~an identification device~~ a permit bearing the international symbol of accessibility issued by the department which allows the holder to park in a handicapped parking space, and includes ~~a~~ the following:

a. A handicapped registration plate issued to or for a handicapped person under section 321.34, subsection 7~~, a~~.

b. A handicapped ~~identification~~ parking sticker affixed to a registration plate issued to a disabled veteran under section 321.166, subsection 6, ~~and a~~ or to an operator under section 321.34.

c. A handicapped ~~identification hanging device~~ removable windshield placard which is a two-sided placard for hanging from the rearview mirror when the motor vehicle is parked in a handicapped parking space.

6. "Handicapped parking space" means a parking space, including the access aisle, designated for use by only motor vehicles displaying a handicapped ~~identification device~~ parking permit that meets the requirements of sections 321L.5 and 321L.6.

Sec. 5. Section 321L.1, subsection 7, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

* "Code 1995" probably intended

7. "Handicapped person" means a person with a disability that limits or impairs the person's ability to walk. A person shall be considered handicapped for purposes of this chapter under the following circumstances:

a. The person cannot walk two hundred feet without stopping to rest.

b. The person cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device.

c. The person is restricted by lung disease to such an extent that the person's forced expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest.

d. The person uses portable oxygen.

e. The person has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association.

f. The person is severely limited in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

Sec. 6. Section 321L.2, subsections 1 and 2, Code Supplement 1995, are amended to read as follows:

1. a. A handicapped resident of the state desiring a handicapped ~~identification device~~ parking permit 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. If the person is applying for a temporary handicapped parking permit, the physician's or chiropractor's statement shall state the period of time during which the person is expected to be handicapped and the period of time for which the permit should be issued, not to exceed six months.

A handicapped person may apply for one of the following handicapped parking permits:

(1) ~~Handicapped registration plates must be ordered~~ Handicapped registration plates. An applicant may order handicapped registration plates pursuant to section 321.34, subsection 7.

(2) Handicapped parking sticker. An applicant who owns a motor vehicle for which the applicant has been issued registration plates under section 321.34 or registration plates as a seriously disabled veteran under section 321.105 may apply to the department for a handicapped parking sticker to be affixed to the plates. The handicapped parking stickers shall bear the international symbol of accessibility.

(3) Removable windshield placard. 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.~~ a temporary removable windshield placard which shall be valid for a period of up to six months, as determined by the physician's or chiropractor's statement under this subsection or a removable windshield placard which shall be valid for a period of four years from the date of issuance. A removable windshield placard shall be renewed within thirty days of the date of expiration. To renew the placard, the person shall comply with the requirements for initial issuance of the placard under this section. Persons ~~who seek only~~ seeking temporary ~~handicapped identification stickers or hanging devices~~ removable windshield placards shall be required to furnish evidence upon initial application that they are temporarily handicapped and, in addition, furnish evidence at ~~three-month~~ subsequent intervals that they remain temporarily handicapped. Temporary

~~handicapped identification stickers and hanging devices~~ removable windshield placards shall be of a distinctively different color from ~~permanent handicapped identification stickers and hanging devices~~ removable windshield placards. The department shall issue one additional removable windshield placard upon the request of a handicapped person.

b. The department may issue ~~permanent handicapped identification hanging devices~~ removable windshield placards 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~~ removable windshield placard may be issued for each vehicle used by the organization or person for transporting the handicapped or elderly. A ~~handicapped identification hanging device~~ placard issued under this paragraph shall be renewed every four years from the date of issuance and shall be surrendered to the department if the organization or person is no longer providing the service for which the ~~device~~ placard was issued. Notwithstanding section 321L.4, a person transporting handicapped or elderly in a motor vehicle for which a ~~handicapped identification hanging device~~ placard has been issued under this paragraph may display the ~~device~~ placard in the motor vehicle and may use a handicapped parking space while the motor vehicle is displaying the ~~device~~ placard. A ~~handicapped identification hanging device~~ placard issued under this paragraph shall be of a distinctively different color from ~~the handicapped identification hanging devices~~ a placard issued under paragraph "a". An organization issued a removable windshield placard and a handicapped person being transported under this subsection are exempt from the handicapped designation requirement under section 321L.4.

c. A new ~~handicapped identification device~~ removable windshield placard can be issued if the previously issued ~~device~~ placard is reported lost, stolen, or damaged. The ~~device~~ placard reported as being lost or stolen shall be invalidated by the department. A ~~device~~ placard which is damaged shall be returned to the department and exchanged for a new ~~device~~ placard in accordance with rules adopted by the department.

2. Any person providing false information with the intent to defraud on the application for a handicapped ~~identification device or~~ parking permit used in establishing proof under subsection 1 is subject to a civil penalty of three hundred dollars which may be imposed by the department. A physician or chiropractor who provides false information with the intent to defraud on the physician's or chiropractor's statement used in establishing proof under subsection 1 is subject to a civil penalty of ~~one~~ three hundred dollars which may be imposed by the department~~, or subject to invalidation by the department of the device issued to the individual, or subject to both the civil penalty and invalidation~~. In addition to the civil penalty, the department shall revoke the permit issued pursuant to this section.

Sec. 7. Section 321L.2, subsection 3, Code Supplement 1995, is amended by striking the subsection and inserting in lieu thereof the following:

3. The removable windshield placard shall contain the following information:

a. Each side of the placard shall include all of the following:

(1) The international symbol of access, which is at least three inches in height, centered on the placard, and is white on a blue shield.

(2) An identification number.

(3) A date of expiration, which shall be of sufficient size to be readable from outside the vehicle.

(4) The seal or other identification of the issuing authority.

b. One side of the placard shall contain all of the following information:

(1) A statement printed on it as follows: "Unauthorized use of this placard as indicated in Iowa Code chapter 321L may result in a fine, invalidation of the placard, or revocation of the right to use the placard. This placard shall be displayed only when the vehicle is parked in a handicapped parking space."

(2) The return address and telephone number of the department.

(3) The signature of the person who has been issued the placard and the signature of the physician or chiropractor who made the determination that the person was handicapped for purposes of issuance of the placard.

4. A removable windshield placard shall only be displayed when the vehicle is parked in a handicapped parking space.

5. A person obtaining a handicapped parking permit pursuant to this section, other than a person obtaining a removable windshield placard issued under subsection 1, paragraph "b", and a person issued a temporary removable windshield placard pursuant to this section shall be required to have a handicapped designation on the face of the person's motor vehicle license or if the person does not have or is not eligible for a motor vehicle license, the person shall apply for a nonoperator's identification card with a handicapped designation. A handicapped person who has been issued a handicapped parking permit pursuant to this section shall carry the motor vehicle license or nonoperator's identification card in the person's possession at all times when the handicapped parking permit is being used.

6. The shape and color of the removable windshield placard shall be changed and the placard shall be reissued every four years.

Sec. 8. Section 321L.3, Code 1995, is amended to read as follows:

321L.3 RETURN OF HANDICAPPED ~~IDENTIFICATION DEVICES -- RETURN OF HANGING DEVICES~~ PARKING PERMITS.

Handicapped ~~identification hanging devices~~ parking permits shall be returned to the department upon the occurrence of any of the following:

1. The person to whom the ~~device~~ handicapped parking permit has been issued is deceased.

2. The person to whom the ~~device~~ handicapped parking permit has been issued has moved out of state.

3. A person has found or has in the person's possession a ~~hanging device~~ handicapped parking permit that was not issued to that person.

4. The ~~temporary device~~ handicapped parking permit has expired.

5. The ~~device~~ handicapped parking permit has been ~~invalidated~~ revoked.

6. The ~~device~~ handicapped parking permit reported lost or stolen ~~under section 321L.2, subsection 1,~~ is later found or retrieved after a subsequent ~~device~~ handicapped parking permit has been issued.

A person who fails to return the handicapped ~~identification hanging device as stipulated above~~ parking permit and subsequently misuses the ~~device~~ permit by illegally parking in a handicapped parking space is guilty of a simple misdemeanor and subject to a fine of up to one hundred dollars ~~shall be imposed on the person~~.

~~Devices~~ Handicapped parking permits may be returned to the department as required by this section either directly to the department ~~or through~~ to a ~~driver~~ motor vehicle license station or any law enforcement office.

Sec. 9. Section 321L.4, Code 1995, is amended to read as follows:

321L.4 HANDICAPPED PARKING - DISPLAY AND USE OF ~~DEVICE~~ PARKING PERMIT AND HANDICAPPED IDENTIFICATION DESIGNATION.

1. A handicapped ~~identification device~~ parking permit shall be displayed in a motor vehicle as a ~~hanging device~~ removable windshield placard or on a motor vehicle as a plate or sticker as provided in section 321L.2 when being used by a handicapped person, either as an operator or passenger. Each ~~hanging device~~ removable windshield placard shall be of uniform design and fabricated of durable material, suitable for display from within the passenger compartment of a motor vehicle, and readily transferable from one vehicle to another. The placard shall only be displayed when the motor vehicle is parked in a handicapped parking space.

2. The use of a handicapped parking space, located on either public or private property as provided in sections 321L.5 and 321L.6, by a motor vehicle not displaying a handicapped ~~identification device~~ parking permit; by a motor vehicle displaying ~~such~~ a ~~device~~ handicapped parking permit but not being used by a ~~handicapped~~ person~~, as an operator or passenger~~ in possession of a motor vehicle license with a handicapped designation or a nonoperator's identification card with a handicapped designation, other than a person issued a permit or being transported in accordance with section 321L.2, subsection 1, paragraph "b", or by a motor vehicle in violation of the rules adopted by the department under section 321L.8, constitutes improper use of a handicapped ~~identification device~~ parking permit, which is a misdemeanor for which a fine shall be imposed upon the owner, operator, or lessee of the motor vehicle or the ~~purchaser of~~ person to whom the handicapped ~~identification device~~ parking permit is issued. The fine for each violation shall be ~~fifty~~ one hundred dollars. Proof of conviction of two or more violations involving improper use of a handicapped ~~identification device~~ parking permit is grounds for revocation by the court or the department of the holder's privilege to possess or use the ~~device~~ handicapped parking permit.

3. A peace officer as designated in section 801.4, subsection 11, shall have the authority to and shall enforce the provisions of this section on public and private property.

Sec. 10. Section 321L.5, subsection 3, paragraph c, Code 1995, is amended to read as follows:

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~~ parking permit issued in accordance with section 321L.2.

Sec. 11. Section 321L.5, subsection 4, paragraph b, Code 1995, is amended to read as follows:

b. Upon petition by an individual possessing a ~~permanent~~ handicapped ~~identification device~~ parking permit 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. 12. Section 321L.8, Code 1995, is amended to read as follows:

321L.8 HANDICAPPED ~~IDENTIFICATION DEVICES~~ PARKING PERMITS AND PARKING – RULES.

1. The department, pursuant to chapter 17A, shall adopt rules:

a. Establishing procedures for applying to the department for issuance of ~~permanent or temporary~~ handicapped ~~identification devices~~ parking permits under this chapter.

b. Governing the manner in which handicapped ~~identification devices~~ parking permits are to be displayed in or on motor vehicles.

c. Regarding enforcement of this chapter.

2. The department of public safety shall adopt rules pursuant to chapter 17A governing the manner in which handicapped parking spaces are provided.

Sec. 13. Section 321L.9, Code 1995, is amended to read as follows:

321L.9 RECIPROCITY.

Handicapped ~~identification devices~~ parking permits issued lawfully by other states and foreign governmental bodies or their political subdivisions shall be valid handicapped ~~identification devices~~ parking permits for nonresidents traveling or visiting in this state.

Sec. 14. IMPLEMENTATION.

1. The department shall begin the issuance of new permanent windshield placards and handicapped designations on motor vehicle licenses or nonoperator's identification cards, as provided in this Act, beginning January 1, 1997.

2. After January 1, 1998, only new windshield placards issued by the department pursuant to this chapter shall be valid and any other hanging device issued prior to January 1, 1997, shall be invalid.

3. A person who has been issued a hanging device prior to January 1, 1997, shall apply for a new removable windshield placard and handicapped designation by January 1, 1998.

4. A person who has been issued handicapped registration plates or handicapped identification stickers shall apply for a handicapped designation on the person's motor vehicle license or nonoperator's identification card by January 1, 1998.

5. A person who has been issued a handicapped parking permit, but who does not possess a valid Iowa motor vehicle license, shall apply for a nonoperator's identification card by January 1, 1998.

Sec. 15. Section 321L.10, Code 1995, is repealed.

Sec. 16. The department shall work with the American medical association and other groups to educate physicians and chiropractors regarding the chiropractors' and physicians' statements required for issuance of a handicapped parking permit and the requirements under section 321L.2 for issuance of a handicapped parking permit. If possible, this education effort shall be included within relevant continuing education curriculum.

Sec. 17. FUTURE REISSUANCE. The department shall implement the reissuance of removable windshield placards on January 1, 2001, and every four years thereafter, in the same manner as provided for reissuance in this Act.

Approved April 25, 1996

CHAPTER 1172

DEER AND WILD TURKEY HUNTING LICENSES

H.F. 2383

AN ACT relating to issuance of free deer and wild turkey hunting licenses to certain landowners and tenants.

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

Section 1. Section 483A.24, subsections 2, 3, 4, 5, 6, and 7, Code 1995, are amended by striking the subsections and inserting in lieu thereof the following:

2. a. As used in this subsection:

(1) "Family member" means a resident of Iowa who is the spouse or child of the owner or tenant and who resides with the owner or tenant.

(2) "Farm unit" means all parcels of land, not necessarily contiguous, which are operated as a unit for agricultural purposes and which are under the lawful control of the owner or tenant.

(3) "Owner" means an owner of a farm unit who is a resident of Iowa and who is one of the following:

(a) Is the sole operator of the farm unit.

(b) Makes all of the farm operation decisions but contracts for custom farming or hires labor for all or part of the work on the farm unit.

(c) Participates annually in farm operation decisions or cropping practices on specific fields of the farm unit that are rented to a tenant.

(d) Raises specialty crops on the farm unit including, but not limited to, orchards, nurseries, or tree farms that do not always produce annual income but require annual operating decisions about maintenance or improvement.

(e) Has all or part of the farm unit enrolled in a long-term agricultural land retirement program of the federal government.

An "owner" does not mean a person who owns a farm unit and who employs a farm manager or third party to operate the farm unit, or a person who owns a farm unit and who rents the entire farm unit to a tenant who is responsible for all farm operations. However this paragraph does not apply to an owner who is a parent of the tenant and who resides in this state.

(4) "Tenant" means a person who is a resident of Iowa and who rents and actively farms a farm unit owned by another person. A member of the owner's family may be a tenant. A person who works on the farm for a wage and is not a family member does not qualify as a tenant.

b. Upon written application on forms furnished by the department, the department shall issue annually without fee one deer or one wild turkey license, or both, to the owner of a farm unit or to a member of the owner's family, but not to both, and to the tenant or to a member of the tenant's family, but not to both. The deer hunting license or wild turkey hunting license issued shall be valid only on the farm unit for which an applicant qualifies pursuant to this subsection and shall be equivalent to the least restrictive license issued under section 481A.38. The owner or the tenant need not reside on the farm unit to qualify for a free license to hunt on that farm unit.

c. In addition to the free deer hunting license received, an owner of a farm unit or a member of the owner's family and the tenant or a member of the tenant's family may purchase a deer hunting license for any option offered to paying deer hunting licensees.

3. The director shall provide up to twenty-five nonresident deer hunting licenses for allocation as requested by a majority of a committee consisting of the majority leader of the senate, speaker of the house of representatives, and director of the department of economic development, or their designees. The licenses provided pursuant to the subsection shall be in addition to the number of nonresident licenses authorized pursuant to section 483A.8. The purpose of the special nonresident licenses is to allow state officials and local development groups to promote the state and its natural resources to nonresident guests and dignitaries. Photographs, video tapes, or any other form of media resulting from the hunting visitation shall not be used for political campaign purposes. The nonresident licenses shall be issued without application upon payment of the nonresident deer hunting license fee and the wildlife habitat stamp fee. The licenses are valid in all zones open to deer hunting. The hunter safety and ethics education certificate requirement pursuant to section 483A.27 is waived for a nonresident issued a license pursuant to this subsection.

4. The director shall provide up to twenty-five nonresident wild turkey hunting licenses for allocation as requested by a majority of a committee consisting of the majority leader of the senate, speaker of the house of representatives, and director of the department of economic development, or their designees. The licenses provided pursuant to the subsection shall be in addition to the number of nonresident licenses authorized pursuant to section 483A.7. The purpose of the special nonresident licenses is to allow state officials and local development groups to promote the state and its natural resources to nonresident guests and dignitaries. Photographs, video tapes, or any other form of media resulting from the hunting visitation shall not be used for political campaign purposes. The nonresident licenses shall be issued without application upon payment of the nonresident wild turkey hunting license fee and the wildlife habitat stamp fee. The licenses are valid in all zones open to wild turkey hunting. The hunter safety and ethics education certificate requirement pursuant to section 483A.27 is waived for a nonresident issued a license pursuant to this subsection.

Approved April 29, 1996

CHAPTER 1173

UNCLAIMED PROPERTY - MISCELLANEOUS PROVISIONS

H.F. 2499

AN ACT relating to definitions, reporting, and remittance guidelines concerning the disposition of unclaimed property.

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

Section 1. Section 556.1, subsection 2, Code Supplement 1995, is amended to read as follows:

2. "Business association" means ~~any~~ a corporation ~~other than a public corporation~~, joint stock company, business trust, investment company, partnership, limited liability company, trust company, mutual fund, or ~~any association for business purposes of two or more individuals~~ other business entity consisting of one or more persons, whether or not for profit.

Sec. 2. Section 556.1, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Property" means a fixed and certain interest in or right in an intangible that is held, issued, or owed in the course of a holder's business, or by a government or governmental entity, and all income or increment therefrom, including that which is referred to as or evidenced by any of the following:

a. Money, check, draft, deposit, interest, dividend, and income.

b. Credit balance, customer overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused airline ticket, unused ticket, mineral proceeds, and unidentified remittance and electronic fund transfer.

c. Stock or other evidence of ownership interests in a business association.

d. Bond, debenture, note, or other evidence of indebtedness.

e. Money deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions.

f. An amount due and payable under the terms of an insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability benefits insurance.

g. An amount distributable from a trust or custodian fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

h. Amounts distributable from a mineral interest in land.

i. Any other fixed and certain interest or right in an intangible that is held, issued, or owing in the course of a holder's business, or by a government or governmental entity.

Sec. 3. Section 556.2, subsection 4, Code Supplement 1995, is amended by striking the subsection.

Sec. 4. NEW SECTION. 556.2A TRAVELER'S CHECKS AND MONEY ORDERS.

1. Subject to subsection 4, any sum payable on a traveler's check that has been outstanding for more than fifteen years after its issuance is deemed abandoned unless the owner, within fifteen years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

2. Subject to subsection 4, any sum payable on a money order that has been outstanding for more than seven years after its issuance is deemed abandoned unless the owner, within seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

3. A holder shall not deduct from the amount of a traveler's check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

4. A sum payable on a traveler's check or money order described in subsection 1 or 2 shall not be subjected to the custody of this state as unclaimed property unless any of the following apply:

a. The records of the issuer show that the traveler's check or money order was purchased in this state.

b. The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the traveler's check or money order was purchased.

c. The issuer has its principal place of business in this state, the records of the issuer show the state in which the traveler's check or money order was purchased, and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

Sec. 5. NEW SECTION. 556.2B CHECKS, DRAFTS, AND SIMILAR INSTRUMENTS ISSUED OR CERTIFIED BY BANKING AND FINANCIAL ORGANIZATIONS.

1. Any sum payable on a check, draft, or similar instrument, except those subject to section 556.2A, on which a banking or financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than three years after it was payable or after its issuance if payable on demand, is deemed abandoned, unless the owner, within three years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization.

2. A holder shall not deduct from the amount of any instrument subject to this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.

Sec. 6. Section 556.5, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

556.5 STOCKS AND OTHER INTANGIBLE INTERESTS IN BUSINESS ASSOCIATIONS.

1. Any stock, shareholding, or other intangible ownership interests in a business association, the existence of which is evidenced by records available to the association, is deemed abandoned and, with respect to the interest, the association is the holder, if both of the following apply:

a. The interest in the association is owned by a person who for more than three years has neither claimed a dividend, distribution, nor other sum payable as a result of the interest, or who has not communicated with the association regarding the interest or a dividend, distribution, or other sum payable as the result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

b. The association does not know the location of the owner at the end of the three-year period.

2. The return of official shareholder notifications or communications by the postal service as undeliverable shall be evidence that the association does not know the location of the owner.

3. This section shall be applicable to both the underlying stock, shareholdings, or other intangible ownership interests of an owner, and any stock, shareholdings, or other intan-

gible ownership interest of which the business association is in possession of the certificate or other evidence or indicia of ownership, and to the stock, shareholdings, or other intangible ownership interests of dividend and nondividend paying business associations whether or not the interest is represented by a certificate.

4. At the time an interest is deemed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously deemed abandoned, is deemed abandoned.

5. This section does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless one or more of the following applies:

a. The records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan that the owner has not within three years communicated in any manner described in subsection 1.

b. Three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not within those three years communicated in any manner described in subsection 1. The three-year period from the return of official shareholder notifications or communications shall commence from the earlier of the return of the second such mailing or the time the holder discontinues mailings to the shareholder.

Sec. 7. Section 556.13, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

556.13 PAYMENT OR DELIVERY OF ABANDONED PROPERTY.

1. Except for property held in a safe deposit box or other safekeeping depository, upon filing the report required by section 556.11, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe deposit box or other safekeeping depository shall not be delivered to the treasurer of state until one hundred twenty days after filing the report required in section 556.11.

2. If the property report to the treasurer of state is a security or security entitlement under the Uniform Commercial Code, chapter 554, article 8, the treasurer of state is an appropriate person to make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with the Uniform Commercial Code, chapter 554, article 8.

3. If the holder of property reported to the treasurer of state is the issuer of a certificated security, the treasurer of state has the right to obtain a replacement certificate pursuant to section 554.8408 but an indemnity bond is not required.

4. An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and shall be indemnified against claims of any person in accordance with section 556.14.

Approved April 29, 1996

CHAPTER 1174

ADOPTION

H.F. 2050

AN ACT relating to adoption, including selection criteria preferences in the placement of children for adoption by or through the department of human services, requirements relating to the adoption of the child of a minor parent, and providing a repeal.

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

Section 1. Section 135L.2, subsection 3, as enacted by 1996 Iowa Acts, Senate File 13,* section 2, is amended to read as follows:

3. During the initial appointment between a licensed physician and a pregnant minor, a licensed physician, who is providing medical services to a pregnant minor, shall offer the viewing of the video and the written decision-making materials to the pregnant minor, and shall obtain the signed and dated certification form from the pregnant minor. If the pregnant minor has previously been offered the viewing of the video and the written decision-making materials by another source, the licensed physician shall obtain the completed certification form from the other source to verify that the pregnant minor has been offered the viewing of the video and the written decision-making materials. A licensed physician shall not perform an abortion on a pregnant minor prior to obtaining the completed certification form from a pregnant minor. ~~If the pregnant minor decides to terminate parental rights following the child's birth, a copy of the completed certification form shall be attached to the petition for termination of parental rights.~~

Sec. 2. Section 135L.4, subsection 3, paragraph d, as enacted by 1996 Iowa Acts, Senate File 13,* section 4, is amended to read as follows:

d. Notwithstanding any law or rule to the contrary, the court proceedings under this section ~~and section 135L.3~~ shall be given precedence over other pending matters to ensure that the court reaches a decision expeditiously.

Sec. 3. Section 135L.6, unnumbered paragraph 1, as enacted by 1996 Iowa Acts, Senate File 13,* section 6, is amended to read as follows:

If a pregnant minor's attending physician certifies in writing that a medical emergency exists which necessitates the immediate performance of an abortion on the pregnant minor, and which results in the inapplicability of section 135L.2 with regard to the required offering of the viewing of the video~~, of section 135L.3 with regard to notification of a parent prior to the termination of parental rights of a pregnant minor for the purposes of placing the child for adoption,~~ or of section 135L.4 with regard to notification of a parent prior to the performance of an abortion on a pregnant minor, the attending physician shall do the following:

Sec. 4. Section 135L.6, subsection 2, paragraph e, as enacted by 1996 Iowa Acts, Senate File 13,* section 6, is amended to read as follows:

e. The pregnant minor elects not to allow notification of the pregnant minor's parent and a court authorizes waiver of the notification requirement following completion of the proceedings prescribed under section ~~135L.3 or~~ 135L.4.

Sec. 5. Section 135L.7, subsections 1 and 2, as enacted by 1996 Iowa Acts, Senate File 13,* section 7, are amended to read as follows:

1. Knowingly tenders a false original or copy of the signed and dated certification form described in section 135L.2, to be retained by the licensed physician~~,~~ or to be sent to the pregnant minor's attending physician~~, or to be attached to the termination of parental rights petition pursuant to section 135L.3~~.

2. Knowingly tenders a false original or copy of the notification document mailed to a parent, grandparent, or aunt or uncle of the pregnant minor under this chapter, a false

*Chapter 1011 herein

original or copy of the written certification to be provided to a parent of a pregnant minor pursuant to section 135L.6, or a false original or copy of the order waiving notification relative to the performance of an abortion on a pregnant minor ~~or relative to the termination of parental rights of a pregnant minor~~.

Sec. 6. Section 232.5, as enacted by 1996 Iowa Acts, Senate File 13,* section 10, is amended to read as follows:

232.5 ~~ADOPTION OF CHILD BORN TO A MINOR OR~~ ABORTION PERFORMED ON A MINOR - WAIVER OF NOTIFICATION PROCEEDINGS.

The court shall have exclusive jurisdiction over the proceedings for the granting of an order for waiver of the notification requirements relating to ~~the adoption of a child born to a minor or to~~ the performance of an abortion on a minor pursuant to ~~sections 135L.3 and~~ section 135L.4.

Sec. 7. NEW SECTION. 600.7A ADOPTION SERVICES PROVIDED BY OR THROUGH DEPARTMENT OF HUMAN SERVICES - SELECTION OF ADOPTIVE PARENT CRITERIA.

The department of human services shall adopt rules which provide that if adoption services are provided by or through the department, notwithstanding any other selection of adoptive parent criteria, the overriding criterion shall be a preference for placing a child in a stable home environment as expeditiously as possible.

Sec. 8. Section 600A.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a petition for the termination of parental rights of a pregnant minor or a minor who has given birth is filed, notice of the termination hearing shall also be served upon a custodial parent or a legal guardian or custodian of the pregnant minor or minor who has given birth in accordance with the service of notice provisions of this section. A custodial parent or a legal guardian or custodian of the pregnant minor or minor who has given birth is not a necessary party under this section and the notice provided under this subsection is for informational purposes only and shall not be construed to confer any substantive rights on the custodial parent or legal guardian or custodian of the pregnant minor or minor who has given birth in addition to those rights existing under current law.

Notice under this subsection shall be waived by the court if the court determines that the pregnant minor or minor who has given birth is capable of providing consent to the termination of parental rights of the minor child, that notification is not in the best interest of the pregnant minor or minor who has given birth or of the minor child, or that other good cause exists for the waiver. Failure to provide notice to a custodial parent or a legal guardian or custodian of the pregnant minor or minor who has given birth does not constitute good cause for revocation of a release of custody and is not grounds for denial, modification, vacation, or appeal of a termination of parental rights order or of an interlocutory or final adoption decree.

Sec. 9. 1996 Iowa Acts, Senate File 13,* sections 3, 11, 12, and 13, are repealed.

Approved April 29, 1996

*Chapter 1011 herein

CHAPTER 1175

CHILD PROTECTION SYSTEM PROVISIONS

S.F. 2399

AN ACT relating to child protection system provisions involving the child abuse assessment pilot projects administered by the department of human services and certain multidisciplinary teams, and providing an effective date.

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

Section 1. Section 232.71A, subsections 3, 5, 6, and 8, Code Supplement 1995, are amended to read as follows:

3. Upon receipt of a child abuse report in a pilot project area, the department shall notify the appropriate county attorney of the receipt of the report and shall perform an assessment. The department shall commence the assessment within ~~seventy-two~~ twenty-four hours of the receipt of the report. The primary purpose of the assessment shall be to protect the safety of the child named in the report. The secondary purpose of the assessment shall be to engage the child's family in services to enhance family strengths and to address needs.

5. A child abuse assessment shall be completed in writing within ~~twenty-one calendar~~ twenty business days of the receipt of the report. The assessment shall include a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child. In addition, the assessment shall identify the strengths and needs of the child, and of the child's parent, home, family, and community. Upon completion of the assessment, the department shall consult with the child's family in offering services to the child and the child's family to address strengths and needs identified in the assessment.

6. The department shall provide the juvenile court and the county attorney with a ~~written~~ copy of ~~any~~ the written assessment ~~which includes a recommendation for a juvenile or criminal court action or petition~~ pertaining to the child abuse report. The juvenile court and the county attorney shall notify the department of any action taken concerning an assessment provided by the department.

8. The department shall implement the pilot projects by January 15, 1996. The department shall report to the governor and the general assembly concerning the pilot projects on or before ~~February 29~~ December 16, 1996. The report shall include ~~a~~ the following information:

a. A description of successes and problems encountered in implementing the pilot projects.

b. An analysis of the effect of the pilot projects on utilizing the child abuse registry for the tracking of a pattern of child abuse incidents.

c. The outcome changes for children in the pilot project areas where the assessment approach is utilized in response to an allegation of child abuse versus the investigation approach utilized in other areas of the state.

d. A copy of any report provided by a county attorney in a pilot project area, a copy of any report provided by the county attorney's association, and a copy of any report provided by the juvenile court in a pilot project area.

PARAGRAPH DIVIDED. It is the intent of the general assembly to ~~implement~~ consider implementing statewide an assessment-based approach to respond to child abuse reports commencing ~~with the fiscal year beginning July 1, 1996~~ February 10, 1997.

Sec. 2. Section 232.71A, subsection 4, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. The department shall work with representatives of law enforcement at the local level to develop a protocol for joint investigative processes.

Sec. 3. Section 232.71A, subsection 7, paragraph a, Code Supplement 1995, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (4) The department determines the abuse meets the defini-

tion of child abuse under section 232.68, subsection 2, paragraph "c", and the alleged perpetrator of the abuse is age fourteen or older. However, the juvenile court may order the removal from the central registry of the name of a perpetrator of abuse placed in the registry pursuant to this subparagraph who is age fourteen through seventeen upon a finding of good cause. The name of a perpetrator who is less than age fourteen shall not be placed in the central registry pursuant to this subparagraph.

NEW SUBPARAGRAPH. (5) The department determines the alleged perpetrator of the abuse will continue to pose a danger to the child who is the subject of the report of abuse or to another child with whom the alleged perpetrator may come into contact.

Sec. 4. Section 235A.15, subsection 2, paragraph e, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (15) To a person who submits written authorization from an individual allowing the person access to information pursuant to this subsection on behalf of the individual in order to verify whether the individual is named in a founded child abuse report as having abused a child.

Sec. 5. Section 910A.16, subsection 4, Code 1995, is amended to read as follows:

4. To the greatest extent possible, a multidisciplinary team involving the county attorney, law enforcement personnel, community-based child advocacy organizations, and personnel of the department of human services shall be utilized in investigating and prosecuting cases involving a violation of chapter 709 or 726 or other crime committed upon a victim as defined in subsection 1. A multidisciplinary team may also consult with or include juvenile court officers, medical and mental health professionals, court-appointed special advocates, guardians ad litem, and members of a multidisciplinary team created by the department of human services for child abuse investigations. The department of justice may provide training and other assistance to support the activities of a multidisciplinary team referred to in this subsection.

Sec. 6. CHILD PROTECTION SYSTEM REVIEW. The department of human services shall convene a group consisting of interested members of the general assembly, persons involved with child protection, and other interested persons to consult with national experts in child protection. The group shall be convened during the 1996 legislative interim and may submit a report to the governor and the general assembly.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 30, 1996

CHAPTER 1176

PURCHASING DIVISION - AGGRIEVED BIDDER APPEALS

H.F. 476

AN ACT eliminating the appeal period for the awarding of contracts by the purchasing division of the department of general services.

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

Section 1. Section 18.7, unnumbered paragraph 1, Code 1995, is amended by striking the paragraph.

Approved April 30, 1996

CHAPTER 1177

CENTRALIZED FINANCING OF STATE AGENCY PROPERTY PURCHASES
S.F. 2366

AN ACT relating to lease-purchase agreements.

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

Section 1. Section 8D.11, subsection 1, Code 1995, is amended to read as follows:

1. The commission may purchase, ~~lease-purchase,~~ lease, and improve property, equipment, and services for telecommunications for public and private agencies and may dispose of property and equipment when not necessary for its purposes. However, the commission shall not enter into a contract for the purchase, ~~lease-purchase,~~ lease, or improvement of property, equipment, or services for telecommunications pursuant to this subsection in an amount greater than ~~five hundred thousand~~ one million dollars without prior authorization by a constitutional majority of each house of the general assembly, or approval by the legislative council if the general assembly is not in session. The commission shall not issue any bonding or other long-term financing arrangements as defined in section 12.30, subsection 1, paragraph "b". Real or personal property to be purchased by the commission through the use of a financing agreement shall be done in accordance with the provisions of section 12.28, provided, however, that the commission shall not purchase property, equipment, or services for telecommunications pursuant to this subsection in an amount greater than one million dollars without prior authorization by a constitutional majority of each house of the general assembly, or approval by the legislative council if the general assembly is not in session.

1A. The commission also shall not provide or resell communications services to entities other than public and private agencies. The public or private agency shall not provide communication services of the network to another entity unless otherwise authorized pursuant to this chapter. The commission may arrange for joint use of available services and facilities, and may enter into leases and agreements with private and public agencies with respect to the Iowa communications network, and public agencies are authorized to enter into leases and agreements with respect to the network for their use and operation. Rentals and other amounts due under the agreements or leases entered into pursuant to this section by a state agency are payable from funds annually appropriated by the general assembly or from other funds legally available. Other public agencies may pay the rental costs and other amounts due under an agreement or lease from their annual budgeted funds or other funds legally available or to become available.

1B. This section comprises a complete and independent authorization and procedure for a public agency, with the approval of the commission, to enter into a lease or agreement ~~and related security enhancement arrangements~~ and this section is not a qualification of any other powers which a public agency may possess and the authorizations and powers granted under this section are not subject to the terms, requirements, or limitations of any other provisions of law, except that the commission must comply with the provisions of section 12.28 when entering into financing agreements for the purchase of real or personal property. All moneys received by the commission from agreements and leases entered into pursuant to this section with private and public agencies shall be deposited in the Iowa communications network fund.

Sec. 2. NEW SECTION. 12.28 CENTRALIZED FINANCING FOR STATE AGENCY PURCHASE OF REAL AND PERSONAL PROPERTY.

1. As used in this section, unless the context otherwise requires:

a. "Financing agreement" means any lease, lease-purchase agreement, or installment acquisition contract in which the lessee may purchase the leased property at a price which is less than the fair market value of the property at the end of the lease term, or any lease, agreement, or transaction which would be considered under criteria established by the

Internal Revenue Service to be a conditional sale agreement for tax purposes.

b. "State agency" means a board, commission, bureau, division, office, department, or branch of state government. However, state agency does not mean the state board of regents, institutions governed by the board of regents, or authorities created under chapter 16, 16A, 175, 257C, 261A, or 327I.

2. The treasurer of state shall have sole authority to enter into financing agreements on behalf of state agencies. The treasurer of state may enter into financing agreements, including master lease-purchase agreements, for the purpose of funding state agency requests for the financing of real or personal property, wherever located within the state, including equipment, buildings, facilities, and structures, or additions or improvements to existing buildings, facilities, and structures. Subject to the selection procedures of section 12.30, the treasurer may employ financial consultants, banks, trustees, insurers, underwriters, accountants, attorneys, and other advisors or consultants as necessary to implement the provisions of this section. The costs of professional services and any other costs of entering into the financing agreements may be included in the financing agreement as a cost of the property being financed.

3. The financing agreement may provide for ultimate ownership of the property by the state. Title to all property acquired in this manner shall be taken and held in the name of the state. The state shall be the lessee or contracting party under all financing agreements entered into pursuant to this section. The financing agreements may contain provisions pertaining, but not limited to, interest, term, prepayment, and the state's obligation to make payments on the financing agreement beyond the current budget year subject to availability of appropriations. All projects financed under this section shall be deemed to be for an essential governmental purpose.

4. The treasurer of state may contract for additional security or liquidity for a financing agreement and may enter into agreements for letters of credit, lines of credit, insurance, or other forms of security with respect to rental and other payments due under a financing agreement. Fees for the costs of additional security or liquidity are a cost of entering into the financing agreement and may be paid from funds annually appropriated by the general assembly to the state agency for which the property is being obtained, from other funds legally available, or from proceeds of the financing agreement. The provision of a financing agreement which provides that a portion of the periodic rental or lease payment be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 does not apply to financing agreements entered into pursuant to this section.

5. Payments and other costs due under financing agreements entered into pursuant to this section shall be payable from funds annually appropriated by the general assembly to the state agency for which the property is being obtained or from other funds legally available. The treasurer of state, in cooperation with the department of revenue and finance, shall implement procedures to ensure that state agencies are timely in making payments due under the financing agreements.

6. The maximum principal amount of financing agreements which the treasurer of state can enter into shall be one million dollars per state agency in a fiscal year, subject to the requirements of section 8.46. For the fiscal year, the treasurer of state shall not enter into more than one million dollars of financing agreements per state agency, not considering interest expense. However, the treasurer of state may enter into financing agreements in excess of the one million dollar per agency per fiscal year limit if a constitutional majority of each house of the general assembly, or the legislative council if the general assembly is not in session, and the governor, authorize the treasurer of state to enter into additional financing agreements above the one million dollar authorization contained in this section. The treasurer of state shall not enter into a financing agreement for real or personal property which is to be constructed for use as a prison or prison-related facility without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest

expense, of the real or personal property to be financed. However, financing agreements for an energy conservation measure, as defined in section 7D.34, are exempt from the provisions of this subsection, but are subject to the requirements of section 7D.34 or 473.20A. In addition, financing agreements funded through the materials and equipment revolving fund established in section 307.47 are exempt from the provisions of this subsection.

7. The treasurer of state shall decide upon the most economical method of financing a state agency's request for funds. The treasurer of state may utilize master lease-purchase agreements, issue certificates of participation in lease-purchase agreements, or use any other financing method or method of sale which the treasurer believes will provide savings to the state in issuance or interest costs.

8. A financing agreement to which the state is a party is an obligation of the state for purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investments companies, insurance companies, insurance associations, executors, guardians, trustees, and other fiduciaries responsible for the investment of funds.

9. Publication of any notice, whether under section 73A.12 or otherwise, and other or further proceedings with respect to the financing agreements referred to in this section are not required except as set forth in this section, notwithstanding any provisions of other statutes of the state to the contrary.

Sec. 3. Section 18.12, subsection 10, Code Supplement 1995, is amended to read as follows:

10. ~~On behalf of the department, enter into lease-purchase contracts for real or personal property, wherever located within the state, to be used for buildings, facilities, and structures, or for additions or improvements to existing buildings, facilities, and structures, to carry out the provisions of this section or for the proper use and benefit of the state and its state agencies on the following terms and conditions:~~

~~a. The~~ Unless otherwise provided by law, the director shall coordinate the location, design, plans and specifications, construction, and ultimate use of the real or personal property ~~lease-purchased with the~~ to be purchased by a state agency for whose benefit and use the property is being obtained ~~and the terms and conditions of the lease-purchase contract with both the state agency for whose benefit and use the property is being obtained and the treasurer of state~~. If the purchase of real or personal property is to be financed pursuant to section 12.28, the department shall cooperate with the treasurer of state in providing the information necessary to complete the financing of the property. Upon awarding the contract for construction of a building or for site development, the director shall have sole authority to administer the contract.

~~b. The lease-purchase contract may provide for ultimate ownership of the property by the state. Title to all property acquired in this manner shall be taken and held in the name of the state. The state shall be the lessee or contracting party under all lease-purchase contracts entered into pursuant to this section. The lease-purchase contract may contain provisions similar to provisions customarily found in lease-purchase contracts between private persons, including, but not limited to, provisions prohibiting the acquisition or use by the lessee of competing property or property in substitution for the lease-purchased property, obligating the lessee to pay costs of operation, maintenance, insurance, and taxes relating to the property, and permitting the lessor to retain a security interest in the property lease-purchased, until title passes to the state, which may be assigned or pledged by the lessor. The director may contract for additional security or liquidity for a lease-purchase contract and may enter into agreements for letters of credit, lines of credit, insurance, or other forms of security with respect to rental and other payments due under a lease-purchase contract. Fees for the costs of additional security or liquidity are a cost of entering into the lease-purchase contract and may be paid from funds annually appropriated by the general assembly to the state agency for which the property is being obtained or from other funds legally available. The lease-purchase contract may include the costs of~~

~~entering into the lease-purchase contract as a cost of the lease-purchased property. The provision of a lease-purchase contract which provides that a portion of the periodic rental payment be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 does not apply to lease-purchase contracts entered into pursuant to this section. Rental and other costs due under lease-purchase contracts entered into pursuant to this section shall be payable from funds annually appropriated by the general assembly to the state agency for which the property is being obtained or from other funds legally available.~~

~~c. A lease-purchase contract to which the state is a party is an obligation of a state for purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and other fiduciaries responsible for the investment of funds.~~

~~d. The director shall not enter into lease-purchase contracts pursuant to this section without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest expense, of the real or personal property to be lease-purchased. However, the director shall not enter into a lease-purchase contract for real or personal property which is to be constructed for use as a prison or prison-related facility without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest expense, of the real or personal property to be lease-purchased and with the construction in accordance with space needs as established by an independent study of space needs authorized by the general assembly.~~

~~e.~~ A contract for acquisition, construction, erection, demolition, alteration, or repair by a private person of real or personal property to be lease-purchased by the ~~director~~ treasurer of state pursuant to ~~this~~ section 12.28 is exempt from section 18.6, subsections 1 and 9, unless the lease-purchase contract is funded in advance by a deposit of the lessor's moneys to be administered by the ~~director~~ treasurer of state under a lease-purchase contract which requires rent payments to commence upon delivery of the lessor's moneys to the lessee.

~~This subsection provides an alternative and independent method for carrying out projects under this chapter and for entering into lease-purchase contracts in connection with the projects, without reference to any other statute, and is not an amendment of or subject to the provision of any other law. No publication of any notice, whether under section 73A.12 or otherwise, and no other or further proceedings with respect to the lease-purchase contracts referred to in this section are required except as set forth in this section, any provisions of other statutes of the state to the contrary notwithstanding.~~

~~For~~ Unless the context otherwise requires, for purposes of this subsection and subsection 12, "state agency" means a board, commission, bureau, division, office, department, or branch of state government.

Sec. 4. REPEAL. Section 18.23, Code 1995, is repealed.

Approved April 30, 1996

CHAPTER 1178

REINSTATEMENT UPON DENIAL OF DISABILITY RETIREMENT BENEFITS

H.F. 2153

AN ACT relating to the reinstatement to active service of members of the statewide fire and police retirement system and the public safety peace officers' retirement, accident, and disability system upon denial of disability benefits.

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

Section 1. Section 97A.6, subsection 3, Code 1995, is amended to read as follows:

3. ORDINARY DISABILITY RETIREMENT BENEFIT. Upon the application of a member in service or of the commissioner of public safety, any member shall be retired by the board of trustees, not less than thirty and not more than ninety days next following the date of filing such application, on an ordinary disability retirement allowance, provided, that the medical board after a medical examination of such member shall certify that said member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

Sec. 2. Section 97A.6, subsection 5, paragraph a, Code 1995, is amended to read as follows:

a. Upon application of a member in service or of the commissioner of public safety, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury, disease or exposure occurring or aggravated while in the actual performance of duty at some definite time and place shall be retired by the board of trustees, provided, that the medical board shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

Sec. 3. Section 411.6, subsection 3, Code 1995, is amended to read as follows:

3. ORDINARY DISABILITY RETIREMENT BENEFIT. Upon 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 system, not less than thirty and not more than ninety days next following the date of filing the application, on an ordinary disability retirement allowance, if the medical board after a medical examination of the member certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical

board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

Sec. 4. Section 411.6, subsection 5, paragraph a, Code 1995, is amended to read as follows:

a. 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 system, if the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

Approved April 30, 1996

CHAPTER 1179

SCHOOL FINANCE – LEVY ADJUSTMENT

S.F. 2357

AN ACT relating to school finance providing for an increase in the amount certified for levy in excess of that previously authorized for bonded indebtedness repayment.

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

Section 1. NEW SECTION. 298.18A LEVY ADJUSTMENT.

If, in the opinion of the board of a school corporation, after having originally estimated and certified the amount required to pay interest and principal due upon bonded indebtedness incurred before July 1, 1995, an adjustment in the amount certified in excess of that previously levied by the resolution authorizing issuance of the bonds becomes necessary in anticipation of future projected revenue shortfalls resulting from machinery and equipment-related taxable valuation decrease from the valuation as of January 1, 1994, an adjustment shall be permitted subject to the following limitations:

1. An adjustment shall be permitted only in a district in which machinery and equipment valuation exceeds twenty percent of total taxable valuation as of January 1, 1994.

2. The adjustment shall not result in a total amount levied in excess of the two dollar and seventy cent per thousand dollars of assessed valuation limit provided in section 298.18. An adjustment in excess of the two dollar and seventy cent per thousand dollars of assessed valuation limit shall be subject to the special election provisions for increases of up to four dollars and five cents per thousand dollars of assessed valuation provisions of section 298.18.

3. The amount of the adjustment, when added to the amount originally estimated and certified, for any one year, shall not exceed the least of:

a. The amount required to pay interest and principal due upon bonded indebtedness for the three-year period beginning on the date of the adjustment.

b. One hundred twenty-five percent of the amount originally estimated and certified.

c. One hundred ten percent of the total district levies for the fiscal year preceding the fiscal year in which the adjustment is to be added.

4. The amount of the adjustment plus the amount of state replacement moneys received under section 427B.19A which is attributable to the amount of the adjustment, when added to the amount originally estimated and certified, shall not result in the levying of an amount over the life of the issue in excess of the amount necessary for principal and interest repayment.

5. Amounts collected pursuant to this section shall be deposited in a separate debt service account distinct from the account established to hold principal and interest revenues resulting from the original levy.

6. An adjustment shall not be permitted which results in extending a levy beyond the earlier of the following:

a. Ten years from the original date of certification of the amount required to pay interest and principal.

b. June 30, 2007.

Approved April 30, 1996

CHAPTER 1180

ECONOMIC DEVELOPMENT PROGRAMS

S.F. 2351

AN ACT relating to department of economic development programs, including the workforce development fund program and the Iowa small business new jobs training Act, providing a supplemental new jobs credit from withholding, making an annual allocation from an appropriation, and establishing an effective date.

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

Section 1. NEW SECTION. 15.342A WORKFORCE DEVELOPMENT FUND ACCOUNT.

A workforce development fund account is established in the office of the treasurer of state under the control of the department. The account shall receive funds pursuant to section 422.16A up to a maximum of ten million dollars per year.

Sec. 2. Section 15.343, subsection 1, paragraph b, Code Supplement 1995, is amended by striking the paragraph.

Sec. 3.* Section 15.343, subsection 1, paragraph c, Code Supplement 1995, is amended to read as follows:

c. Repayment moneys pursuant to section 422.16A, up to a maximum of ~~two~~ ten million dollars each year.

Sec. 4. Section 15.343, subsection 1, paragraph c, Code Supplement 1995, as otherwise amended by this Act, is amended by striking the paragraph and inserting in lieu thereof the following:

*See chapter 1219, §39 herein

c. Moneys appropriated to the fund from the workforce development fund account established in section 15.342A.

Sec. 5. Section 15.343, subsection 2, Code Supplement 1995, is amended by striking the subsection and inserting in lieu thereof the following:

2. The assets of the fund shall be used by the department for the following programs and purposes:

a. Training and retraining programs for targeted industries.

b. Projects under chapter 260F. The department shall require a match from all businesses participating in a training project under chapter 260F.

c. Apprenticeship programs under section 260C.44, including new or statewide building trades apprenticeship programs.

d. Innovative skill development activities.

Sec. 6. Section 15.343, subsection 3, Code Supplement 1995, is amended to read as follows:

3. The director shall submit ~~annually~~ not later than January 1 of each year at a regular or special meeting ~~preceding the beginning of the fiscal year~~, for approval by the economic development board, the proposed allocation of funds from the workforce development fund to be made for ~~that~~ the next fiscal year for the programs and purposes contained in subsection 2. The director shall also submit a copy of the proposed allocation to the chairpersons of the joint economic development appropriations subcommittee of the general assembly. ~~Subject to approval under~~ Notwithstanding section 8.39 ~~for transfer of allocations between programs contained in subsection 2~~, the plan may provide for increased or decreased allocations if the demand for a program indicates that the need is greater or lesser than the allocation for that program. The director shall report on a quarterly basis to the board on the status of the funds and may present proposed revisions for approval by the board in January and April of each year. The director shall also provide quarterly reports to the legislative fiscal bureau on the status of the funds. Unobligated and unencumbered moneys remaining in the workforce development fund or any of its accounts on June 30 of each year shall be considered part of the fund for purposes of the next year's allocation.

Sec. 7. NEW SECTION. 15.344 COMMON SYSTEM - ASSESSMENT AND TRACKING.

The department shall use information from the customer tracking system administered by the department of workforce development under section 84A.2, if enacted by Senate File 2409* or House File 2463, to determine the economic impact of the programs. To the extent possible, the department shall track individuals and businesses who have received assistance or services through the fund to determine whether the assistance or services has resulted in increased wages paid to the individuals or paid by the businesses.

Sec. 8. NEW SECTION. 15A.7 SUPPLEMENTAL NEW JOBS CREDIT FROM WITHHOLDING.

In order to promote the creation of additional high-quality new jobs within the state, an agreement under section 260E.3 may include a provision for a supplemental new jobs credit from withholding from jobs created under the agreement. A provision in an agreement for which a supplemental credit from withholding is included shall provide for the following:

1. That the project shall be administered in the same manner as a project under chapter 260E and that a supplemental new jobs credit from withholding in an amount equal to one and one-half percent of the gross wages paid by the employer pursuant to section 422.16 is authorized to fund the program services for the additional project.

2. That the supplemental new jobs credit from withholding shall be collected, accounted for, and may be pledged by the community college in the same manner as described in section 260E.5.

3. That the employer shall agree to pay wages for the jobs for which the credit is taken of at least the average county wage or average regional wage, whichever is lower, as

*See chapter 1186, §12 herein

compiled annually by the department for the community economic betterment program. For the purposes of this section, the average regional wage shall be compiled based upon the service delivery areas in section 84B.2, if enacted by 1996 Iowa Acts, Senate File 2409.* Eligibility for the supplemental credit shall be based on a one-time determination of starting wages by the community college.

4. To provide funds for the payment of the costs of the additional project, a community college may borrow money, issue and sell certificates, and secure the payment of the certificates in the same manner as described in section 260E.6, including, but not limited to, providing the assessment of an annual levy as described in section 260E.6, subsection 4. The program and credit authorized by this subsection is in addition to, and not in lieu of, the program and credit authorized in chapter 260E.

Sec. 9. Section 260F.1, Code 1995, is amended to read as follows:

260F.1 TITLE.

This chapter shall be known and may be cited as the "Iowa ~~small business new~~ jobs training Act".

Sec. 10. Section 260F.2, Code 1995, is amended to read as follows:

260F.2 DEFINITIONS.

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

1. "Agreement" is the agreement between a business and a community college concerning a project.

~~2. "Board of directors" means the board of directors of a community college.~~

~~3.~~ 2. "Community college" means a community college established under chapter 260C.

~~4.~~ 3. "Date of commencement of the project" means the date of the preliminary agreement or the date an application for assistance is received by the department.

4. "Department" means the department of economic development.

5. "Eligible business" or "business" means a business training employees which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excludes retail, health, or professional services and which meets the other criteria established by the ~~Iowa~~ department ~~of economic development~~. ~~"Eligible business" does not include a business which closes or substantially reduces its operation in one area of the state of Iowa and relocates substantially the same operation in another area of the state of Iowa. This subsection does not prohibit a business from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced. "Small~~ "Eligible business" does not include a business whose training costs can be economically funded under chapter 260E, a business which closes or substantially reduces its employment base in order to relocate substantially the same operation to another area of the state, or a business which is involved in a strike, lockout, or other labor dispute in Iowa.

~~"Eligible business" includes the following:~~

~~a. Retraining business which is currently conducting retooling of a production facility.~~

~~b. Small business which meets other criteria established by the department of economic development relating to business size.~~

6. "Employee" means ~~the person employed in a new job by a small business or~~ a person currently employed by a business who is to be ~~retrained~~ trained. However, "employee" does not include replacement workers who are hired as a result of a strike, lockout, or other labor dispute in Iowa.

~~7. "Incremental property taxes" means the taxes as provided in section 260F.4.~~

~~8.~~ 7. "Jobs training program" or "program" means the project or projects established by 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 or for the retraining of workers of an existing business~~ training of employees.

~~9. "New job" means a job in a new or expanding small business but does not include jobs of recalled workers, or replacement jobs or other jobs that formerly existed in the small business in the state of Iowa.~~

*See chapter 1186, §18 herein

~~10. "New jobs credit from withholding" means the credit as provided in section 260F.5.~~

~~11.~~ 8. "Participating business" means ~~the small business providing new jobs or retraining jobs and~~ a business training employees which enters into an agreement with the community college.

~~12.~~ 9. "Program costs" means all necessary and incidental costs of providing program services.

~~13.~~ 10. "Program services" includes but is not limited to the following:

~~a. New jobs training.~~

~~b.~~ a. ~~Retraining~~ Training of ~~existing workers~~ employees.

~~c.~~ b. Adult basic education and job-related instruction.

~~d.~~ c. Vocational and skill-assessment services and testing.

~~e.~~ d. Training facilities, equipment, materials, and supplies.

~~f. On-the-job training.~~

~~g.~~ e. Administrative expenses for the jobs training program.

~~h.~~ f. Subcontracted services with institutions governed by the state board of regents, private colleges or universities, or other federal, state, or local agencies.

~~i.~~ g. Contracted or professional services.

~~14.~~ 11. "Project" means a training arrangement which is the subject of an agreement entered into between the community college and a business to provide program services.

~~15. "Retooling" means upgrading, modernizing, or expanding a business to increase the production or efficiency of business operations including, but not limited to, replacing equipment, introducing new manufacturing processes, or changing managerial procedures.~~

~~16. "Retraining job" means a job with an existing business that is substantially at risk of becoming displaced within the following ten years due to the retooling of the business.~~

Sec. 11. Section 260F.3, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

260F.3 AGREEMENT.

A community college may enter into an agreement to establish a project. An agreement shall provide for, but is not limited to, the following:

1. Date of agreement.
2. Anticipated number of employees to be trained.
3. Estimated cost of training.
4. Anticipated dates of commencement and termination of training.
5. Other criteria established by the department.

Sec. 12. Section 260F.6, subsection 2, Code Supplement 1995, is amended to read as follows:

2. To provide funds for the present payment of the costs of a training program by the business, the community college may provide to the business 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 job training fund established in subsection 1, the community college shall submit an application to the department of economic development. The amount of the advance shall not exceed ~~fifty~~ twenty-five thousand dollars for any ~~project~~ business site, or fifty thousand dollars within a three-fiscal-year period for any business site. ~~The advance, if the agreement provides it as a loan, 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 community colleges pursuant to chapter 260E for the previous twelve months. The rate shall be computed by the department of economic development.~~ If the project involves a consortium of businesses, the maximum award per project shall not exceed fifty thousand dollars. Participation in a consortium does not affect a business site's eligibility for individual project assistance. Prior to approval a business shall agree to match program amounts in accordance with criteria established by the department.

Sec. 13. NEW SECTION. 260F.6A BUSINESS NETWORK TRAINING.

The community colleges and the department are authorized to fund business network

training projects which include five or more businesses and are located in two or more community college districts. A business network training project must have a designated organization or lead business to serve as the administrative entity that will coordinate the training program. The businesses must have common training needs and develop a plan to meet those needs. The department shall adopt rules governing this section's operation and participant eligibility.

Sec. 14. Section 260F.7, Code 1995, is amended to read as follows:

260F.7 DEPARTMENT OF ECONOMIC DEVELOPMENT TO COORDINATE.

The 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 jobs training program. A project shall not be funded under this chapter unless the department of economic development approves the project. The department ~~of economic development~~ shall adopt rules pursuant to chapter 17A ~~that the community college will use in developing projects with new and expanding small business new jobs training proposals or existing business retraining proposals~~ governing the program's operation and eligibility for participation in the program. The department shall establish by rule criteria for determining what constitutes an eligible 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 may adopt any rule 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 of economic development shall prepare an annual report for the governor and general assembly on the activities and the future anticipated needs of this jobs training program.~~

Sec. 15. Section 260F.8, Code 1995, is amended to read as follows:

260F.8 ALLOCATION.

1. For ~~the~~ each fiscal year ~~beginning July 1, 1992, and subsequent years~~, the department ~~of economic development~~ shall make funds available to the community colleges. The department shall allocate by formula ~~at the beginning of the fiscal year~~ from the moneys in the fund an amount for each ~~merged area~~ community college to be used to provide the financial assistance for proposals of businesses ~~located in the merged area~~ whose applications have been approved by the department. The financial assistance shall be provided by the department from the amount set aside for that ~~merged area~~ community college. If any portion of the moneys set aside for a ~~merged area~~ community college have not been used or committed by ~~March~~ May 1 of the fiscal year, that portion is available for use by the department to provide financial assistance to businesses located in other ~~merged areas~~ community colleges. The department shall adopt by rule a formula for this set-aside ~~based on population and per capita income of the merged area~~.

2. Moneys available to the community colleges for this program may be used to provide ~~grants~~ forgivable loans to train ~~for new jobs or retain existing jobs when the project costs are less than five thousand dollars~~ employees. ~~If the project is for a consortium of businesses, project costs shall not exceed an average of five thousand dollars per business.~~

Sec. 16. Section 403.19, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. For the purposes of dividing taxes under ~~sections~~ section 260E.4 ~~and 260F.4~~, the applicable assessment roll for purposes of paragraph "a" shall be the assessment roll as of January 1 of the calendar year preceding the first written agreement providing that all or a portion of program costs are to be paid for by incremental property taxes. The community college shall file a copy of the agreement with the appropriate assessor. The assessor may, within fourteen days of such filing, physically inspect the applicable taxable business property. If upon such inspection the assessor determines that there has been a change in the value of the property from the value as shown on the assessment roll as of January 1 of the calendar year preceding the filing of the agreement and such change in value is due to new construction, additions or improvements to existing structures, or remodeling of

existing structures for which a building permit was required, the assessor shall promptly determine the value of the property as of the inspection in the manner provided in chapter 441 and that value shall be included for purposes of the jobs training project in the assessed value of the employer's taxable business property as shown on the assessment roll as of January 1 of the calendar year preceding the filing of the agreement. The assessor, within thirty days of such filing, shall notify the community college and the employer or business of that valuation which shall be included in the assessed valuation for purposes of this subsection and section 260E.4 ~~or 260F.4~~. The value determined by the assessor shall reflect the change in value due solely to new construction, additions or improvements to existing structures, or remodeling of existing structures for which a building permit was required.

Sec. 17. Section 422.16A, Code Supplement 1995, as otherwise amended by this Act,* is amended to read as follows:

422.16A JOB TRAINING WITHHOLDING - CERTIFICATION AND TRANSFER.

Upon payment in full of a certificate of participation or other obligation issued to fund a job training program under chapter 260E, including a certificate of participation repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7, the community college providing the job training program shall notify the department of economic development of the amount paid by the employer or business to the community college to retire the certificate during the ~~previous~~ last twelve months of withholding collections. The department of economic development shall notify the department of revenue and finance of that amount. The department shall credit to the workforce development fund account established in section ~~15.343~~ 15.342A twenty-five percent of that amount each quarter for a period of ten years. If the amount of withholding from the business or employer is insufficient, the department shall prorate the quarterly amount credited to the workforce development fund account. The maximum amount from all employers which shall be transferred to the workforce development fund account in any year is ~~two~~ ten million dollars.

Sec. 18. Section 427B.17, subsection 7, Code Supplement 1995, is amended to read as follows:

7. For the purpose of dividing taxes under section 260E.4 ~~or 260F.4~~, the employer's or business's valuation of property defined in section 427A.1, subsection 1, paragraphs "e" and "j", and used to fund a new jobs training project which project's first written agreement providing for a division of taxes as provided in section 403.19 is approved on or before June 30, 1995, shall be limited to thirty percent of the net acquisition cost of the property. An employer's or business's taxable property used to fund a new jobs training project shall not be valued pursuant to subsection 2 or 3, whichever is applicable, until the assessment year following the calendar year in which the certificates or other funding obligations have been retired or escrowed. The taxpayer's valuation for such property shall then be the valuation specified in subsection 1 for the applicable assessment year. If the certificates issued, or other funding obligations incurred, between January 1, 1982, and June 30, 1995, are refinanced or refunded after June 30, 1995, the valuation of such property shall then be the valuation specified in subsection 2 or 3, whichever is applicable, for the applicable assessment year beginning with the assessment year following the calendar year in which those certificates or other funding obligations are refinanced or refunded after June 30, 1995.

Sec. 19. 1995 Iowa Acts, chapter 184, section 12, is repealed.

Sec. 20. Sections 15.345 and 15.346, Code Supplement 1995, are repealed.

Sec. 21. REPEALS. Sections 260F.4 and 260F.5, Code 1995, are repealed.

Approved April 30, 1996

*Section 422.16A not otherwise amended by this Act

CHAPTER 1181

FORGERY AND RELATED MATTERS

S.F. 284

AN ACT relating to the crime of forgery, by prohibiting the knowing possession of forged writings, including documents prescribed for entry into, stay, or employment in the United States, and providing criminal penalties and providing civil penalties for employers hiring individuals with forged documents regarding the individuals' entry into, study,* or employment in the United States.

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

Section 1. Section 91E.3, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. That possession of forged documentation authorizing the person to stay or be employed in the United States is a class "D" felony.

Sec. 2. Section 715A.2, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Possesses a writing which the person knows to be forged in a manner specified in paragraph "a" or "b".

Sec. 3. Section 715A.2, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. Forgery is a class "D" felony if the writing is or purports to be ~~part~~ any of the following:

(1) Part of an issue of money, securities, postage or revenue stamps, or other instruments issued by the government~~, or part~~.

(2) Part of an issue of stock, bonds, credit-sale contracts as defined in section 203.1, or other instruments representing interests in or claims against any property or enterprise~~, or a~~.

(3) A check, draft, or other writing which ostensibly evidences an obligation of the person who has purportedly executed it or authorized its execution.

(4) A document prescribed by statute, rule, or regulation for entry into or as evidence of authorized stay or employment in the United States.

Sec. 4. NEW SECTION. 715A.2A ACCOMMODATION OF FORGERY - PENALTY.

1. An employer is subject to the civil penalty in this section if the employer does either of the following:

a. Hires a person when the employer or an agent or employee of the employer knows that the document evidencing the person's authorized stay or employment in the United States is in violation of section 715A.2, subsection 2, paragraph "a", subparagraph (4), or knows that the person is not authorized to be employed in the United States.

b. Continues to employ a person when the employer or an agent or employee of the employer knows that the document evidencing the person's authorized stay or employment in the United States is in violation of section 715A.2, subsection 2, paragraph "a", subparagraph (4), or knows that the person is not authorized to be employed in the United States.

2. An employer who establishes that it has complied in good faith with the requirements of 8 U.S.C. § 1324(b) with respect to the hiring or continued employment of an alien in the United States has established an affirmative defense that the employer has not violated this section.

3. An employer who violates this section shall cease and desist from further violations and shall pay the following civil penalty:

a. For a first violation, not less than two hundred and fifty dollars and not more than two thousand dollars for each unauthorized alien hired or employed.

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*The word "stay" probably intended

b. For a second violation, not less than two thousand dollars and not more than five thousand dollars for each unauthorized alien hired or employed.

c. For a third or subsequent violation, not less than three thousand dollars and not more than ten thousand dollars for each unauthorized alien hired or employed.

In addition, an employer found to have violated this section shall be assessed the costs of the action to enforce the civil penalty, including the reasonable costs of investigation and attorneys' fees.

4. A civil action to enforce this provision shall be by equitable proceedings instituted by the attorney general or county attorney.

5. Penalties ordered pursuant to this section shall be paid to the treasurer of state for deposit in the general fund of the state.

Approved May 1, 1996

CHAPTER 1182

PIONEER CEMETERIES - CEMETERY LEVY

H.F. 2491

AN ACT relating to the care and maintenance of pioneer cemeteries and authorizing a tax levy.

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

Section 1. NEW SECTION. 331.325 CONTROL AND MAINTENANCE OF PIONEER CEMETERIES - CEMETERY COMMISSION.

1. As used in this section, "pioneer cemetery" means a cemetery where there have been six or fewer burials in the preceding fifty years.

2. Each county board of supervisors may adopt an ordinance assuming jurisdiction and control of pioneer cemeteries in the county. The board shall exercise the powers and duties of township trustees relating to the maintenance and repair of cemeteries in the county as provided in sections 359.28 through 359.41 except that the board shall not certify a tax levy pursuant to section 359.30 or 359.33 and except that the maintenance and repair of all cemeteries under the jurisdiction of the county including pioneer cemeteries shall be paid from the county general fund. The maintenance and improvement program for a pioneer cemetery may include restoration and management of native prairie grasses and wildflowers.

3. In lieu of management of the cemeteries, the board of supervisors may create, by ordinance, a cemetery commission to assume jurisdiction and management of the pioneer cemeteries in the county. The ordinance shall delineate the number of commissioners, the appointing authority, the term of office, officers, employees, organizational matters, rules of procedure, compensation and expenses, and other matters deemed pertinent by the board. The board may delegate any power and duties relating to cemeteries which may otherwise be exercised by township trustees pursuant to sections 359.28 through 359.41 to the cemetery commission except the commission shall not certify a tax levy pursuant to section 359.30 or 359.33 and except that the expenses of the cemetery commission shall be paid from the county general fund.

4. Notwithstanding sections 359.30 and 359.33, the costs of management, repair, and maintenance of pioneer cemeteries shall be paid from the county general fund.

Sec. 2. NEW SECTION. 331.424B CEMETERY LEVY.

The board may levy annually a tax not to exceed six and three-fourths cents per thousand dollars of the assessed value of all taxable property in the county to repair and maintain all cemeteries under the jurisdiction of the board including pioneer cemeteries and to pay other expenses of the board or the cemetery commission as provided in section 331.325. The proceeds of the tax levy shall be credited to the county general fund. Sections 444.25A and 444.25B do not apply to the property tax levied or expended for cemeteries pursuant to section 331.325.

Sec. 3. Section 359.28, Code 1995, is amended to read as follows:

359.28 CONDEMNATION.

The township trustees are hereby empowered to condemn, or purchase and pay for out of the general fund, or the specific fund voted for such purpose, and enter upon and take, any lands within the territorial limits of such township for the use of cemeteries, a community center or juvenile playgrounds, in the same manner as is now provided for cities. However, the board of supervisors or a cemetery commission appointed by the board of supervisors shall control and maintain pioneer cemeteries as defined in section 331.325.

Approved May 1, 1996

CHAPTER 1183

MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITY SERVICES

H.F. 2427

AN ACT relating to mental health, mental retardation, developmental disabilities, and other services paid for in whole or in part by counties or the state, and including an applicability provision and an effective date.

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

DIVISION I
MENTAL RETARDATION SERVICE PROVISIONS

Section 1. Section 222.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Single entry point process" means the same as defined in section 331.440.

Sec. 2. Section 222.13, subsections 1 through 3, Code Supplement 1995, are amended to read as follows:

1. If an adult person is believed to be a person with mental retardation, the adult person or the adult person's guardian may request the county board of supervisors or their designated agent to apply to the superintendent of any state hospital-school for the voluntary admission of the adult person either as an inpatient or an outpatient of the hospital-school. Submission of an application is subject to a recommendation supporting the placement developed through the single entry point process. After determining the legal settlement of the adult person as provided by this chapter, the board of supervisors shall, on forms prescribed by the administrator, apply to the superintendent of the hospital-school in the district for the admission of the adult person to the hospital-school. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon

request of the adult person or the adult person's guardian. The superintendent shall accept the application providing a preadmission diagnostic evaluation, performed through the single entry point process, confirms or establishes the need for admission, except that an application may not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

2. If the hospital-school has no appropriate program for the treatment of an adult or minor person with mental retardation applying under this section or section 222.13A, the board of supervisors shall arrange for the placement of the person in any public or private facility within or without the state, approved by the director of the department of human services, which offers appropriate services for the person, as determined through the single entry point process.

3. Upon applying for admission of an adult or minor person to a hospital-school, or a special unit, or upon arranging for the placement of the person in a public or private facility, the board of supervisors shall make a full investigation into the financial circumstances of that person and those liable for that person's support under section 222.78, to determine whether or not any of them are able to pay the expenses arising out of the admission of the person to a hospital-school, ~~or~~ special treatment unit, or public or private facility. If the board finds that the person or those legally responsible for the person are presently unable to pay the expenses, ~~they~~ the board shall direct that the expenses be paid by the county. The board may review its finding at any subsequent time while the person remains at the hospital-school, or is otherwise receiving care or treatment for which this chapter obligates the county to pay. If the board finds upon review that the person or those legally responsible for the person are presently able to pay the expenses, the finding shall apply only to the charges incurred during the period beginning on the date of the review and continuing thereafter, unless and until the board again changes its finding. If the board finds that the person or those legally responsible for the person are able to pay the expenses, ~~they~~ the board shall direct that the charges be so paid to the extent required by section 222.78, and the county auditor shall be responsible for the collection of the charges.

Sec. 3. Section 222.13A, subsection 2, Code Supplement 1995, is amended to read as follows:

2. Upon receipt of an application for voluntary admission of a minor, the board of supervisors shall provide for a preadmission diagnostic evaluation of the minor to confirm or establish the need for the admission. The preadmission diagnostic evaluation shall be performed by a person who meets the qualifications of a qualified mental retardation professional who is designated through the single entry point process.

Sec. 4. Section 222.28, Code 1995, is amended to read as follows:

222.28 COMMISSION TO EXAMINE.

The court may, at or prior to the final hearing, appoint a commission of one qualified physician and one qualified psychologist, designated through the single entry point process, who shall make a personal examination of the person alleged to be mentally retarded for the purpose of determining the mental condition of the person.

Sec. 5. Section 222.59, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

Upon receiving a request from an authorized requester, the superintendent of a state hospital-school shall ~~assist~~ coordinate with the single entry point process in assisting the requester in identifying available community-based services as an alternative to continued placement of a patient in the state hospital-school. For the purposes of this section, "authorized requester" means the parent, guardian, or custodian of a minor patient, the guardian of an adult patient, or an adult patient who does not have a guardian. The assistance shall identify alternatives to continued placement which are appropriate to the patient's needs and shall include but are not limited to any of the following:

Sec. 6. Section 222.73, subsection 2, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A county shall not be billed for the cost of a patient unless the patient's admission is authorized through the applicable single entry point process. The state hospital-school and the county shall work together to locate appropriate alternative placements and services, and to educate patients and the family members of patients regarding such alternatives.

Sec. 7. Section 222.73, subsection 2, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

The per diem costs billed to each county shall not exceed the per diem costs ~~in effect on July 1, 1988~~ billed to the county in the fiscal year beginning July 1, 1996. However, the per diem costs billed to a county may be adjusted ~~annually~~ in a fiscal year to reflect increased costs to the extent of the ~~adjustment in the consumer price index published annually in the federal register by the federal department of labor, bureau of labor statistics~~ percentage increase in the total of county fixed budgets pursuant to the allowed growth factor adjustment authorized by the general assembly for that fiscal year in accordance with section 331.439.

Sec. 8. EFFECTIVE DATE. Section 222.73, subsection 2, unnumbered paragraph 2, Code Supplement 1995, as amended by this division of this Act, takes effect July 1, 1997.

DIVISION II
MENTAL HEALTH SERVICE PROVISIONS

Sec. 9. Section 225.11, Code 1995, is amended to read as follows:

225.11 INITIATING COMMITMENT PROCEDURES.

When a court finds upon completion of a hearing held pursuant to section 229.12 that the contention that a respondent is seriously mentally impaired has been sustained by clear and convincing evidence, and the application filed under section 229.6 also contends or the court otherwise concludes that it would be appropriate to refer the respondent to the state psychiatric hospital for a complete psychiatric evaluation and appropriate treatment pursuant to section 229.13, the judge may order that a financial investigation be made in the manner prescribed by section 225.13. If the costs of a respondent's evaluation or treatment are payable in whole or in part by a county, an order under this section shall be for referral of the respondent through the single entry point process for an evaluation and referral of the respondent to an appropriate placement or service, which may include the state psychiatric hospital for additional evaluation or treatment. For purposes of this chapter, "single entry point process" means the same as defined in section 331.440.

Sec. 10. Section 225.15, Code 1995, is amended to read as follows:

225.15 EXAMINATION AND TREATMENT.

When ~~the~~ a respondent arrives at the state psychiatric hospital, ~~it shall be the duty of~~ the admitting physician ~~to~~ shall examine the respondent and determine whether or not, in the physician's judgment, the ~~patient~~ respondent is a fit subject for ~~such~~ observation, treatment, and hospital care. If, upon examination, the physician decides that ~~such patient~~ the respondent should be admitted to the hospital, the ~~patient~~ respondent shall be provided a proper bed in the hospital; and the physician who ~~shall have~~ has charge of the ~~patient~~ respondent shall proceed with ~~such~~ observation, medical treatment, and hospital care as in the physician's judgment are proper and necessary, in compliance with sections 229.13 to 229.16.

A proper and competent nurse shall also be assigned to look after and care for ~~such patient~~ the respondent during ~~such~~ observation, treatment, and care ~~as aforesaid~~. Observation, treatment, and hospital care under this section which are payable in whole or in part by a county shall only be provided as determined through the single entry point process.

Sec. 11. Section 225.17, Code 1995, is amended to read as follows:

225.17 COMMITTED PRIVATE PATIENT - TREATMENT.

If the judge of the district court, finds upon the review and determination made under the provisions of section 225.14 that the respondent is an appropriate subject for placement at the state psychiatric hospital, and that the respondent, or those legally responsible for the respondent, are able to pay the expenses ~~thereof~~ associated with the placement, the judge shall enter an order directing that the respondent shall be sent to the state psychiatric hospital at the state University of Iowa for observation, treatment, and hospital care as a committed private patient.

When the respondent arrives at the ~~said~~ hospital, the respondent shall receive the same treatment as is provided for committed public patients in section 225.15, in compliance with sections 229.13 to 229.16. However, observation, treatment, and hospital care under this section of a respondent whose expenses are payable in whole or in part by a county shall only be provided as determined through the single entry point process.

Sec. 12. Section 225C.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8. "Single entry point process" means the same as defined in section 331.440.

Sec. 13. Section 225C.12, Code 1995, is amended to read as follows:

225C.12 PARTIAL REIMBURSEMENT TO COUNTIES FOR LOCAL INPATIENT MENTAL HEALTH CARE AND TREATMENT.

1. A county which pays, from county funds budgeted under section ~~331.424, subsection 1, paragraphs "d" and "g"~~ 331.424A, the cost of care and treatment of a ~~mentally ill~~ person with mental illness who is admitted pursuant to a preliminary diagnostic evaluation under sections 225C.14 to 225C.17 for treatment as an inpatient of a hospital facility, other than a state mental health institute, which has a designated mental health program and is a hospital accredited by the accreditation program for hospital facilities of the joint commission on accreditation of ~~hospitals~~ health organizations, is entitled to reimbursement from the state for a portion of the daily cost so incurred by the county. However, a county is not entitled to reimbursement for a cost incurred in connection with the hospitalization of a person who is eligible for medical assistance under chapter 249A, or who is entitled to have care or treatment paid for by any other third party payor, or who is admitted for preliminary diagnostic evaluation under sections 225C.14 to 225C.17. The amount of reimbursement for the cost of treatment of a local inpatient to which a county is entitled, on a per-patient-per-day basis, is an amount equal to twenty percent of the average of the state mental health institutes' individual average daily patient costs in the most recent calendar quarter for the program in which the local inpatient would have been served if the patient had been admitted to a state mental health institute.

2. A county may claim reimbursement by filing with the administrator a claim in a form prescribed by the administrator by rule. Claims may be filed on a quarterly basis, and when received shall be verified as soon as reasonably possible by the administrator. The administrator shall certify to the director of revenue and finance the amount to which each county claiming reimbursement is entitled, and the director of revenue and finance shall issue warrants to the respective counties drawn upon funds appropriated by the general assembly for the purpose of this section. A county shall place funds received under this section in the county mental health ~~and institutions~~, mental retardation, and developmental disabilities services fund created under section 331.424A. If the appropriation for a fiscal year is insufficient to pay all claims arising under this section, the director of revenue and finance shall prorate the funds appropriated for that year among the claimant counties so that an equal proportion of each county's claim is paid in each quarter for which proration is necessary.

Sec. 14. Section 225C.14, subsection 1, Code 1995, is amended to read as follows:

1. Except in cases of medical emergency, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation ~~by a community mental health center or by an alternative diagnostic facility~~ performed through the single entry point process has confirmed that the admission is appropriate to the person's mental health needs, and that no suitable alternative method of providing the needed services in a less restrictive setting or in or nearer to the person's home community is currently available. If provided for through the single entry point process, the evaluation may be performed by a community mental health center or by an alternative diagnostic facility. The policy established by this section shall be implemented in the manner and to the extent prescribed by sections 225C.15, 225C.16 and 225C.17.

Sec. 15. Section 225C.15, Code 1995, is amended to read as follows:

225C.15 COUNTY IMPLEMENTATION OF EVALUATIONS.

The board of supervisors of a county shall, no later than July 1, 1982, require that the policy stated in section 225C.14 be followed with respect to admission of persons from that county to a state mental health institute. A community mental health center which is supported, directly or in affiliation with other counties, by that county ~~shall~~ may perform the preliminary diagnostic evaluations for that county, unless the performance of the evaluations is not covered by the agreement entered into by the county and the center under section 230A.12, and the center's director certifies to the board of supervisors that the center does not have the capacity to perform the evaluations, in which case the board of supervisors shall proceed under section 225C.17.

Sec. 16. Section 225C.16, Code 1995, is amended to read as follows:

225C.16 REFERRALS FOR EVALUATION.

1. The chief medical officer of a state mental health institute, or that officer's physician designee, shall advise a person residing in that county who applies for voluntary admission, or a person applying for the voluntary admission of another person who resides in that county, in accordance with section 229.41, that the board of supervisors has implemented the policy stated in section 225C.14, and shall advise that a preliminary diagnostic evaluation of the prospective patient be sought ~~from the appropriate community mental health center or alternative diagnostic facility~~, if that has not already been done. This subsection does not apply when voluntary admission is sought in accordance with section 229.41 under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

2. The clerk of the district court in that county shall refer a person applying for authorization for voluntary admission, or for authorization for voluntary admission of another person, in accordance with section 229.42, to the appropriate ~~community mental health center or alternative diagnostic facility~~ entity designated through the single entry point process under section 225C.14 for the preliminary diagnostic evaluation unless the applicant furnishes a written statement from ~~that center or facility~~ the appropriate entity which indicates that the evaluation has been performed and that the person's admission to a state mental health institute is appropriate. This subsection does not apply when authorization for voluntary admission is sought under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

3. Judges of the district court in that county or the judicial hospitalization referee appointed for that county shall so far as possible arrange for ~~a physician on the staff of or designated by the appropriate community mental health center or alternative diagnostic facility~~ the entity designated through the single entry point process under section 225C.14 to perform a prehearing examination of a respondent required under section 229.8, subsection 3, paragraph "b".

4. The chief medical officer of a state mental health institute shall promptly submit to the appropriate ~~community mental health center or alternative diagnostic facility~~ entity designated through the single entry point process under section 225C.14 a report of the

voluntary admission of a patient under the medical emergency clauses of subsections 1 and 2. The report shall explain the nature of the emergency which necessitated the admission of the patient without a preliminary diagnostic evaluation by the ~~center or alternative facility~~ designated entity.

Sec. 17. Section 227.10, Code 1995, is amended to read as follows:

227.10 TRANSFERS FROM COUNTY OR PRIVATE INSTITUTIONS.

Patients who have been admitted at public expense to any institution to which this chapter is applicable may be involuntarily transferred to the proper state hospital for the mentally ill in the manner prescribed by sections 229.6 to 229.13. The application required by section 229.6 may be filed by the administrator of the division or the administrator's designee, or by the administrator of the institution where the patient is then being maintained or treated. If the patient was admitted to that institution involuntarily, the administrator of the division may arrange and complete the transfer, and shall report it as required of a chief medical officer under section 229.15, subsection 4. The transfer shall be made at county expense, and the expense recovered, as provided in section 227.7. However, transfer under this section of a patient whose expenses are payable in whole or in part by a county is subject to an authorization for the transfer through the single entry point process.

Sec. 18. Section 229.1, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. "Single entry point process" means the same as defined in section 331.440.

Sec. 19. NEW SECTION. 229.1B SINGLE ENTRY POINT PROCESS.

Notwithstanding any provision of this chapter to the contrary, any person whose hospitalization expenses are payable in whole or in part by a county shall be subject to all requirements of the single entry point process.

Sec. 20. Section 229.11, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If the applicant requests that the 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 seriously mentally impaired~~ has a serious mental impairment and is likely to injure the respondent 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 or the sheriff's deputy and be detained until the hospitalization hearing~~, which~~. The hospitalization hearing 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 succeeding business day. If the expenses of a respondent are payable in whole or in part by a county, for a placement in accordance with subsection 1, the judge shall give notice of the placement to the single entry point process and for a placement in accordance with subsection 2 or 3, the judge shall order the placement in a hospital or facility designated through the single entry point process. The judge may order the respondent detained for the period of time until the hearing is held, and no longer, in accordance with subsection 1 if possible, and if not then in accordance with subsection 2 or, only if neither of these alternatives are available, in accordance with subsection 3. Detention may be:

Sec. 21. Section 229.13, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If upon completion of the hearing the court finds that the contention that the respondent ~~is seriously mentally impaired has been~~ has a serious mental impairment is sustained by clear and convincing evidence, ~~it~~ the court shall order ~~the~~ a respondent ~~placed in~~ whose expenses are payable in whole or in part by a county committed to the care of a hospital or

facility designated through the single entry point process, and shall order any other respondent committed to the care of a hospital or a facility licensed to care for persons with mental illness or substance abuse or under the care of a facility that is licensed to care for persons with mental illness or substance abuse on an outpatient basis as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment. If the respondent is ordered at the hearing to undergo outpatient treatment, the outpatient treatment provider must be notified and agree to provide the treatment prior to placement of the respondent under the treatment provider's care. The court shall furnish to the chief medical officer of the hospital or facility at the time the respondent arrives at the hospital or facility a written finding of fact setting forth the evidence on which the finding is based. If the respondent is ordered to undergo outpatient treatment, the order shall also require the respondent to cooperate with the treatment provider and comply with the course of treatment.

PARAGRAPH DIVIDED. 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 or placed under the care of 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 or placed under the care of 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 or placed under the care of the facility.

Sec. 22. Section 229.24, subsection 3, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

If all or part of the costs associated with hospitalization of an individual under this chapter are chargeable to a county of legal settlement, the clerk of the district court shall provide to the county of legal settlement and to the county in which the hospitalization order is entered ~~shall have access to~~, in a form prescribed by the council on human services pursuant to a recommendation of the state-county management committee established in section 331.438, the following information pertaining to the individual which would be confidential under subsection 1:

Sec. 23. Section 229.42, unnumbered paragraph 1, Code 1995, is amended to read as follows:

If a person wishing to make application for voluntary admission to a mental hospital established by chapter 226 is unable to pay the costs of hospitalization or those responsible for ~~such~~ the person are unable to pay ~~such~~ the costs, application for authorization of voluntary admission must be made to any clerk of the district court before application for admission is made to the hospital. ~~After determining~~ The clerk shall determine the person's county of legal settlement and if the admission is approved through the single entry point process, the ~~said~~ clerk shall~~, on forms provided by the administrator of the division,~~ authorize ~~such~~ the person's admission to a mental health hospital as a voluntary case. The authorization shall be issued on forms provided by the administrator. The clerk shall at once provide a duplicate copy of the form to the ~~county board of supervisors~~ single entry point process. The costs of the hospitalization shall be paid by the county of legal settlement to the director of revenue and finance and credited to the general fund of the state, providing the mental health hospital rendering the services has certified to the county auditor of the ~~responsible~~ county of legal settlement the amount chargeable ~~thereto~~ to the county and has sent a duplicate statement of ~~such~~ the charges to the director of revenue and finance.

A county shall not be billed for the cost of a patient unless the patient's admission is authorized through the single entry point process. The mental health institute and the county shall work together to locate appropriate alternative placements and services, and to educate patients and family members of patients regarding such alternatives.

Sec. 24. Section 230.1, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A county of legal settlement is not liable for costs and expenses associated with a person with mental illness unless the costs and expenses are for services and other support authorized for the person through the single entry point process. For the purposes of this chapter, "single entry point process" means the same as defined in section 331.440.

Sec. 25. Section 230.20, subsection 2, Code Supplement 1995, is amended to read as follows:

2. a. The superintendent shall certify to the director of revenue and finance the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and other service charges computed pursuant to subsection 1, and the number of inpatient days and other service units chargeable to the county. However, a county billing shall be decreased by an amount equal to reimbursement by a third party payor or estimation of such reimbursement from a claim submitted by the superintendent to the third party payor for the preceding calendar quarter. When the actual third party payor reimbursement is greater or less than estimated, the difference shall be reflected in the county billing in the calendar quarter the actual third party payor reimbursement is determined.

b. The per diem costs billed to each county shall not exceed the per diem costs ~~in effect on July 1, 1988~~ billed to the county in the fiscal year beginning July 1, 1996. However, the per diem costs billed to a county may be adjusted annually to reflect increased costs to the extent of the ~~adjustment in the consumer price index published annually in the federal register by the federal department of labor, bureau of labor statistics~~ percentage increase in the total of county fixed budgets pursuant to the allowed growth factor adjustment authorized by the general assembly for the fiscal year in accordance with section 331.439.

Sec. 26. EFFECTIVE DATE. Section 230.20, subsection 2, paragraph "b", Code Supplement 1995, as amended by this division of this Act, takes effect July 1, 1997.

DIVISION III
SERVICE REGULATION, INFORMATION, PLANNING, AND PAYMENT PROVISIONS

Sec. 27. Section 230A.13, unnumbered paragraph 2, Code 1995, is amended to read as follows:

Release of administrative and diagnostic information ~~which would identify~~, as defined in section 228.1, subsections 1 and 3, and demographic information necessary for aggregated reporting to meet the data requirements established by the department of human services, division of mental health and developmental disabilities, relating to an individual who ~~is receiving or has received treatment at~~ receives services from a community mental health center ~~shall not~~ through the applicable single entry point process, may be made a condition of support of that center by any county under this section. ~~Section 331.504, subsection 8 notwithstanding, a community mental health center shall not be required to file a claim which would in any manner identify such an individual, if the center's budget has been approved by the county board under this section and the center is in compliance with section 230A.16, subsection 3.~~

Sec. 28. Section 235A.15, subsection 2, paragraph c, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (13) To the administrator of an agency providing mental health, mental retardation, or developmental disability services under a county management plan developed pursuant to section 331.439, if the information concerns a person employed by or being considered by the agency for employment.

Sec. 29. Section 235B.6, subsection 2, paragraph c, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) To the administrator of an agency providing mental health, mental retardation, or developmental disability services under a county management plan developed pursuant to section 331.439, if the information concerns a person employed by or being considered by the agency for employment.

Sec. 30. Section 249A.12, subsection 2, Code Supplement 1995, is amended to read as follows:

2. A county shall reimburse the department on a monthly basis for that portion of the cost of assistance provided under this section to a recipient with legal settlement in the county, which is not paid from federal funds, if the recipient's placement has been approved by the appropriate review organization as medically necessary and appropriate. The department's goal for the maximum time period for submission of a claim to a county is not more than sixty days following the submission of the claim by the provider of the service to the department. The department's goal for completion and crediting of a county for cost settlement for the actual costs of a home and community-based waiver service is within two hundred seventy days of the close of a fiscal year for which cost reports are due from providers. The department shall place all reimbursements from counties in the appropriation for medical assistance, and may use the reimbursed funds in the same manner and for any purpose for which the appropriation for medical assistance may be used.

Sec. 31. Section 249A.12, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. a. The state-county management committee shall recommend to the department the actions necessary to assist in the transition of individuals being served in an intermediate care facility for the mentally retarded, who are appropriate for the transition, to services funded under a medical assistance waiver for home and community-based services for persons with mental retardation in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance waiver for home and community-based services for persons with mental retardation in effect as of June 30, 1996:

(1) Allow for the transition of intermediate care facilities for the mentally retarded licensed under chapter 135C as of June 30, 1996, to services funded under the medical assistance waiver for home and community-based services for persons with mental retardation. The request shall be for inclusion of additional persons under the waiver associated with the transition.

(2) Allow for reimbursement under the waiver for day program or other service costs.

(3) Allow for exception provisions in which an intermediate care facility for the mentally retarded which does not meet size and other facility-related requirements under the waiver in effect on June 30, 1996, may convert to a waiver service for a set period of time such as five years. Following the set period of time, the facility would be subject to the waiver requirements applicable to services which were not operating under the exception provisions.

b. In implementing the provisions of this subsection, the state-county management committee shall consult with other states. The waiver revision request or other action necessary to assist in the transition of service provision from intermediate care facilities for the mentally retarded to alternative programs shall be implemented by the department in a manner that can appropriately meet the needs of individuals at an overall lower cost to counties, the federal government, and the state. In addition, the department shall take into

consideration significant federal changes to the medical assistance program in formulating the department's actions under this subsection. The department shall consult with the state-county management committee in adopting rules for oversight of facilities converted pursuant to this subsection. A transition approach described in paragraph "a" may be modified as necessary to obtain federal waiver approval. The department shall report on or before January 2, 1997, to the general assembly regarding its actions under this subsection and any federal response, and shall submit an update upon receiving a federal response to the waiver request or other action taken which requires a federal response. If implementation of any of the provisions of this subsection does not require a federal waiver, the department shall implement the provisions in the fiscal year beginning July 1, 1996.

Sec. 32. Section 249A.26, Code 1995, is amended to read as follows:

249A.26 COUNTY PARTICIPATION IN FUNDING FOR SERVICES TO PERSONS WITH DISABILITIES.

1. The state shall pay for one hundred percent of the nonfederal share of the services paid for under any prepaid mental health services plan for medical assistance implemented by the department as authorized by law.

2. The county of legal settlement shall pay for fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. For purposes of this section, persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill. To the maximum extent allowed under federal law and regulations, the department shall consult with and inform a county of legal settlement's single entry point process, as defined in section 331.440, regarding the necessity for and the provision of any service for which the county is required to provide reimbursement under this subsection.

3. To the maximum extent allowed under federal law and regulations, a person with mental illness or mental retardation shall not be eligible for any service which is funded in whole or in part by a county share of the nonfederal portion of medical assistance funds unless the person is referred through the single entry point process, as defined in section 331.440. However, to the extent federal law allows referral of a medical assistance recipient to a service without approval of the single entry point process, the county of legal settlement shall be billed for the nonfederal share of costs for any adult person for whom the county would otherwise be responsible.

Sec. 33. Section 331.424A, subsection 2, Code Supplement 1995, is amended to read as follows:

2. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, county revenues from taxes and other sources designated for mental health, mental retardation, and developmental disabilities services shall be credited to the mental health, mental retardation, and developmental disabilities services fund of the county. The board shall make appropriations from the fund for payment of services provided under the county management plan approved pursuant to section 331.439. The county may pay for the services in cooperation with other counties by pooling appropriations from the fund with other counties or through county regional entities including but not limited to the county's mental health and developmental disabilities regional planning council created pursuant to section 225C.18.

Sec. 34. Section 331.438, subsection 4, paragraph b, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The management committee shall consist of not more than ~~eleven~~ twelve voting members ~~representing the state and counties~~ as follows:

Sec. 35. Section 331.438, subsection 4, paragraph b, subparagraph (2), Code Supplement 1995, is amended to read as follows:

(2) The committee shall include one member nominated by service providers, ~~and~~ one member nominated by service advocates and consumers, and one member nominated by the state's council of the association of federal, state, county, and municipal employees, with ~~both~~ these members appointed by the governor.

Sec. 36. Section 331.438, subsection 4, paragraph c, subparagraph (10), Code Supplement 1995, is amended to read as follows:

(10) Make recommendations to improve the programs and cost effectiveness of state and county contracting processes and procedures, including strategies for negotiations relating to managed care. The recommendations developed for the state and county regarding managed care shall include but are not limited to standards for limiting excess costs and profits, and for restricting cost shifting under a managed care system.

Sec. 37. Section 331.438, subsection 4, paragraph c, Code Supplement 1995, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (15) Make recommendations to the mental health and developmental disabilities commission for administrative rules providing statewide standards and a monitoring methodology to determine whether cost-effective individualized services are available as required pursuant to section 331.439, subsection 1, paragraph "b".

NEW SUBPARAGRAPH. (16) Make recommendations to the mental health and developmental disabilities commission for administrative rules establishing statewide minimum standards for services and other support required to be available to persons covered by a county management plan under section 331.439.

NEW SUBPARAGRAPH. (17) Make recommendations to the mental health and developmental disabilities commission and counties for measuring and improving the quality of state and county mental health, mental retardation, and developmental disabilities services and other support.

Sec. 38. Section 331.440, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. An application for services may be made through the single entry point process of a person's county of residence. However, if a person who is subject to a single entry point process has legal settlement in another county or the costs of services or other support provided to the person are the financial responsibility of the state, an authorization through the single entry point process shall be coordinated with the person's county of legal settlement or with the state, as applicable. The county of residence and county of legal settlement of a person subject to a single entry point process may mutually agree that the single entry point process functions shall be performed by the single entry point process of the person's county of legal settlement.

Sec. 39. MEDICAL ASSISTANCE CLAIMS AND COST SETTLEMENT. The department of human services shall formulate a work group which includes representatives of counties designated by the Iowa state association of counties in developing a course of action to meet the goals for submission of claims and completion of cost settlement under section 249A.12, subsection 2, as amended by this Act. A report which includes data describing the conditions which cause the goal time frames to be exceeded, other conditions associated with billings and payments, and options to address the problems identified shall be submitted to the governor and general assembly on or before December 16, 1996. The options may include possible sanctions for failure to meet the time frames.

Sec. 40. EFFECTIVE DATE. Section 31 of this division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 1996

CHAPTER 1184

CENTER FOR GIFTED AND TALENTED EDUCATION AND RELATED FUNDING PROVISIONS

H.F. 570

AN ACT relating to transfers of moneys from the interest for Iowa schools fund, renaming the center for gifted and talented education, and providing for properly related matters.

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

Section 1. Section 257B.1A, subsections 2 and 3, Code Supplement 1995, are amended to read as follows:

2. For a transfer of moneys from the interest for Iowa schools fund to the first in the nation in education foundation, prior to July 1, October 1, January 1, and March 1 of each year, the governing board of the first in the nation in education foundation established in section 257A.2 shall certify to the treasurer of state the cumulative total value of contributions received under section 257A.7 for deposit in the first in the nation in education fund and for the use of the foundation. ~~The cumulative total value of contributions received includes the value of the amount deposited in the national center endowment fund established in section 263.8A in excess of eight hundred seventy-five thousand dollars.~~ The value of in-kind contributions shall be based upon the fair market value of the contribution determined for income tax purposes.

The portion of the ~~interest for Iowa schools~~ permanent school fund that is equal to the cumulative total value of contributions, less the portion of the ~~interest for Iowa schools~~ permanent school fund dedicated to the ~~national~~ international center for gifted and talented education, is dedicated to the first in the nation in education foundation for that year. The interest earned on this dedicated amount shall be transferred by the treasurer of state to the credit of the first in the nation in education foundation.

3. a. For a transfer of moneys from the interest for Iowa schools fund to the ~~national~~ international center endowment fund established in section 263.8A, prior to July 1, October 1, January 1, and March 1 of each year, the state university of Iowa shall certify to the treasurer of state the cumulative total value of contributions received and deposited in the ~~national~~ international center endowment fund. Within fifteen days following certification by the state university of Iowa, the treasurer of state shall transfer from the interest for Iowa schools fund to the ~~national~~ international center an amount equal to the amount of interest earned on the portion of the permanent school fund that is equal to one-half the cumulative total value of the contributions deposited in the ~~national~~ international center endowment fund, not to exceed eight hundred seventy-five thousand dollars.

b. However, if prior to July 1, 1998, the general assembly appropriates moneys for the international center endowment fund established in section 263.8A in an aggregate amount equal to eight hundred seventy-five thousand dollars, the transfer of the interest earned based upon the cumulative value of contributions equal to one million seven hundred fifty thousand dollars deposited in the international center endowment fund on July 1, 1995, is no longer required under this section. If, on or after July 1, 1998, the general assembly appropriates moneys for the international center endowment fund in an aggregate amount equal to six hundred seventy-five thousand dollars, the transfer of interest earned based upon the cumulative value of contributions equal to one million three hundred fifty thousand dollars deposited in the international center endowment fund between July 1, 1995, and June 30, 1998, is no longer required under this section.

Sec. 2. Section 257B.1A, Code Supplement 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 4. In addition to the moneys transferred pursuant to subsection 3, paragraph "a", effective on the date on which the cumulative total value of contributions deposited in the international center endowment fund between July 1, 1995, and June 30,

1998, equals or exceeds one million three hundred fifty thousand dollars, and annually thereafter, the treasurer of state shall transfer moneys from the interest for Iowa schools fund to the international center endowment fund in an amount equal to the interest earned on six hundred seventy-five thousand dollars in the permanent school fund.

NEW SUBSECTION. 5. Until the appropriations specified in subsection 3, paragraph "b", have been made by the general assembly, fifty percent of the interest remaining in the interest for Iowa schools fund after the total of the transfer of moneys to the first in the nation in education foundation pursuant to subsection 2 and after the transfer of moneys to the international center endowment fund in subsection 3, paragraph "a", shall, in addition, be transferred to the international center endowment fund and the remaining fifty percent shall become a part of the interest for Iowa schools fund.

Sec. 3. Section 263.8A, Code 1995, is amended to read as follows:

263.8A ~~NATIONAL~~ INTERNATIONAL CENTER FOR TALENTED AND GIFTED EDUCATION.

The state board of regents shall establish and maintain at Iowa City as an integral part of the state university of Iowa the ~~national~~ international center for talented and gifted education. The ~~national~~ international center shall provide programs to assist classroom teachers to teach gifted and talented students in regular classrooms, provide programs to enhance the learning experiences of gifted and talented students, serve as a center for national and international symposiums and policy forums for enhancing the teaching of gifted and talented students, and undertake other appropriate activities to enhance the programs of the center, including, but not limited to, coordinating and working with the world council for gifted and talented children, incorporated.

~~A national~~ An international center endowment fund is established at the state university of Iowa and gifts and grants to the ~~national~~ international center and investment earnings and returns on the endowment fund shall be deposited in the fund and ~~interest earned on moneys in the fund~~ may be expended by the state university of Iowa for the purposes for which the ~~national~~ international center was established.

Approved May 2, 1996

CHAPTER 1185

EXEMPTION FROM LAND OWNERSHIP RESTRICTIONS

H.F. 2234

AN ACT relating to exempting certain nonresident aliens from land ownership restrictions.

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

Section 1. Section 15.327, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Economic development area" means a site or sites designated by the department for the purpose of attracting an eligible business to locate facilities within the state.

Sec. 2. NEW SECTION. 15.331B EXEMPTION FROM LAND OWNERSHIP RESTRICTIONS FOR NONRESIDENT ALIENS.

1. The eligible business, to the extent the eligible business is not actively engaged in farming within the economic development area, may acquire and own up to one thousand

acres of land in the economic development area, notwithstanding the provisions of section 567.3 if the eligible business has been designated an exempt business under subsection 3. An eligible business may lease up to an additional two hundred eighty acres of land in the economic development area.

The eligible business may receive one or more one-year extensions of the time limit for complying with the requirements of section 567.4. Each extension must be approved by the community prior to approval by the department. The eligible business shall comply with the remaining provisions of chapter 567 to the extent they do not conflict with this subsection.

2. "Actively engaged in farming" means any of the following:

a. Inspecting agricultural production activities within the economic development area periodically and furnishing at least half of the value of the tools and paying at least half the direct cost of production.

b. Regularly and frequently making or taking an important part in making management decisions substantially contributing to or affecting the success of the farm operations within the economic development area.

c. Performing physical work which significantly contributes to crop or livestock production.

3. An eligible business shall not receive the exemption under this section unless it has applied to be designated an exempt business by July 1, 1998.

4. The department of economic development shall monitor the activities of eligible businesses receiving the exemption under this section and report to the general assembly by December 15 of each year.

5. An eligible business that complies with this section shall be considered to be acquiring, owning, or leasing agricultural land for immediate or potential use in nonfarming purposes under section 9H.4, subsection 4.

Approved May 2, 1996

CHAPTER 1186

WORKFORCE DEVELOPMENT

S.F. 2409

AN ACT relating to workforce development by establishing a workforce development department, by eliminating the department of employment services, and including workforce development programs in the new department, and by establishing a workforce development board and regional advisory boards.

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

Section 1. Section 15.108, subsection 6, Code 1995, is amended to read as follows:

6. ~~JOB~~ EMPLOYEE TRAINING AND ~~ENTREPRENEURIAL ASSISTANCE~~ RETRAINING. To develop ~~job~~ employee training and retraining strategies in coordination with the department of education and department of workforce development as tools for business development, business expansion, and enhanced competitiveness of Iowa industry, which will promote economic growth and the creation of new job opportunities and to administer related programs ~~including the federal Job Training Partnership Act~~. To carry out this responsibility, the department shall:

a. Coordinate and perform the duties specified under ~~the job training partnership program in chapter 7B~~, the Iowa industrial new jobs training Act in chapter 260E, ~~and~~ the

Iowa small business new jobs training Act in chapter 260F, and the workforce development fund in section 15.341.

b. In performing ~~these~~ the duties set out in paragraph "a", the department shall:

~~(1) Develop a job training delivery system which will minimize administrative costs through a single delivery system, maximize the use of public and private resources for job training initiatives, and assume the coordination of services and activities with other related programs at both the state and local level.~~

~~(2) Manage a job training program reporting and evaluation system which will measure program performance, identify program accomplishments and service levels, evaluate how well job training programs are being coordinated among themselves and with other related programs, and show areas where job training efforts need to be improved.~~

~~(3) Maintain a financial management system, file appropriate administrative rules, and monitor the performance of agencies and organizations involved with the administration of job training programs assigned to the department.~~

~~b. Develop job training strategies which will promote economic growth and the creation of new job opportunities. Specifically, the department shall:~~

(1) Work closely with representatives of business and industry, labor organizations, the council on human investment, the department of education, and the department of workforce development, and educational institutions to determine the ~~job~~ employee training needs of Iowa employers, and where possible, provide for the development of industry-specific training programs.

(2) Promote Iowa ~~job~~ employee training programs to potential and existing Iowa employers and to employer associations.

(3) Develop annual goals and objectives which will identify both short-term and long-term methods to improve program performance, create employment opportunities for residents, and enhance the delivery of services.

(4) ~~Develop job training and technical assistance programs which will promote entrepreneurial activities, assist small businesses, and help generate off-farm employment opportunities for persons engaged in farming.~~ Stimulate the creation of innovative employee training and skills development activities, including business consortium and supplier network training programs, and new employee development training models.

(5) Coordinate ~~job~~ employee training activities with other economic development finance programs to stimulate job growth.

(6) ~~Develop policies and plans under the youth program provisions of appropriate programs which will emphasize employing Iowa youth on projects designed to improve Iowa parks and recreation areas, restore historical sites, and promote tourism. The department shall coordinate its youth program efforts with representatives of educational institutions to promote the understanding by youth of career opportunities in business and industry.~~ Review workforce development initiatives as they relate to the state's economic development agenda, recommending action as necessary to meet the needs of Iowa's communities and businesses.

(7) Incorporate workforce development as a component of community-based economic development activities.

~~c. To the extent feasible, develop from available state and federal job training program resources an entrepreneurship training program to help encourage the promotion of small businesses within the state. The department of education and the state board of regents shall cooperate with the department on this program. The entrepreneurship training program shall coordinate its activities with other financial and technical assistance efforts within the department.~~

~~d. Administer the Iowa "self-employment loan program" under section 15.241.~~

~~e. To the extent feasible, provide assistance to the department of human services in obtaining a waiver to provide self-employment opportunities to recipients of assistance under the family investment program.~~

~~f. Provide assistance to workers seeking economic conversion of closed or economically distressed plants located in the state including, but not limited to, the following:~~

~~(1) Evaluating the feasibility and economic viability of proposed employee-owned businesses.~~

~~(2) Working with the small business development centers to provide technical assistance and counseling services including, but not limited to, legal, tax, management, marketing, labor, and contract assistance to persons who seek to form employee-owned businesses.~~

~~(3) Assisting persons in obtaining financing for the purchase and operation of employee-owned businesses.~~

Sec. 2. Section 15.108, subsection 7, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Administer the Iowa "self-employment loan program" under section 15.241.

Sec. 3. Section 15.108, subsection 9, paragraph a, Code 1995, is amended to read as follows:

a. Collect and assemble, or cause to have collected and assembled, all pertinent information available regarding the industrial, agricultural, and public and private recreation and tourism opportunities and possibilities of the state of Iowa, including raw materials and products that may be produced from them; power and water resources; transportation facilities; available markets; ~~the availability of labor;~~ the banking and financing facilities; the availability of industrial sites; the advantages of the state as a whole, and the particular sections of the state, as industrial locations; the development of a grain alcohol motor fuel industry and its related products; and other fields of research and study as the board deems necessary. This information, as far as possible, shall consider both the encouragement of new industrial enterprises in the state and the expansion of industries now existing within the state, and allied fields to those industries. The information shall also consider the changing composition of the Iowa family~~,~~ and the level of poverty among different age groups and different family structures in Iowa society~~,~~ and ~~the changing composition of the Iowa work force and the~~ their impact ~~of those changes~~ on Iowa families.

Sec. 4. Section 15.108, subsection 9, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Provide technical assistance to individuals who are pursuing the purchase and operation of employee-owned businesses.

Sec. 5. Section 15.343, subsection 1, paragraph a, Code Supplement 1995, is amended to read as follows:

a. Notwithstanding section 8.33, all unencumbered and unobligated funds from 1994 Iowa Acts, chapter 1201, section 1, subsection 6, except paragraph "d", section 3, subsections 1 and 3, and section 10, remaining on July 1, 1995, and all unencumbered and unobligated funds in the Iowa conservation corps escrow account established in section ~~15.229~~ 84A.4 and the job training fund established in section 260F.6.

Sec. 6. Section 15.343, subsection 2, paragraph a, Code Supplement 1995, is amended to read as follows:

a. The Iowa conservation corps created in ~~sections 15.224 through 15.230~~ section 84A.4.

Sec. 7. Section 15.343, subsection 2, paragraph e, Code Supplement 1995, is amended to read as follows:

e. For the workforce investment program under section ~~15.348~~ 84A.5.

Sec. 8. Section 84A.1, Code 1995, is amended to read as follows:

84A.1 DEPARTMENT OF ~~EMPLOYMENT SERVICES~~ WORKFORCE DEVELOPMENT – DIRECTOR – DIVISIONS.

1. The department of ~~employment services~~ workforce development is created to administer the laws of this state relating to unemployment compensation insurance, job placement and training, employment safety, labor standards, and workers' compensation.

2. The chief executive officer of the department is the director who shall be appointed by the governor, subject to confirmation by the senate under the confirmation procedures of section 2.32. The director shall serve at the pleasure of the governor. ~~The director shall be subject to reconfirmation by the senate, under the confirmation procedures of section 2.32, during the regular session of the general assembly convening in January if the director will complete the director's fourth year in office on or before the following April 30.~~ The governor shall set the salary of the director within the applicable salary range established by the general assembly. The director shall be selected solely on the ability to administer the duties and functions granted to the director and the department and shall devote full time to the duties of the director. If the office of director becomes vacant, the vacancy shall be filled in the same manner as the original appointment was made.

The director of the department ~~of employment services~~ shall ~~serve as job service commissioner and shall~~, subject to the requirements of section 84A.1B, prepare, administer, and control the budget of the department and its divisions and shall approve the employment of all personnel of the department and its divisions.

The director shall direct the administrative and compliance functions and control the docket of the division of industrial services.

3. The department shall include ~~the division of job service,~~ the division of labor services, ~~and~~ the division of industrial services, and other divisions as appropriate.

Sec. 9. NEW SECTION. 84A.1A WORKFORCE DEVELOPMENT BOARD.

1. An Iowa workforce development board is created, consisting of nine 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; one representative from the largest statewide public employees' organization representing state employees; and one superintendent or the superintendent's designee of a community college, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the 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, appointed by the speaker after consultation with the majority and minority leaders of the house of representatives from their respective parties. Not more than five of the voting members shall be from the same political party. Of the nine voting members, one member shall represent a nonprofit organization involved in workforce development services, four members shall represent employers, and four members shall represent nonsupervisory employees. Of the members appointed by the governor to represent nonsupervisory employees, two members shall be from statewide labor organizations, one member shall be an employee representative of a labor management council, and one member shall be a person with experience in worker training programs. The governor shall consider recommendations from statewide labor organizations for the members representing nonsupervisory employees. The governor shall appoint the nine 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 in the area of workforce development.

2. A vacancy on the board shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

3. The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson. However, the chairperson and the vice chairperson shall not be from the same political party. The board

shall meet at the call of the chairperson or when any five members of the board file a written request with the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

4. Members of the board, the director, and other employees of the department 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 and the department is subject to the budget requirements of chapter 8. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

5. If a member of the board has an interest, either direct or indirect, in a contract to which the department is or is to be a party, the interest shall be disclosed to the board in writing and shall be set forth in the minutes of a meeting of the board. The member having the interest shall not participate in action by the board with respect to the contract. This subsection does not limit the right of a member of the board to acquire an interest in bonds, or limit the right of a member to have an interest in a bank or other financial institution in which the funds of the department are deposited or which is acting as trustee or paying agent under a trust indenture to which the department is a party.

Sec. 10. NEW SECTION. 84A.1B DUTIES OF THE WORKFORCE DEVELOPMENT BOARD.

The workforce development board shall do all of the following:

1. Develop and coordinate the implementation of a twenty-year comprehensive workforce development plan of specific goals, objectives, and policies for the state. This plan shall be updated annually and revised as necessary. All other state agencies involved in workforce development activities and the regional advisory boards for workforce development shall annually submit to the board for its review and potential inclusion in the plan their goals, objectives, and policies.

2. Prepare a five-year strategic plan for state workforce development to implement the specific comprehensive goals, objectives, and policies of the state. All other state agencies involved in workforce development activities and the regional advisory boards for workforce development shall annually submit to the board for its review and potential inclusion in the strategic plan their specific strategic plans and programs. The five-year strategic plan for state workforce development shall be updated annually.

3. Develop a method of evaluation of the attainment of goals and objectives from pursuing the policies of the five-year and twenty-year plans.

4. Implement the requirements of chapter 73.

5. Approve the budget of the department related to workforce development as prepared by the director.

6. Establish guidelines, procedures, and policies for the awarding of grants for workforce development services by the department.

7. Review grants or contracts awarded by the department, with respect to the department's adherence to the guidelines and procedures and the impact on the five-year strategic plan for workforce development.

8. Make recommendations concerning the use of federal funds received by the department with respect to the five-year and twenty-year workforce development plans.

9. Adopt all necessary rules related to workforce development recommended by the director prior to their adoption pursuant to chapter 17A.

Sec. 11. NEW SECTION. 84A.1C REGIONAL ADVISORY BOARDS.

1. A regional advisory board shall be established in each service delivery area as defined in section 84B.2. The members of the board shall be appointed by the governor, consistent with the requirements of federal law and in consultation with chief elected officials within the region. Chief elected officials responsible for recommendations for board membership shall include, but are not limited to, county elected officials, municipal

elected officials, and community college trustees. The membership of each board shall provide for equal representation of business and labor and shall include a county elected official, a city official, a representative of a school district, and a representative of a community college.

2. Each regional advisory board shall identify workforce development needs in its region, assist the workforce development board and the department in the awarding of grants or contracts administered by the department in that region and in monitoring the performance of the grants and contracts awarded, make annual reports as required by section 84A.1B, and make recommendations to the workforce development board and department concerning workforce development.

3. Section 84A.1A, subsections 2, 3, and 5, apply to the members of a regional advisory board except that the board shall meet if a majority of the members of the board, and not five, file a written request with the chairperson for a meeting.

Sec. 12. Section 84A.2, Code 1995, is amended to read as follows:

84A.2 ~~DEPARTMENT AND DIVISION~~ DEPARTMENT'S PRIMARY RESPONSIBILITIES.

The department of workforce development, in consultation with the workforce development board and the regional advisory boards, has the primary responsibilities set out in this section.

1. The department shall develop and implement a workforce development system which increases the skills of the Iowa workforce, fosters economic growth and the creation of new high skill and high wage jobs through job placement and training services, increases the competitiveness of Iowa businesses by promoting high performance workplaces, and encourages investment in workers.

The workforce development system shall strive to provide high quality services to its customers including workers, families, and businesses. The department shall maintain a common intake, assessment, and customer tracking system and to the extent practical provide one-stop services to customers at workforce development centers and other service access points.

The system shall include an accountability system to measure program performance, identify accomplishments, evaluate programs to ensure goals and standards are met. The accountability system shall use information obtained from the customer tracking system, the department of economic development, the department of education, and training providers to evaluate the effectiveness of programs. The department of economic development, the department of education, and training providers shall report information concerning the use of any state or federal training or retraining funds to the department of workforce development in a form as required by the department. The accountability system shall evaluate all of the following:

a. The impact of services on wages earned by individuals.

b. The effectiveness of training services providers in raising the skills of the Iowa workforce.

c. The impact of placement and training services on Iowa's families, communities, and economy.

The department shall make information from the customer tracking and accountability system available to the department of economic development, the department of education, and other appropriate public agencies for the purpose of assisting with the evaluation of programs administered by those departments and agencies and for planning and researching public policies relating to education and economic development.

~~1.~~ 2. The ~~division of job service~~ department is responsible for ~~the~~ administration of unemployment compensation benefits and ~~for the~~ collection of employer contributions under chapter 96~~. The division is responsible for the administration of~~ providing for the delivery of free public employment ~~offices~~ services established pursuant to chapter 96, other job placement and training programs established pursuant to section 84A.3, and the

~~administration of the offices of the division~~ delivery of services located throughout the state ~~and for the personnel attached to those offices. The executive head of the division is the job service commissioner, appointed pursuant to section 96.10.~~

~~2.~~ 3. The division of labor services is responsible for the administration of the laws of this state relating to occupational health and safety, the inspection of amusement rides, the removal and encapsulation of asbestos, the inspection of boilers, wage payment collection, registration of construction contractors, the minimum wage, non-English speaking employees, child labor, employment agency licensing, boxing and wrestling, inspection of elevators, and hazardous chemical risks under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, 94, and 95. The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

~~3.~~ 4. The division of industrial services is responsible for the administration of the laws of this state relating to workers' compensation under chapters 85, 85A, 85B, 86, and 87. The executive head of the division is the industrial commissioner, appointed pursuant to section 86.1.

~~4.~~ 5. The director shall form a coordinating committee composed of the ~~job service commissioner~~ director, the labor commissioner, ~~and~~ the industrial commissioner, and other administrators. The committee shall monitor federal compliance issues relating to coordination of functions among the divisions.

6. The department shall administer the following programs:

a. The Iowa conservation corps established under section 84A.4.

b. The workforce investment program established under section 84A.5.

c. The statewide mentoring program established under section 84A.6.

d. The workforce development centers established under chapter 84B.

e. Job training partnership programs under chapter 7B.

7. The department shall work with the department of economic development to incorporate workforce development as a component of community-based economic development.

8. The department, in consultation with the applicable regional advisory board, shall select service providers, subject to approval by the workforce development board for each service delivery area. A service provider in each service delivery area shall be identified to coordinate the services throughout the service delivery area. The department shall select service providers that, to the extent possible, meet or have the ability to meet the following criteria:

a. The capacity to deliver services uniformly throughout the service delivery area.

b. The experience to provide workforce development services.

c. The capacity to cooperate with other public and private agencies and entities in the delivery of education, workforce training, retraining, and workforce development services throughout the service delivery area.

d. The demonstrated capacity to understand and comply with all applicable state and federal laws, rules, ordinances, regulations, and orders, including fiscal requirements.

Sec. 13. Section 84A.3, Code 1995, is amended to read as follows:

84A.3 JOB PLACEMENT AND TRAINING PROGRAMS.

1. ~~The job service commissioner, in coordination with the department of economic development, may provide, with or without reimbursement, intake, client eligibility, and a significant portion of job placement services to individuals participating in the job training partnership program established under chapter 7B.~~ The department of ~~employment services~~ workforce development, in consultation with the workforce development board and the regional advisory boards, the department of education, and the department of economic development shall work together to develop policies encouraging coordination between ~~job training~~ skill development, labor exchange, and economic development activities.

~~2. The job service commissioner, in cooperation with the department of elder affairs, shall establish an experimental retired Iowan employment program. The program shall encourage and promote the meaningful employment of retired citizens of the state.~~

2. The director, in cooperation with the department of human services, shall provide job placement and training to persons referred by the department of human services under the JOBS program established pursuant to chapter 249C and the food stamp employment and training program.

3. The ~~job service commissioner~~ director, in cooperation with the department of human rights and the vocational rehabilitation division of the department of education, shall establish a program to provide job placement and training to persons with disabilities.

Sec. 14. NEW SECTION. 84A.4 IOWA CONSERVATION CORPS.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Account" means the Iowa conservation corps account.

b. "Corps" means the Iowa conservation corps.

2. IOWA CONSERVATION CORPS ESTABLISHED. The Iowa conservation corps is established in this state to provide meaningful and productive public service jobs for the youth, the unemployed, the disabled, the disadvantaged, and the elderly, and to provide participants with an opportunity to explore careers, gain work experience, and contribute to the general welfare of their communities and the state. The corps shall provide opportunities in the areas of natural resource and wildlife conservation, park maintenance and restoration, land management, energy savings, community improvement projects, tourism, economic development, and work benefiting human services programs. The department of workforce development shall administer the corps and shall adopt rules governing its operation, eligibility for participation, cash contributions, and implementation of an incentive program.

3. FUNDING. Corps projects shall be funded by appropriations to the Iowa conservation corps account and by cash, services, and material contributions made by other state agencies or local public and private agencies. Public and private entities who benefit from a corps project shall contribute at least thirty-five percent of the total project budget. The contributions may be in the form of cash, materials, or services. Materials and services shall be intended for the project and acceptable to the department. Minimum levels of contributions shall be prescribed in rules adopted by the department.

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

Sec. 15. NEW SECTION. 84A.5 WORKFORCE INVESTMENT PROGRAM.

A workforce investment program is established to enable more Iowans to enter or reenter the workforce. The workforce investment program shall provide training and support services to population groups that have historically faced barriers to employment. The department of workforce development shall administer the workforce investment program and shall adopt rules governing its operation and eligibility guidelines for participation.

Sec. 16. NEW SECTION. 84A.6 STATEWIDE MENTORING PROGRAM.

A statewide mentoring program is established to recruit, screen, train, and match individuals in a mentoring relationship. The department of workforce development shall administer the program in collaboration with the departments of human services, education, and human rights. The availability of the program is subject to the funding appropriated for the purposes of the program.

Sec. 17. Section 84B.1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The ~~departments~~ department of ~~employment services and economic~~ workforce development, in consultation with the departments of economic development, education, elder affairs, human services, and human rights, and the department for the blind, shall establish guidelines for colocating state and federal employment and training programs in centers providing services at the local level. The centers shall be known as workforce development centers. The departments shall also jointly establish an integrated management information system for linking the programs within a local center to the same programs within other local centers and to the state. The guidelines shall provide for local design and operation within the guidelines. The core services available at a center shall include but are not limited to all of the following:

Sec. 18. NEW SECTION. 84B.2 WORKFORCE DEVELOPMENT CENTERS – LOCATION.

A workforce development center, as provided in section 84B.1, shall be located in each service delivery area. Each workforce development center shall also maintain a presence, through satellite offices or electronic means, in each county located within that service delivery area. For purposes of this section, "service delivery area" means the area included within a merged area, as defined in section 260C.2, realigned to the closest county border as determined by the department of workforce development. However, if the state workforce development board determines that an area of the state would be adversely affected by the designation of the service delivery areas by the department, the department may, after consultation with the applicable regional advisory boards and with the approval of the state workforce development board, make accommodations in determining the service delivery areas, including, but not limited to, the creation of a new service delivery area. In no event shall the department create more than sixteen service delivery areas.

Sec. 19. Section 96.12, subsection 1, Code 1995, is amended to read as follows:

1. DUTIES OF ~~DIVISION~~ DEPARTMENT. The ~~division of job service~~ department shall establish and maintain free public employment ~~offices in such number and in such places as may be necessary for the proper administration of this chapter~~ services accessible to all Iowans for the purposes of this chapter, and for the purpose of performing ~~such~~ the duties ~~as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for co-operation with the states in the promotion of such system, and for other purposes", approved June 6, 1933, as amended, and known as~~ required by federal and state laws relating to employment and training including the Wagner-Peyser Act, ~~[48 Stat. L. 113;~~ 29 U.S.C. § ~~49]~~. All duties and powers conferred upon any other department, agency, or officer of this state relating to the establishment, maintenance, and operation of free employment ~~offices~~ services shall be vested in the ~~division~~ department. ~~The~~ This state accepts and shall comply with the provisions of the ~~said~~ Wagner-Peyser Act ~~of Congress~~, as amended~~, are hereby accepted by this state, in conformity with section 4 of said Act, and this state will observe and comply with the requirements thereof~~. The ~~division~~ department is designated and constituted the agency of this state for the purpose of ~~said~~ the Wagner-Peyser Act. The ~~division~~ department may ~~co-operate~~ cooperate with the railroad retirement board with respect to the establishment, maintenance, and use of ~~employment service~~ department facilities. The railroad retirement board shall compensate the ~~division~~ department for ~~such~~ the services or facilities in the amount determined by the ~~division~~ department to be fair and reasonable.

Sec. 20. Section 96.19, subsection 7, Code Supplement 1995, is amended by striking the subsection.

Sec. 21. Section 96.19, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. "Director" means the director of the department of workforce development created in section 84A.1.

Sec. 22. Section 96.19, subsection 12, Code Supplement 1995, is amended by striking the subsection.

Sec. 23. AMENDMENTS CHANGING TERMINOLOGY - DIRECTIVE TO CODE EDITOR.

1. Sections 7B.2, 7B.5, 7E.5, 8.36, 11.5B, 13.7, 15.108, 15.241, 15E.111, 30.2, 30.5, 30.7, 68B.2, 85.31, 85.34, 85.37, 85.59, 86.8, 86.9, 88.2, 88A.1, 88B.1, 89A.1, 89B.3, 91.1, 91.4, 91C.2, 91C.7, 91C.8, 91E.1, 91E.2, 92.11, 92.12, 231.51, 231.52, 231.53, 239A.1, 239A.2, 239A.3, 241.3, 249C.3, 249C.14, 252B.7A, 252G.2, 260F.3, 260F.7, 626.29, and 912.3, Code 1995, are amended by striking from the sections the words "department of employment services" and inserting in lieu thereof the words "department of workforce development".

2. Sections 96.3, 96.19, 225C.4, 256.38, 256.39, 279.51, 331.602, 331.653, 331.756, and 422.7, Code Supplement 1995, are amended by striking from the sections the words "department of employment services" and inserting in lieu thereof the words "department of workforce development".

3. Sections 96.4, 96.9, 96.11, and 96.14, Code 1995, are amended by striking from the sections the word "commissioner" and inserting in lieu thereof the word "director".

4. Sections 96.3 and 96.6, Code Supplement 1995, are amended by striking from the sections the word "commissioner" and inserting in lieu thereof the word "director".

5. The Code editor is directed to substitute the words "department of workforce development" for the words "department of employment services" when there appears to be no doubt as to the intent to refer to the department of employment services.

6. The Code editor is directed to substitute the words "director of the department of workforce development" for the words "job service commissioner" elsewhere in the Code.

7. The Code editor is directed to substitute the word "department" for the word "division" or "division of job service" or "division of job service of the department of employment services", in chapter 96, when there appears to be no doubt as to the intent, to refer to the "division of job service".

8. The Code editor is directed to substitute the words "department of workforce development" for the words "division of job service", or "division of job service of the department of employment services", except for chapter 96, elsewhere in the Code.

Sec. 24. In designing the local, regional, and state service delivery system for Iowa, the director of the department of workforce development shall minimize administrative costs, encourage federal, state, and local government collaboration, maximize the use of public and private resources, and provide opportunities to respond to locally determined needs and priorities while ensuring equal access to core or common employment and training services, as defined by federal law and regulation.

Sec. 25. Any personnel who are mandatorily transferred due to the effect of this Act shall be so transferred without any loss in salary, benefits, or accrued years of service.

The department of workforce development shall consult with all noncontract covered employees, or in the case of contract covered employees, the exclusive bargaining representative for those employees, concerning job classification plans or other job-related matters pertaining to the department.

Sec. 26. REPEALS.

1. Sections 15.224 through 15.230, section 96.10, and section 239.22, Code 1995, are repealed.

2. Sections 15.347 and 15.348, Code Supplement 1995, are repealed.

Approved May 2, 1996

CHAPTER 1187

PUBLIC RETIREMENT SYSTEMS

S.F. 2245

AN ACT relating to public retirement systems, making appropriations, and providing effective and retroactive applicability dates.

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

DIVISION I
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Section 1. Section 97B.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department, through the chief investment officer and chief benefits officer, shall administer this chapter. The department may adopt, amend, or rescind rules, employ persons, execute contracts with outside parties, make expenditures, require reports, make investigations, and take other action it deems necessary for the administration of the system in conformity with the requirements of this chapter, the applicable provisions of the Internal Revenue Code, and all other applicable federal and state laws. The rules shall be effective upon compliance with chapter 17A. Not later than the fifteenth day of December of each year, the department shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make recommendations for amendments to this chapter. The report shall include a balance sheet of the moneys in the Iowa public employees' retirement fund.

Sec. 2. Section 97B.7, subsection 2, paragraph b, unnumbered paragraphs 1 through 3, Code 1995, are amended to read as follows:

To invest the portion of the retirement fund which in the judgment of the department is not needed for current payment of benefits under this chapter. The department shall execute the disposition and investment of moneys in the retirement fund in accordance with the investment policy and goal statement established by the investment board. In establishing the investment policy of the fund and the investment of the fund, the department and investment board shall exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for the purpose of speculation, but with regard to the permanent disposition of the funds, considering the probable income, as well as the probable safety, of their capital. Within the limitations of the standard prescribed in this section, the treasurer of state, the department, and the board may acquire and retain every kind of property and every kind of investment which persons of prudence, discretion, and intelligence acquire or retain for their own account.

The department and investment board shall give appropriate consideration to those facts and circumstances that the department and investment board know or should know are relevant to the particular investment or investment policy involved, including the role the investment plays in the total value of the retirement fund.

For the purposes of this paragraph, appropriate consideration includes, but is not limited to, a determination by the department and investment board that the particular investment or investment policy is reasonably designed to further the purposes of the retirement system, taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment or investment policy and consideration of the following factors as they relate to the retirement fund:

Sec. 3. Section 97B.7, subsection 2, paragraph b, unnumbered paragraph 5, Code 1995, is amended to read as follows:

Except as provided in section 97B.4, if there is loss to the fund, the treasurer, the department, and the board are not personally liable, and the loss shall be charged against the

retirement fund. There is appropriated from the retirement fund the amount required to cover a loss. Expenses incurred in the sale and purchase of securities belonging to the retirement fund shall be charged to the retirement fund, and there is appropriated from the retirement fund the amount required for the expenses incurred. Investment management expenses shall be charged to the investment income of the retirement fund, and there is appropriated from the retirement fund the amount required for the investment management expenses, subject to the limitations stated in this unnumbered paragraph. The amount appropriated for a fiscal year under this unnumbered paragraph shall not exceed ~~one-half~~ four-tenths of one percent of the market value of the retirement fund. The department shall report the investment management expenses for a fiscal year as a percent of the market value of the retirement fund in the annual report to the governor required in section 97B.4. A person who has signed a contract with the department for investment management purposes shall meet the requirements for doing business in Iowa sufficient to be subject to tax under rules of the department of revenue and finance.

Sec. 4. Section 97B.11, Code 1995, is amended to read as follows:

97B.11 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.

Each employer shall deduct from the wages of each member of the system a contribution in the amount of three and seven-tenths percent of the covered wages paid by the employer, until the member's termination or retirement from employment, whichever is earlier. The contributions of the employer shall be in the amount of five and seventy-five hundredths percent of the covered wages of the member.

If the total of the contributions to be deducted from the wages of a member and contributions picked up and paid by the employer shall not exceed one dollar for any calendar quarter, contributions shall not be deducted or paid concerning that member and the member shall not receive credit for membership service for that quarter.

Sec. 5. Section 97B.14, Code 1995, is amended to read as follows:

97B.14 CONTRIBUTIONS FORWARDED.

Contributions deducted from the wages of the member ~~or~~ under section 97B.11 prior to January 1, 1995, member contributions picked up by the employer under section 97B.11A beginning January 1, 1995, and the employer's contribution shall be forwarded to the department for recording and deposited with the treasurer of the state to the credit of the Iowa public employees' retirement fund. Contributions shall be remitted monthly, if total contributions by both employee and employer amount to one hundred dollars or more each month, and shall be otherwise paid in such manner, at such times and under such conditions, either by copies of payrolls or other methods necessary or helpful in securing proper identification of the member, as may be prescribed by the department.

Sec. 6. Section 97B.15, Code 1995, is amended to read as follows:

97B.15 RULES, POLICIES, AND PROCEDURES.

The department may 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, and take action based on the rules, to conform the requirements for receipt of retirement benefits under this chapter to the mandates of applicable federal statutes and regulations.

Prior to the adoption of rules, the department may establish interim written policies and procedures, and take action based on the policies and procedures, to conform the requirements for receipt of retirement benefits under this chapter to the applicable requirements of federal law.

Sec. 7. Section 97B.17, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department shall establish and maintain records of each member, including but not limited to, the amount of wages of each member, the contribution of each member with interest, and interest dividends credited. The records may be maintained in paper, magnetic, or electronic form, including optical disk storage. These records are the basis for the compilation of the retirement benefits provided under this chapter. The following records maintained under this chapter containing personal identifiable information are not public records for the purposes of chapter 22:

Sec. 8. Section 97B.17, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provisions of chapter 22 to the contrary, the department's records may be released to any political subdivision, instrumentality, or other agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this paragraph. To obtain the records, the political subdivision, instrumentality, or agency shall, in writing, certify that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The department shall not be civilly or criminally liable for the release or rerelease of records in accordance with this paragraph.

Sec. 9. Section 97B.25, Code 1995, is amended to read as follows:

97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the chief benefits officer and referred to in this chapter as a retirement benefits specialist shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid and if valid, the month with respect to which benefits shall commence, the monthly benefit amount payable, and the maximum duration. The retirement benefits specialist shall promptly notify the applicant and any other interested party of the decision and the reasons. Unless the applicant or other interested party, within thirty calendar days after the notification was mailed to the applicant's or party's last known address, files an appeal as provided in section 97B.20A, the decision is final and benefits shall be paid or denied in accord with the decision. A retirement application shall not be amended or revoked by the member once the first retirement allowance is paid. A member's death during the first month of entitlement shall not invalidate an approved application.

Sec. 10. Section 97B.39, Code 1995, is amended to read as follows:

97B.39 RIGHTS NOT TRANSFERABLE - ~~NOT~~ OR SUBJECT TO LEGAL PROCESS - EXCEPTIONS.

The right of any person to any future payment under this chapter is not transferable or assignable, at law or in equity, and the moneys paid or payable or rights existing under this chapter are not subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter ~~97B~~ shall not exceed the amount specified in 15 U.S.C. § 1673(b). The department shall comply with the provisions of a marital property order requiring the selection of a particular benefit option, designated beneficiary, or contingent annuitant if the selection is otherwise authorized by this chapter and the member has not received payment of the member's first retirement allowance. However, a marital property order shall not require the payment of benefits to an alternative payee prior to the member's retirement, prior to the date the member elects to receive a lump sum distribution of accumulated contributions pursuant to section 97B.53, or in an amount that exceeds the benefits the member would otherwise be eligible to receive pursuant to this chapter.

Sec. 11. Section 97B.41, subsection 2, Code Supplement 1995, is amended to read as follows:

2. "Accumulated contributions" means the total obtained as of any date, by accumulating each individual contribution by the member ~~at two percent~~ with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years ~~at two percent interest plus the interest dividend rate calculated for the previous year~~, compounded ~~annually, from the end of the calendar year in which such contribution was made to the first day of the month of such date~~ as provided in section 97B.70.

Sec. 12. Section 97B.41, subsection 8, paragraph b, subparagraph (6), Code Supplement 1995, is amended to read as follows:

(6) Employees hired for temporary employment of less than six months or one thousand and forty hours in a calendar year. An employee who works for an employer for six or more months in a calendar year or who works for an employer for more than one thousand forty hours in a calendar year is not a temporary employee under this subparagraph. Adjunct instructors are temporary employees for the purposes of this chapter. As used in this section, unless the context otherwise requires, "adjunct instructors" means instructors employed by a community college or a university governed by the state board of regents without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.

Sec. 13. Section 97B.41, subsection 8, paragraph b, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (20) Persons employed through any program described in section 15.225, subsection 1, and provided by the Iowa conservation corps.

Sec. 14. Section 97B.41, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Internal Revenue Code" means the Internal Revenue Code as defined in section 422.3.

Sec. 15. Section 97B.41, subsection 12, Code Supplement 1995, is amended to read as follows:

12. "Membership service" means service rendered by a member after July 4, 1953. Years of membership service shall be counted to the complete quarter calendar year. However, membership service for a calendar year shall not include more than four quarters. In determining a member's period of membership service, the department shall combine all periods of service for which the member has made contributions. If the department has not maintained the accumulated contribution account of the member for a period of service, as provided pursuant to section 97B.53, subsection 6, the department shall credit the member for the service if the member submits satisfactory proof to the department that the member did make the contributions for the period of service and did not take a refund for the period of service. ~~However, the department shall not implement the amendments to this subsection, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this subsection and to section 97B.53, subsections 3 and 7, section 97B.53, subsection 6, unnumbered paragraph 1, and section 97B.70, by enacting a new subsection 4, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priorities of the system. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.41, subsection 12, Code Supplement 1993. As used in this subsection, unless the context otherwise requires, "other established priorities of the system" means that commencing January 1 following the most~~

~~recent annual actuarial valuation of the system, the department has increased the covered wage limitation from the previous year by three thousand dollars, in accordance with section 97B.41, subsection 20, paragraph "b", subparagraph (11), and that the department has implemented the amendments to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183.~~

Sec. 16. Section 97B.41, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Regular service" means service for an employer other than special service.

Sec. 17. Section 97B.41, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. "Retirement" means that period of time beginning when a member who has filed an approved application for a retirement allowance has survived into at least the first day of the member's first month of entitlement and ending when the member dies.

Sec. 18. Section 97B.41, subsection 15, paragraphs a and b, Code Supplement 1995, are amended to read as follows:

a. Service in the armed forces of the United States, if the employee was employed by the employer immediately prior to entry into the armed forces, and if the employee was released from service and returns to covered employment with the employer within twelve months of the date on which the employee has the right of release from service or within a longer period as ~~provided~~ required by the applicable laws of the United States.

b. Leave of absence or vacation authorized by the employer for a period not exceeding twelve months. A leave of absence authorized pursuant to the requirements of the federal Family and Medical Leave Act of 1993 is considered a leave of absence authorized by the employer.

Sec. 19. Section 97B.41, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 16A. "Special service" means service for an employer while employed in a protection occupation as provided in section 97B.49, subsection 16, paragraph "a", and as a county sheriff, deputy sheriff, or airport fire fighter as provided in section 97B.49, subsection 16, paragraph "b".

Sec. 20. Section 97B.41, subsection 18, Code Supplement 1995, is amended to read as follows:

18. a. "Three-year average covered wage" means a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the third year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full year. However, the department shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service.

b. Notwithstanding any other provisions of this subsection to the contrary, the three-year average covered wage shall be computed as follows for the following members:

(1) For a member who retires during the calendar year beginning January 1, 1997, and whose three-year average covered wage at the time of retirement exceeds forty-eight thousand dollars, the member's covered wages averaged for the highest four years of the member's service or forty-eight thousand dollars, whichever is greater.

(2) For a member who retires during the calendar year beginning January 1, 1998, and whose three-year average covered wage at the time of retirement exceeds fifty-two thousand dollars, the member's covered wages averaged for the highest five years of the member's service or fifty-two thousand dollars, whichever is greater.

(3) For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds fifty-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or fifty-five thousand dollars, whichever is greater.

(4) For a member who retires on or after January 1, 2000, but before January 1, 2003, and whose three-year average covered wage at the time of retirement exceeds fifty-five thousand dollars, the member's covered wages averaged for the highest seven years of the member's service or fifty-five thousand dollars, whichever is greater.

For purposes of this paragraph, the highest years of the member's service shall be determined using calendar years and may be determined using one computed year calculated in the manner and subject to the restrictions provided in paragraph "a".

Sec. 21. Section 97B.41, subsection 20, paragraph b, subparagraph (11), unnumbered paragraphs 1 and 2, Code Supplement 1995, are amended by striking the unnumbered paragraphs and inserting in lieu thereof the following:

(11) For the calendar year beginning January 1, 1991, wages not in excess of thirty-one thousand dollars.

(11A) For the calendar year beginning January 1, 1992, wages not in excess of thirty-four thousand dollars.

(11B) For the calendar year beginning January 1, 1993, wages not in excess of thirty-five thousand dollars.

(11C) For the calendar year beginning January 1, 1994, wages not in excess of thirty-eight thousand dollars.

(11D) For the calendar year beginning January 1, 1995, wages not in excess of forty-one thousand dollars.

(11E) For the calendar year beginning January 1, 1996, wages not in excess of forty-four thousand dollars.

(11F) Commencing with the calendar year beginning January 1, 1997, and for each subsequent calendar year, wages not in excess of the amount permitted for that year under section 401(a)(17) of the Internal Revenue Code.

Sec. 22. Section 97B.41, subsection 20, paragraph b, subparagraph (11), unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

Notwithstanding any other provision of this chapter providing for the payment of the benefits provided in section 97B.49, subsection 16 or 17, the department shall establish the covered wages limitation which applies to members covered under section 97B.49, subsection 16 or 17, at the same level as is established under this subparagraph for other members of the system.

Sec. 23. Section 97B.42, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Each employee whose employment commences after July 4, 1953, or who has not qualified for credit for prior service rendered prior to July 4, 1953, or any publicly elected official of the state or any of its political subdivisions shall become a member upon the first day in which such employee is employed. The employee shall continue to be an active member so long as the employee continues in covered employment. The employee shall

cease to be an active member if the employee joins another retirement system in the state which is maintained in whole or in part by public contributions or payments and receives retirement credit for service in that other system for the same position previously covered under this chapter. If an employee joins another publicly maintained retirement system and ceases to be an active member under this chapter, the employee may elect to leave the employee's accumulated contributions in the retirement fund or receive a refund of the employee's accumulated contributions in the manner provided for members who are terminating covered employment pursuant to section 97B.53. However, if an employee joins another publicly maintained retirement system and leaves the employee's accumulated contributions in the retirement fund, the employee shall not be eligible to receive retirement benefits until the employee has a bona fide retirement from employment with a covered employer as provided in section 97B.52A, or until the employee would otherwise be eligible to receive benefits upon attaining the age of seventy years as provided in section 97B.46.

Sec. 24. Section 97B.42, unnumbered paragraph 4, Code 1995, is amended to read as follows:

Persons who are members of any other retirement system in the state which is maintained in whole or in part by public contributions other than persons who are covered under the provisions of chapter 97, Code 1950, as amended by the Fifty-fourth General Assembly on the date of the repeal of said chapter, under the provisions of sections 97.50 through 97.53 shall not become members under this chapter while still actively participating in that other retirement system unless the persons do not receive retirement credit for service in that other system for the position to be covered under this chapter.

Sec. 25. Section 97B.42, unnumbered paragraph 5, Code 1995, is amended to read as follows:

Nothing herein contained shall be construed to permit any ~~person in public employment to be an active member of~~ employer to make any public contributions or payments on behalf of an employee in the same position for the same period of time to both the Iowa public employees' retirement system and of any other retirement system in the state which is supported in whole or in part by public contributions or payments ~~except as heretofore provided~~.

Sec. 26. Section 97B.42, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, a "retirement system in the state which is maintained in whole or in part by public contributions or payments" shall not include a deferred compensation plan established under section 509A.12 or a tax-sheltered annuity qualified under section 403(b) of the Internal Revenue Code.

Sec. 27. Section 97B.48, subsection 1, Code 1995, is amended to read as follows:

1. Retirement allowances shall be paid monthly, except that an allowance of less than six hundred dollars a year may, at the member's option, be paid as a lump sum in an ~~actuarial equivalent~~ amount equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966. Receipt of the lump-sum payment by a member shall terminate any and all entitlement for the period of service covered of the member under this chapter.

Sec. 28. Section 97B.48A, subsection 1, Code 1995, is amended to read as follows:

1. 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 has not reached the member's sixty-fifth birthday and who has a bona fide retirement under this chapter is in regular full-time employment during a calendar year, the member's retirement allowance shall be ~~suspended for as long as the member remains in employment for the remainder of~~

~~that calendar year~~ reduced by fifty cents for each dollar the member earns over the limit provided in this subsection. However, ~~effective January 1, 1992,~~ employment is not full-time employment until the member receives remuneration in an amount in excess of seven thousand four hundred forty dollars for a calendar year, or an amount equal to the amount of remuneration permitted for a calendar year for persons under sixty-five years of age before a reduction in federal Social Security retirement benefits is required, whichever is higher. 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 without a reduction after return to covered employment regardless of the amount of remuneration received.

If a member dies and the full amount of the reduction from retirement allowances required under this subsection has not been paid, the remaining amounts shall be deducted from the payments made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which remaining payments are not required or the remaining payments are insufficient to satisfy the full amount of the reduction from retirement allowances required under this subsection, the amount still unpaid shall be a claim against the member's estate.

Sec. 29. Section 97B.48A, subsection 4, Code 1995, is amended to read as follows:

4. The department shall pay to the member the accumulated contributions of the member and to the employer the employer contributions, plus ~~two percent~~ interest plus interest dividends as provided in section 97B.70, for all completed calendar years, compounded ~~annually~~ as provided in section 97B.70, on the covered wages earned by a retired member that are not used in the recalculation of the retirement allowance of a member.

Sec. 30. Section 97B.49, subsection 4, Code Supplement 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective January 1, 1997, for members who retired on or after July 1, 1953, and before July 1, 1990, with at least ten years of prior and membership service, the minimum monthly benefit payable at the normal retirement date for prior and membership service shall be two hundred dollars. The minimum monthly benefit payable shall be increased by ten dollars for each year of prior and membership service beyond ten years, up to a maximum of twenty additional years of prior and membership service. If benefits commenced on an early retirement date, the amount of the benefit shall be reduced in accordance with section 97B.50. If an optional allowance was selected under section 97B.51, the amount payable shall be the actuarial equivalent of the minimum benefit.

Sec. 31. Section 97B.49, subsection 5, paragraph b, Code Supplement 1995, is amended to read as follows:

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~~ the applicable percentage multiplier of the three-year average covered wage multiplied by a fraction of years of service. The applicable percentage multiplier shall be the following:

(1) For active or inactive vested members retiring on or after July 1, 1990, but before July 1, 1991, fifty-two percent.

(2) For active or inactive vested members retiring on or after July 1, 1991, but before July 1, 1992, fifty-four percent.

(3) For active or inactive vested members retiring on or after July 1, 1992, but before July 1, 1993, fifty-six percent.

(4) For active or inactive vested members retiring on or after July 1, 1993, but before July 1, 1994, fifty-seven and four-tenths percent.

(5) For active or inactive vested members retiring on or after July 1, 1994, sixty percent.

The applicable percentage multiplier shall be subject to adjustments as provided in paragraphs "e" and "f".

~~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. However, commencing July 1, 1994, if the annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb an increase in the percentage multiplier in excess of two percent, the department shall increase the percentage multiplier for that year beyond two percent to the extent which the increase can be absorbed by the contribution rates in effect, not to exceed a maximum percentage multiplier of sixty percent. The increase in the percentage multiplier for a year applies only to the members retiring on or after July 1 of the respective year.~~

~~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.~~

Notwithstanding any other provision of this chapter providing for the payment of the benefits provided in subsection 16 or 17, the department shall ~~establish~~ apply the percentage multiplier which applies to members covered under subsection 16 or 17 at the same level as is established under this subsection for other members of the system, including any modification in the percentage multiplier as provided in paragraphs "e" and "f".

~~By November 15, 1995, the department shall set aside from other moneys in the retirement fund three million eight hundred sixty thousand dollars. The moneys set aside shall be from the funds generated by the employer and employee contributions in effect under section 97B.11 that exceed the amount necessary to fund the system's existing liabilities, as determined in the annual actuarial valuation of the system as of June 30, 1995. If the annual actuarial valuation indicates that the amount of the employer and employee contributions in excess of the amount necessary to fund existing liabilities is less than three million eight hundred sixty thousand dollars, the department shall set aside all funds that are available. The funds set aside shall not be used in determining the covered wage limitation pursuant to section 97B.41, subsection 20, paragraph "b", subparagraph (11), on January 1, 1996. However, any funds set aside which are not specifically dedicated to a purpose by the Seventy-sixth General Assembly shall be used in determining the covered wage limitation thereafter.~~

~~In accordance with sections 97D.1 and 97D.4, it is the intent of the general assembly that once the goal of sixty percent of the three-year average covered wage is attained for a percentage multiplier, the department shall submit to the public retirement systems committee a plan for future benefit enhancements. This plan shall include, but is not limited to, continuation in the increase in the covered wage ceiling until reaching fifty-five thousand dollars for a calendar year, providing for annual adjustments in the annual dividends paid to retired members as provided in section 97B.49, subsection 13, and providing for the indexing of terminated vested members' earned benefits at a rate of three percent per year calculated from the date of termination from covered employment until the date of retirement.~~

*Sec. 32. *Section 97B.49, subsection 5, Code Supplement 1995, is amended by adding the following new paragraph:*

NEW PARAGRAPH. e. Notwithstanding any other provisions of this section to the contrary, for members retiring on or after July 1, 1997, and whose three-year average covered wage exceeds fifty-five thousand dollars, the monthly benefit shall be calculated by multiplying the sum of the following amounts by the fractions of years of service for that member.

*Item veto; see message at end of the Act

(1) For the first fifty-five thousand dollars of the member's three-year average covered wage, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection multiplied by fifty-five thousand dollars.

(2) For that portion of a member's three-year average covered wage that exceeds fifty-five thousand dollars but is less than or equal to sixty-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by ten percentage points, multiplied by that portion.

(3) For that portion of a member's three-year average covered wage that exceeds sixty-five thousand dollars but is less than or equal to seventy-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by fifteen percentage points, multiplied by that portion.

(4) For that portion of a member's three-year average covered wage that exceeds seventy-five thousand dollars but is less than or equal to eighty-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by twenty percentage points, multiplied by that portion.

(5) For that portion of a member's three-year average covered wage that exceeds eighty-five thousand dollars but is less than or equal to ninety-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by thirty percentage points, multiplied by that portion.

(6) For that portion of a member's three-year average covered wage that exceeds ninety-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by forty percentage points, multiplied by that portion.

*The covered wage categories referred to in subparagraphs (1) through (6) of this paragraph and the fifty-five thousand dollar amount otherwise specified in this paragraph shall be increased by the department for each fiscal year, beginning July 1, 1998, by an amount that represents the increase in the consumer price index during the previous twelve-month period ending on June 30, as published annually in the federal register by the federal department of labor, bureau of labor statistics.**

Sec. 33. Section 97B.49, subsection 5, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. For each active or inactive vested member retiring on or after July 1, 1996, the percentage multiplier of the three-year average covered wage used under subsections 5, 15, 16, and 17 to calculate the monthly retirement allowance shall be increased by one-fourth of one percentage point for each additional calendar quarter of membership service beyond the applicable years of service, not to exceed a total of five additional percentage points. For purposes of this paragraph, "the applicable years of service" shall be the following, based upon the service retirement allowance selected:

(1) For members receiving a retirement allowance for regular service under subsection 5 or 15, or receiving a combined retirement allowance under subsection 17, the applicable years of service is thirty.

(2) For members receiving a retirement allowance for service in a protection occupation under subsection 16, paragraph "a", the applicable years of service is twenty-five.

(3) For members receiving a retirement allowance for service as a sheriff, deputy sheriff, or airport fire fighter under subsection 16, paragraph "b", subparagraph (1) or (2), the applicable years of service is twenty-two.

Sec. 34. Section 97B.49, subsection 13, Code Supplement 1995, is amended to read as follows:

13. 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 ~~1994 and the November 1995~~ 1996 monthly benefit ~~payments~~ payment a retirement dividend equal to ~~one~~ two hundred ~~eighty-one~~ twenty-three percent of the monthly

*Item veto; see message at end of the Act

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 ~~1994 and the November 1995~~ 1996 monthly benefit ~~payments~~ payment a retirement dividend equal to two hundred ~~thirty-six~~ ninety-two 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.

c. Notwithstanding the determination of the amount of a retirement dividend under paragraph "a", "b", "d", ~~or~~ "f", or "g", a retirement dividend shall not be less than twenty-five dollars.

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 ~~1994 and the November 1995~~ 1996 monthly benefit ~~payments~~ payment a retirement dividend equal to ~~forty-nine~~ seventy-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.

e. If the member dies on or after July 1 of the dividend year but before the payment date, the full amount of the retirement dividend for that year shall be paid ~~to the designated beneficiary~~ to the member's account, upon notification of the member's death. ~~If there is no beneficiary designated by the member, the department shall pay the dividend to the member's estate. The beneficiary, or the representative of the member's estate, must apply for the dividend within two years after the dividend is payable or the dividend is forfeited.~~

f. A member who retired from the system between July 1, 1986, and June 30, 1990, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 ~~and the November 1997~~ monthly benefit ~~payments~~ payment a retirement dividend ~~in an amount determined by the general assembly~~ 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. 35. Section 97B.49, subsection 13, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Effective July 1, 1997, commencing with dividends payable in November 1997, and for each subsequent year, all members who retired prior to July 1, 1990, shall be eligible for annual dividend payments, payable in November of that year, pursuant to the requirements of this paragraph. The dividend payable in any given year shall be the sum of the dollar amount of the dividend payable in the previous November and the dividend adjustment.

The dividend adjustment for a given year shall be calculated by multiplying the total of the retiree's monthly benefit payments and the dividend payable to the retiree in the previous calendar year by the applicable percentage as determined by this paragraph. The applicable percentage shall be the least of the following percentages:

(1) The percentage representing eighty percent of the percentage increase in the consumer price index published in the federal register by the federal department of labor, bureau of labor statistics, that reflects the percentage increase in the consumer price index for the twelve-month period ending June 30 of the year that the dividend is to be paid.

(2) The percentage representing the percentage amount the actuary has certified, in the annual actuarial valuation of the system as of June 30 of the year in which the dividend is to be paid, that the fund can absorb without requiring an increase in the employer and employee contributions to the fund.

(3) Three percent.

The dividend determined pursuant to this paragraph shall not be used to increase the monthly benefit amount payable.

Sec. 36. Section 97B.49, subsection 15, paragraph b, Code Supplement 1995, is amended to read as follows:

b. For each active or inactive vested member retiring on or after July 1, 1990, and before July 1, 1996, 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. 37. Section 97B.49, subsection 15, Code Supplement 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. For each active or inactive vested member retiring on or after July 1, 1996, and before the implementation date provided in paragraph "d", subparagraph (2), 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, 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, multiplied by a fraction of years of service as is provided in subsection 5.

NEW PARAGRAPH. d. (1) For each active or inactive vested member retiring on or after the implementation date provided in subparagraph (2), 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 eighty-eight, 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, multiplied by a fraction of years of service as is provided in subsection 5.

(2) The department shall implement this paragraph on July 1, 1997, or on the date that the department determines that the most recent annual actuarial valuation of the system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the costs of this paragraph, whichever is later. However, until this paragraph is implemented, the department shall not pay a dividend adjustment pursuant to subsection 13, paragraph "g".

Sec. 38. Section 97B.49, subsection 16, paragraph e, Code Supplement 1995, is amended to read as follows:

e. Annually, the department of personnel shall actuarially determine the cost of the additional benefits provided for members covered under paragraph "a" and the cost of the additional benefits provided for members covered under paragraph "b" as percents of the covered wages of the employees covered by this subsection. Sixty percent of the cost shall be paid by the employers of employees covered under this subsection and forty percent of the cost shall be paid by the employees. The employer and employee contributions required under this paragraph are in addition to the contributions paid under ~~section~~ sections 97B.11 and 97B.11A.

Sec. 39. Section 97B.49, subsection 16, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. For the fiscal year commencing July 1, 1992, and each succeeding fiscal year, the department of public safety shall pay to the department of personnel from funds appropriated to the department of public safety, the amount necessary to pay the employer share of the cost of the additional benefits provided to a fire prevention inspector peace officer pursuant to paragraph "d", subparagraph (8).

Sec. 40. Section 97B.49, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 17. a. An active or inactive vested member, who is or has been employed in both special service and regular service, who retires on or after July 1, 1996, with four or more completed years of service and at the time of retirement is at least fifty-five years of age, may elect to receive, in lieu of the receipt of any other benefits under this section, a combined monthly retirement allowance equal to the sum of the following:

(1) One-twelfth of an amount equal to the applicable percentage multiplier established in subsection 5 of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this subparagraph shall be the actual years of service, not to exceed twenty-two, earned in a position described in subsection 16, paragraph "b", for which special service contributions were made, divided by twenty-two.

(2) One-twelfth of an amount equal to the applicable percentage multiplier established in subsection 5 of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this subparagraph shall be the actual years of service, not to exceed twenty-five, earned in a position described in subsection 16, paragraph "a", for which special service contributions were made, divided by twenty-five.

(3) One-twelfth of an amount equal to the applicable percentage multiplier established in subsection 5 of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this subparagraph shall be the actual years of service, not to exceed thirty, for which regular service contributions were made, divided by thirty. However, any otherwise applicable age reduction for early retirement shall apply to the calculation under this subparagraph.

In calculating the fractions of years of service under subparagraphs (1) and (2), a member shall not receive special service credit for years of service for which the member and the member's employer did not make the required special service contributions to the department.

b. In calculating the combined monthly retirement allowance pursuant to paragraph "a", the sum of the fraction of years of service provided in paragraph "a", subparagraphs (1), (2), and (3), shall not exceed one. If the sum of the fractions of years of service would exceed one, the department shall deduct years of service first from the calculation under paragraph "a", subparagraph (3), and then from the calculation under paragraph "a", subparagraph (2), if necessary, so that the sum of the fractions of years of service shall equal one.

c. (1) In calculating the combined monthly retirement allowance pursuant to paragraph "a", for members retiring on or after July 1, 1997, whose three-year average covered wage exceeds fifty-five thousand dollars, each calculation under paragraph "a", subparagraphs (1), (2), and (3) of this subsection shall be subject to reduction, calculated in the manner provided in subsection 5, paragraph "e".

(2) In calculating the combined monthly retirement allowance pursuant to paragraph "a", and in determining the applicable percentage multiplier established in subsection 5, the member shall be entitled to an addition in the percentage multiplier in accordance with subsection 5, paragraph "f", only for those years of service in excess of thirty years. Any addition in the percentage multiplier shall be included in the calculations required under paragraph "a", subparagraphs (1), (2), and (3) of this subsection.

Sec. 41. Section 97B.50, subsection 2, Code 1995, is amended to read as follows:

2. a. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq., and who has not reached the normal retirement date, shall receive 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. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time after July 4, 1953. Eligible members are entitled to the receipt of retroactive adjustment payments back to July 1, 1990, notwithstanding the requirements of subsection 4.

b. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the federal Railroad Retirement Act, 45 U.S.C. § 231 et seq., and who has not reached the normal retirement date, shall receive 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. However, the benefits shall be suspended during any period in which the member returns to covered employment. 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. Eligible members are entitled to the receipt of retroactive adjustment payments back to July 1, 1990, notwithstanding the requirements of subsection 4.

Sec. 42. Section 97B.51, subsection 3, Code Supplement 1995, is amended to read as follows:

3. A member who had elected to take the option stated in subsection 1 of this section may, at any time prior to retirement, revoke such an election by written notice to the department. A member shall not change or revoke an election once the first retirement allowance is paid.

Sec. 43. Section 97B.51, subsection 5, Code Supplement 1995, is amended to read as follows:

5. At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance shall be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar increments~~, and the~~ and shall be limited to the amount of the member's accumulated contributions. The amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable under section 97B.49, subsection 1 or 5. A member may designate a different beneficiary if the original named beneficiary predeceases the member.

Sec. 44. Section 97B.51, subsection 6, Code Supplement 1995, is amended to read as follows:

6. A member may elect to receive a decreased retirement allowance during the member's lifetime with provision that in event of the member's death during the first one hundred twenty months of retirement, monthly payments of the member's decreased retirement allowance shall be made to the member's beneficiary until a combined total of one hundred twenty monthly payments have been made to the member and the member's beneficiary. When the member designates multiple beneficiaries, the present value of the remaining payments shall be paid in a lump sum to each beneficiary, either in equal shares to the beneficiaries, or if the member specifies otherwise in a written request, in the specified proportion. A member may designate a different beneficiary if the original named beneficiary predeceases the member.

Sec. 45. Section 97B.52, subsection 1, Code Supplement 1995, is amended to read as follows:

1. If a member dies prior to the member's first month of entitlement, the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by ~~thirty~~ the applicable denominator shall be paid to the member's

beneficiary in a lump sum payment. However, a lump sum payment made to a beneficiary under this subsection due to the death of a member shall not be less than the amount that would have been payable on the death of the member on June 30, 1984, under this subsection as it appeared in the 1983 Code.

As used in this subsection, "applicable denominator" means the following, based upon the type of membership service in which the member served either on the date of death, or if the member died after terminating service, on the date of the member's last termination of service:

a. For regular service, the applicable denominator is thirty.

b. For service in a protection occupation, as defined in section 97B.49, subsection 16, paragraph "d", the applicable denominator is twenty-five.

c. For service as a sheriff, deputy sheriff, or airport fire fighter, as provided in section 97B.49, subsection 16, paragraph "b", the applicable denominator is twenty-two.

Effective July 1, 1978, a method of payment under this subsection filed with the department by a member does not apply.

Sec. 46. Section 97B.52, subsection 3, paragraph b, Code Supplement 1995, is amended to read as follows:

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 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. In order to receive the death benefit, the beneficiary, heirs at law, or the estate, or any other third-party payee, must apply to the department within ~~two~~ five years of the member's death.

The department shall reinstate a designated beneficiary's right to receive a death benefit beyond the five-year limitation if the designated beneficiary was the member's spouse at the time of the member's death and the distribution is required or permitted pursuant to Internal Revenue Code section 401(a)(9) and the applicable treasury regulations.

Sec. 47. Section 97B.52, subsection 5, Code Supplement 1995, is amended to read as follows:

5. Following written notification to the department, a beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would otherwise be entitled under sections 97B.51 and this section. Upon receipt of the waiver, the department shall pay ~~to the estate of the deceased member~~ the amount designated to be received by ~~the~~ that beneficiary to the member's other surviving beneficiary or beneficiaries or to the estate of the deceased member, as elected by the beneficiary in the waiver. If the payments being waived are payable to the member's estate and an estate is not probated, the payments shall be paid to the deceased member's surviving spouse, or if there is no surviving spouse, to the member's heirs other than the beneficiary who waived the payments.

Sec. 48. Section 97B.52A, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A member who terminates covered employment but maintains an employment relationship with an employer that made contributions to the system on the member's behalf does not have a bona fide retirement until all employment, including employment which is not covered by this chapter, with such employer is terminated for at least thirty days. In order to receive retirement benefits, the member must file a completed application for benefits form with the department before returning to any employment with the same employer.

Sec. 49. Section 97B.53, subsection 3, Code Supplement 1995, is amended to read as follows:

3. The accumulated contributions of a terminated, vested member shall be credited with interest, including interest dividends, in the manner provided in section 97B.70. Interest and interest dividends shall be credited to the accumulated contributions of members who terminate service and subsequently become vested in accordance with section 97B.70. ~~However, the department shall not implement the amendments to this subsection or to subsection 6, unnumbered paragraph 1, or to subsection 7, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to these provisions of this section and the amendments to section 97B.41, subsection 12, and section 97B.70, by enacting a new subsection 4, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priorities of the system, as defined in section 97B.41, subsection 12. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.53, subsections 3 and 7, and section 97B.53, subsection 6, unnumbered paragraph 1, 1993 Code of Iowa.~~

Sec. 50. Section 97B.53B, subsection 1, paragraph c, subparagraph (4), Code 1995, is amended to read as follows:

(4) ~~A distribution~~ Annual distributions of less than two hundred dollars of taxable income.

Sec. 51. Section 97B.66, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

A vested or retired member who was a member of the teachers insurance and annuity association-college retirement equity fund at any time between July 1, 1967 and June 30, 1971 and who became a member of the system on July 1, 1971, upon submitting verification of service and wages earned during the applicable period of service under the teachers insurance and annuity association-college retirement equity fund, may make employer and employee contributions to the system based upon the covered wages of the member and the covered wages and the contribution rates in effect for all or a portion of that period of service and receive credit for membership service under this system equivalent to the applicable period of membership service in the teachers insurance and annuity association-college retirement equity fund for which the contributions have been made. In addition, a member making employer and employee contributions because of membership in the teachers insurance and annuity association-college retirement equity fund under this section who was a member of the system on June 30, 1967 and withdrew the member's accumulated contributions because of membership on July 1, 1967 in the teachers insurance and annuity association-college retirement equity fund, may make employee contributions to the system for all or a portion of the period of service under the system prior to July 1, 1967. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or~~, effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 2 contained in 1994 Iowa Acts, chapter 1183, shall be implemented,~~ for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more ~~years, as long as the increments represent full years and not a portion of a year~~ calendar quarters. ~~However, the department shall not implement the amendments to this paragraph or unnumbered paragraph 2, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and unnumbered paragraph 2 and to section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established~~

~~priority of the system. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.66, unnumbered paragraphs 1 and 2, Code Supplement 1993. As used in this section, unless the context otherwise requires, "other established priority of the system" means that commencing January 1 following the most recent annual actuarial valuation of the system, the department has increased the covered wage limitation from the previous year by three thousand dollars, in accordance with section 97B.41, subsection 20, paragraph "b", subparagraph (11).~~

Sec. 52. Section 97B.66, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

The contributions paid by the vested or retired member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, by the member for the applicable period of service, and the employer contribution for the applicable period of service under the teachers insurance and annuity association-college retirement equity fund, that would have been or had been contributed by the vested or retired member and the employer, if applicable, plus interest on the contributions that would have accrued for the applicable period from the date the previous applicable period of service commenced under this system or from the date the service of the member in the teachers insurance and annuity association-college retirement equity fund commenced to the date of payment of the contributions by the member ~~equal to two percent plus the interest dividend rate applicable for each year~~ as provided in section 97B.70.

Sec. 53. Section 97B.66, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

However, ~~effective January 1, 1994,~~ the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 54. Section 97B.68, subsection 1, Code 1995, is amended to read as follows:

1. Effective July 1, ~~1988~~ 1996, a person who is a member of the federal civil service retirement program or the federal employee's retirement system is not eligible for membership in the Iowa public employees' retirement system for the same position, and this chapter does not apply to that employee. An employee whose membership in the federal civil service retirement program or the federal employee's retirement system is subsequently terminated shall immediately notify the employee's employer and the department of personnel of that fact, and the employee shall become subject to this chapter on the date the notification is received by the department.

Sec. 55. Section 97B.68, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Effective July 1, 1996, an employee who participates in the federal civil service retirement program or the federal employee's retirement system may be covered under this chapter if otherwise eligible. The employee shall not be covered under this chapter, however, unless the employee is not credited for service in the federal civil service retirement system or the federal employee's retirement system for the position to be covered under this chapter. This subsection shall not be construed to permit any employer to contribute on behalf of an employee for the same position and the same period of service to both the Iowa public employees' retirement system and either the federal civil service retirement program or the federal employee's retirement system.

Sec. 56. Section 97B.70, Code Supplement 1995, is amended to read as follows:

97B.70 INTEREST AND DIVIDENDS TO MEMBERS.

1. ~~Interest~~ For calendar years prior to January 1, 1997, interest at two percent per annum and interest dividends declared by the department shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions thereby.

~~1.~~ a. The average rate of interest earned shall be determined upon the following basis:

~~a.~~ (1) Investment income shall include interest and cash dividends on stock.

~~b.~~ (2) Investment income shall be accounted for on an accrual basis.

~~c.~~ (3) Capital gains and losses, realized or unrealized, shall not be included in investment income.

~~d.~~ (4) Mean assets shall include fixed income investments valued at cost or on an amortized basis, and common stocks at market values or cost, whichever is lower.

~~e.~~ (5) The average rate of earned interest shall be the quotient of the investment income and the mean assets of the retirement fund.

~~2.~~ b. The interest dividend shall be determined within sixty days after the end of each calendar year as follows:

The dividend rate for a calendar year shall be the excess of the average rate of interest earned for the year over the statutory two percent rate plus twenty-five hundredths of one percent. The average rate of interest earned and the interest dividend rate in percent shall be calculated to the nearest one hundredth, that is, to two decimal places. Interest and interest dividends calculated pursuant to this subsection shall be compounded annually.

2. For calendar years beginning January 1, 1997, a per annum interest rate at one percent above the interest rate on one-year certificates of deposit shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions. For purposes of this subsection, the interest rate on one-year certificates of deposit shall be determined by the department based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one-quarter of the annual interest rate to the sum of the accumulated contributions as of the end of the previous calendar quarter.

3. Interest and interest dividends shall be credited to the contributions of active members and inactive vested members until the first of the month coinciding with or next following the member's retirement date.

4. ~~Effective upon the date that the department determines that this subsection shall be implemented, interest~~ Interest and interest dividends shall be credited to the contributions of a person who leaves the contributions in the retirement fund upon termination from covered employment prior to achieving vested status, but who subsequently achieves vested status. The interest and interest dividends shall be credited to the contributions commencing ~~either~~ upon ~~the date that the department determines that this subsection shall be implemented, or~~ the date on which the person becomes a vested member~~, whichever is later~~. Interest and interest dividends shall cease upon the first of the month coinciding with or next following the person's retirement date. If the department no longer maintains the accumulated contribution account of the person pursuant to section 97B.53, but the person submits satisfactory proof to the department that the person did make the contributions, the department shall credit interest and interest dividends in the manner provided in this subsection. ~~However, the department shall not implement this subsection, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the enactment of this subsection and the amendments to section 97B.41, subsection 12, section 97B.53, subsections 3 and 7, and section 97B.53, subsection 6, unnumbered paragraph 1, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priorities of the system, as defined in section 97B.41, subsection 12.~~

Sec. 57. Section 97B.72, unnumbered paragraphs 1 and 2, Code Supplement 1995, are amended to read as follows:

Persons who are members of the Seventy-first General Assembly or a succeeding general assembly who submit proof to the department of membership in the general assembly during any period beginning July 4, 1953, may make contributions to the system for all or

a portion of the period of service in the general assembly, and receive credit for the applicable period for which contributions are made. The contributions made by the member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, which would have been made if the member of the general assembly had been a member of the system during the applicable period. The proof of membership in the general assembly and payment of accumulated contributions shall be transmitted to the department. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or~~, effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 2 contained in 1994 Iowa Acts, chapter 1183, shall be implemented,~~ for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more ~~years, as long as the increments represent full years and not a portion of a year~~ calendar quarters. ~~However, the department shall not implement the amendments to this paragraph or unnumbered paragraph 2, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and unnumbered paragraph 2 and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.72, unnumbered paragraphs 1 and 2, Code Supplement 1993.~~

There is appropriated from moneys available to the general assembly under section 2.12 an amount sufficient to pay the contributions of the employer based on the period of service for which the members have paid accumulated contributions in an amount equal to the contributions which would have been made if the members of the general assembly who made employee contributions had been members of the system during the applicable period of service in the general assembly plus ~~two percent~~ interest ~~plus~~ and interest dividends at the rate provided in section 97B.70 for all completed calendar years, and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years ~~at two percent interest plus the interest dividend rate calculated for the previous year~~, compounded ~~annually, from the end of the calendar year in which contribution was made to the first day of the month of such date~~ as provided in section 97B.70.

Sec. 58. Section 97B.72, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

However, ~~effective January 1, 1994,~~ the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 59. Section 97B.72A, subsection 1, Code Supplement 1995, is amended to read as follows:

1. ~~An active or~~ A vested or retired member of the system who was a member of the general assembly prior to July 1, 1988, may make contributions to the system for all or a portion of the period of service in the general assembly. The contributions made by the member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, which would have been made if the member of the general assembly had been a member of the system during the applicable period of service in the general assembly. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or for portions of the period of service,

and~~, effective upon the date that the department determines that the amendments to this paragraph contained in 1994 Iowa Acts, chapter 1183, shall be implemented,~~ if contributions are made for portions of the period of service, the contributions shall be in increments of one or more ~~years, as long as the increments represent full years and not a portion of a year~~ calendar quarters. The member of the system shall submit proof to the department of membership in the general assembly. The department shall credit the member with the period of membership service for which contributions are made. ~~However, the department shall not implement the amendments to this paragraph, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.72A, subsection 1, unnumbered paragraph 1, Code Supplement 1993.~~

There is appropriated from the general fund of the state to the department an amount sufficient to pay the contributions of the employer based on the period of service of members of the general assembly for which the member paid accumulated contributions under this section. The amount appropriated is equal to the employer contributions which would have been made if the members of the system who made employee contributions had been members of the system during the period for which they made employee contributions plus ~~two percent~~ interest ~~plus the interest dividend rate applicable~~ at the rate provided in section 97B.70 for each year compounded ~~annually~~ as provided in section 97B.70.

Sec. 60. Section 97B.72A, subsection 2, Code Supplement 1995, is amended to read as follows:

2. ~~Effective January 1, 1994, however~~ However, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 61. Section 97B.73, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A vested or retired member who was in public employment comparable to employment covered under this chapter in another state 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 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 either for the entire period of service in the other public system, or for partial service in the other public system in increments of one or more ~~years, as long as the increments represent full years and not a portion of a year~~ calendar quarters. ~~The member may also make one lump sum contribution to the system which represents the entire period of service in the other public system, even if the period of time exceeds one year or includes a portion of a year.~~ If the member wishes to transfer only a portion of the service value of another public system to this system and the other public system allows a partial withdrawal of a member's system credits, the member shall receive credit for membership service in this system equivalent to the ~~number of years~~ period of service transferred from the other public system. The 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. If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the department by an inflation factor to reflect changes in the economy since the covered wages were earned.

Sec. 62. Section 97B.73, unnumbered paragraph 6, Code 1995, is amended to read as follows:

However, ~~effective January 1, 1994,~~ the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 63. Section 97B.73A, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

A part-time county attorney may elect in writing to the department to make employee contributions to the system for the county attorney's previous service as a county attorney and receive credit for membership service in the system for the applicable period of service as a part-time county attorney for which employee contributions are made. The contributions paid by the member shall be equal to the accumulated contributions, as defined in section 97B.41, subsection 2, for the applicable period of membership service. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or~~, effective upon the date that the department determines that the amendments to this paragraph contained in 1994 Iowa Acts, chapter 1183, shall be implemented,~~ for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more ~~years, as long as the increments represent full years and not a portion of a year~~ calendar quarters. A member who elects to make contributions under this section shall notify the applicable county board of supervisors of the member's election, and the county board of supervisors shall pay to the department the employer contributions that would have been contributed by the employer under section 97B.11 plus interest on the contributions that would have accrued if the county attorney had been a member of the system for the applicable period of service. ~~However, the department shall not implement the amendments to this paragraph, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.73A, unnumbered paragraph 1, Code Supplement 1993.~~

Sec. 64. Section 97B.73A, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

However, ~~effective January 1, 1994,~~ the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 65. Section 97B.74, unnumbered paragraphs 1 and 2, Code Supplement 1995, are amended to read as follows:

~~An active,~~ A vested~~,~~ or retired member who was a member of the system at any time on or after July 4, 1953, 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 all or a portion of the period of membership service for which a refund of contributions was made, and receive credit for the period of membership service for which contributions are made. The contributions repaid by the member for such service shall be equal to the accumulated contributions, as defined in section 97B.41, subsection 2, received by the member for the applicable period of membership service plus interest on the accumulated contributions for the applicable period from the date of receipt by the member to the date of repayment ~~equal to two percent plus~~ at the interest ~~dividend~~ rate provided in section 97B.70 applicable for each year compounded ~~annually~~ as provided in section 97B.70.

~~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.~~ A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or~~, effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 1 contained in 1994 Iowa Acts, chapter 1183, shall be implemented,~~ for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more ~~years, as long as the increments represent full years and not a portion of a year~~ calendar quarters. ~~However, the department shall not implement the amendments to this paragraph or unnumbered paragraph 1, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to unnumbered paragraph 1 and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, and section 97B.73A, unnumbered paragraph 1, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.74, unnumbered paragraphs 1 and 2, Code Supplement 1993.~~

Sec. 66. Section 97B.74, unnumbered paragraph 4, Code Supplement 1995, is amended by striking the unnumbered paragraph.

Sec. 67. Section 97B.80, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Effective July 1, 1992, a vested or retired member, 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 in which the member had reportable wages at the applicable rates in effect for that year under sections 97B.11 and 97B.49, for all or a portion of the period of time of the active duty service, in increments of ~~no greater than one year and not less than~~ one or more calendar ~~quarter~~ quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made. ~~However, the member may not make contributions in an increment of less than one year more than once. The member may also make one lump sum contribution to the system which represents the period of time of the active duty service, even if the period of time exceeds one year.~~ If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the department by an inflation factor to reflect changes in the economy. The department shall adjust benefits for a six-month period prior to the date the member pays contributions under this section if the member is receiving a retirement allowance at the time the contribution payment is 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, is eligible to receive, or may in the future be eligible to receive retirement pay from the United States government for active duty in the armed forces, except for retirement pay granted by the United States government under retired pay for nonregular service (10 U.S.C. § 1331, et seq.). A member receiving retired pay for nonregular service who makes contributions under this section shall provide information required by the department documenting time periods covered under retired pay for nonregular service.

Sec. 68. Section 97B.80, unnumbered paragraph 3, Code 1995, is amended to read as follows:

However, ~~effective January 1, 1994,~~ the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 69. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - DEVELOPMENT OF PROPOSALS FOR ESTABLISHING A DEFINED CONTRIBUTION OPTION AND FOR CONVERTING THE SYSTEM INTO A DEFINED CONTRIBUTION PLAN - REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall develop a proposal concerning various alternatives for establishing a defined contribution option for members of the Iowa public employees' retirement system in addition to the current defined benefit plan and a proposal concerning various alternatives for converting the Iowa public employees' retirement system into a defined contribution plan by terminating the current defined benefit plan and establishing a defined contribution plan. On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains proposals for establishing a defined contribution option and for converting the Iowa public employees' retirement system into a defined contribution plan. The report shall also contain actuarial information concerning the costs of the proposals.

Sec. 70. STUDY OF PROPOSALS CONCERNING CONTRIBUTION RATES - IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall study proposals concerning various options for establishing equitable contribution rates for both employers and employees covered by the Iowa public employees' retirement system. In conducting the study, the division shall consider a proposal to provide that the employee and employer contribution rate be equal. On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains the results of the study and any proposal, or proposals, for establishing employer and employee contribution rates. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

Sec. 71. STUDY OF PROPOSALS REGARDING DISABILITY RETIREMENT BENEFITS - IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall study proposals concerning various options for establishing disability retirement benefits for employees, or certain employees, covered by the Iowa public employees' retirement system. In conducting the study, the division shall consider a proposal to provide disability retirement benefits for sheriffs, deputy sheriffs, airport fire fighters, or members of a protection occupation in a manner similar to the disability retirement benefits provided under chapters 97A and 411. On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems

committee, which contains the results of the study and any proposal, or proposals, for establishing disability retirement benefits. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

Sec. 72. STUDY OF PROPOSALS CONCERNING INCLUSION OF MEMBERS IN A PROTECTION OCCUPATION - IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall study proposals concerning various options for determining additional occupations of members who should be eligible for inclusion as members in a protection occupation as provided in section 97B.49, subsection 16, paragraph "d". On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains the results of the study and any proposal, or proposals, for establishing which occupations should qualify for inclusion in a protection occupation. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

Sec. 73. STUDY CONCERNING ORGANIZATIONAL STRUCTURE OF THE IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM. The public retirement systems committee established in section 97D.4 shall study the feasibility of changing the organizational structure and governance of the Iowa public employees' retirement system. The committee shall consider the recommendations of the Buck Consultants Inc. report submitted to the Iowa public employees' retirement system in 1995, the Iowa public employees' retirement system division, and the department of personnel. The public retirement systems committee shall submit a report to the general assembly on or before January 31, 1998, containing its findings and recommendations.

Sec. 74. COMPREHENSIVE EXAMINATION OF PLAN DESIGN FOR THE IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall conduct a comprehensive examination of the plan design of the Iowa public employees' retirement system, pursuant to the principles established in chapter 97D, and make recommendations for plan improvement.

In conducting the examination, the division shall consider and develop recommendations concerning establishment of the following:

1. Objective actuarial standards to determine the funded status of the system, including recommended minimum standards to determine whether the system is fully funded, and to develop safeguards to ensure that the system remains fully funded based on those standards.
2. Equitable contribution rates for both employers and employees, to include consideration of proposals to provide for equal employer and employee contribution rates and proposals to increase or decrease contribution rates based on the funded status of the system.
3. Establishing a schedule for implementing the recommendations.

On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains the results of the comprehensive examination and any proposal, or proposals, for improving plan design of the Iowa public employees' retirement system. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

DIVISION II
TEACHERS' PENSION AND ANNUITY RETIREMENT SYSTEMS

Sec. 75. Section 12B.10, subsection 6, Code 1995, is amended by adding the following new paragraph e and relettering the subsequent paragraphs:

NEW PARAGRAPH. e. A pension and annuity retirement system governed by chapter 294.

Sec. 76. Section 12B.10A, subsection 6, Code 1995, is amended by adding the following new paragraph e and relettering the subsequent paragraphs:

NEW PARAGRAPH. e. A pension and annuity retirement system governed by chapter 294.

Sec. 77. Section 12B.10B, subsection 3, Code 1995, is amended by adding the following new paragraph e and relettering the subsequent paragraphs:

NEW PARAGRAPH. e. A pension and annuity retirement system governed by chapter 294.

Sec. 78. Section 12B.10C, Code 1995, is amended by adding the following new subsection 4 and renumbering the subsequent subsections:

NEW SUBSECTION. 4. A pension and annuity retirement system governed by chapter 294.

Sec. 79. NEW SECTION. 294.10B RIGHTS NOT TRANSFERABLE – NOT SUBJECT TO LEGAL PROCESS.

The right of any person to any future payment under a pension and annuity retirement system established in this chapter shall not be transferable or assignable, at law or in equity, and shall not be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law, except for the purposes of enforcing child, spousal, or medical support obligations, or marital property orders. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against benefits due a person under such a retirement system shall not exceed the amount specified in 15 U.S.C. § 1673(b).

DIVISION III
PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Sec. 80. Section 97A.5, subsection 9, Code 1995, is amended to read as follows:

9. DUTIES OF ~~COMMISSIONER OF INSURANCE~~ ACTUARY. The ~~state commissioner of insurance~~ actuary hired by the board of trustees shall be the technical advisor of the board of trustees on matters regarding the operation of the funds created by the provisions of this chapter and shall perform such other duties as are required in connection therewith.

Sec. 81. Section 97A.5, subsections 10 through 12, Code 1995, are amended to read as follows:

10. TABLES – RATES. ~~Immediately after the establishment of this system, the state commissioner of insurance~~ The actuary hired by the board of trustees 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 and the board of trustees shall authorize~~ recommends, and on the basis of ~~such~~ the investigation, the ~~actuary shall recommend for adoption by the~~ board of trustees ~~such~~ shall adopt the tables and ~~such~~ the rates as are required in subsection 11 of this section. The board of trustees shall adopt the rate of interest and tables, and certify rates of contributions to be used by the system.

11. ACTUARIAL INVESTIGATION. ~~In the year 1952, and at~~ At least once in each two-year period ~~thereafter~~, ~~the state commissioner of insurance~~ the actuary hired by the board of trustees shall make an actuarial investigation in the mortality, service, and compensation experience of the members and beneficiaries of the system, and the interest and other earnings on the moneys and other assets of the system, and shall make a valuation of the

assets and liabilities of the funds of the system, and taking into account the results of ~~such~~ the investigation and valuation, the board of trustees shall:

a. Adopt for the system such interest rate, mortality and other tables as shall be deemed necessary;

b. Certify the rates of contribution payable by the state of Iowa in accordance with section 97A.8.

12. VALUATION. On the basis of ~~such~~ the rate of interest and ~~such~~ tables ~~as~~ adopted by the board of trustees ~~shall adopt, the state commissioner of insurance~~ the actuary hired by the board of trustees shall make an annual valuation of the assets and liabilities of the funds of the system created by this chapter.

Sec. 82. Section 97A.5, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 14. INVESTMENT CONTRACTS. The board of trustees may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the funds established in section 97A.8.

NEW SUBSECTION. 15. LIABILITY. The department, the board of trustees, and the treasurer of state are not personally liable for claims based upon an act or omission of the person performed in the discharge of the person's duties under this chapter, even if those actions or omissions violate the standards established in section 97A.7, except for acts or omissions which involve malicious or wanton misconduct.

Sec. 83. Section 97A.6, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. Any member in service may retire upon the member's written application to the board of trustees, setting forth at what time, not less than thirty nor more than ninety days subsequent to the execution and filing therefor, the member desires to be retired, provided, that the said member at the time so specified for retirement shall have attained the age of fifty-five and shall have completed twenty-two years or more of creditable service, and notwithstanding that, during such period of notification, the member may have separated from the service. However, a member may retire at fifty years of age and receive a reduced retirement allowance pursuant to subsection 2A.

Sec. 84. Section 97A.6, subsection 2, paragraph d, subparagraph (3), Code 1995, is amended to read as follows:

(3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, but before July 1, 1996, 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. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 85. Section 97A.6, subsection 2, paragraph d, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) For a member who terminates service, other than by death or disability, on or after July 1, 1996, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 86. Section 97A.6, subsection 10, Code 1995, is amended to read as follows:

10. OPTIONAL ALLOWANCE. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, in which event such a beneficiary shall be considered as an active member at the time of death, until the first

payment on account of any benefit becomes normally due, any beneficiary may elect to receive the beneficiary's benefit in a retirement allowance payable throughout life, or may elect to receive the actuarial equivalent at that time of the beneficiary's retirement allowance in a lesser retirement allowance payable throughout life with the provision that an amount in money not exceeding the amount of the beneficiary's accumulated contributions shall be immediately paid in cash to such member or some other benefit or benefits shall be paid either to the member or to such person or persons as the member shall nominate, provided such cash payment or other benefit or benefits, together with the lesser retirement allowance, shall be certified by the ~~state commissioner of insurance~~ actuary to be of equivalent actuarial value to the member's retirement allowance and shall be approved by the board of trustees; provided, that a cash payment to such member or beneficiary at the time of retirement of an amount not exceeding fifty percent of the member's or beneficiary's accumulated contributions shall be made by the board of trustees upon said member's or beneficiary's election.

Sec. 87. Section 97A.6, subsection 12, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Pension to surviving spouse and children of deceased pensioned members. In the event of the death of any member receiving a retirement allowance under the provisions of subsections 2, 2A, 4, or 6 of this section there shall be paid a pension:

Sec. 88. Section 97A.6, subsection 12, paragraph a, Code 1995, is amended to read as follows:

a. To the member's surviving spouse, equal to one-half the amount received by the deceased beneficiary, but in no instance less than an amount equal to ~~twenty~~ twenty-five percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the Iowa highway safety patrol, and in addition a monthly pension equal to the monthly pension payable under subsection 9, paragraph "c," of this section for each child under eighteen years of age or twenty-two years of age if applicable; or

Sec. 89. Section 97A.6, subsection 14, paragraph a, subparagraphs (1), (2), and (3), Code 1995, are amended to read as follows:

(1) ~~Twenty-five~~ Thirty 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-five~~ Thirty percent for members with five or more years of membership service 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~~ Fifteen 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. 90. Section 97A.6, subsection 14, paragraph d, Code 1995, is amended to read as follows:

d. A retired member eligible for benefits under the provisions of subsection 1 is not eligible for the annual readjustment of pensions provided in this subsection unless the member served at least twenty-two years ~~and attained the age of fifty-five years~~ prior to the member's termination of employment.

Sec. 91. Section 97A.6, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. EARLY RETIREMENT BENEFITS.

a. Notwithstanding the calculation of the service retirement allowance under subsection

2, beginning July 1, 1996, a member who has completed twenty-two years or more of creditable service and is at least fifty years of age, but less than fifty-five years of age, who has otherwise completed the requirements for retirement under subsection 1, may retire and receive a reduced service retirement allowance pursuant to this subsection. The service retirement allowance for a member less than fifty-five years of age shall be calculated in the manner prescribed in subsection 2, except that the percentage multiplier of the member's average final compensation used in the determination of the service retirement allowance shall be reduced by the board of trustees pursuant to paragraph "b".

b. On July 1, 1996, and on each July 1 thereafter, the board of trustees shall determine for the respective fiscal year the percent by which the percentage multiplier under subsection 2 shall be reduced for each month that a member's retirement date precedes the member's fifty-fifth birthday. The board of trustees shall make this determination based upon the most recent actuarial valuation of the system, the calculation of the actuarial cost for each month of retirement of a member prior to age fifty-five, and the premise that the provision of a service retirement allowance to a member who is less than fifty-five years of age will not result in any increase in cost to the system.

Sec. 92. Section 97A.7, subsection 2, Code 1995, is amended to read as follows:

2. The several funds created by this chapter may be invested in:

~~a. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof.~~

~~b. In savings accounts or time deposits in Iowa banks approved as depositories by the executive council.~~

~~c.~~ ~~In~~ any investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b".

Sec. 93. Section 97A.8, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. On the basis of the rate of interest and of the mortality, interest, and other tables adopted by the board of trustees, the ~~state commissioner of insurance~~ board of trustees, upon the advice of the actuary hired by the board for that purpose, 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 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~~ board of trustees after each valuation.

Sec. 94. Section 97A.8, subsection 1, paragraph c, unnumbered paragraph 3, Code 1995, is amended by striking the unnumbered paragraph.

Sec. 95. Section 97A.8, subsection 1, paragraph f, subparagraph (8), Code 1995, is amended to read as follows:

(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~~ an amount equal to the member's contribution rate times each member's compensation shall be paid to the pension accumulation fund from the earnable compensation of the member. For the purposes of this subparagraph, the member's contribution rate shall be nine and thirty-five hundredths percent. However, the system shall increase the member's contribution

rate 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, 1995, 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 eleven and three-tenths percent, sixty percent of the additional cost of such statutory changes shall be paid by the employer under paragraph "c" and forty percent of the additional cost shall be paid by employees under this paragraph.

Sec. 96. Section 97A.8, subsection 3, Code 1995, is amended to read as follows:

3. EXPENSE FUND. The expense fund shall be the fund to which shall be credited all money provided by the state of Iowa to pay the administration expenses of the system and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially the board of trustees shall estimate the amount of money necessary to be paid into the expense fund during the ensuing biennium to provide for the expense of operation of the system. Investment management expenses shall be charged to the investment income of the system and there is appropriated from the system an amount required for the investment management expenses. The board of trustees shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

For purposes of this subsection, investment management expenses are limited to the following:

a. Fees for investment advisors, consultants, and investment management and benefit consultant firms hired by the board of trustees in administering this chapter.

b. Fees and costs for safekeeping fund assets.

c. Costs for performance and compliance monitoring, and accounting for fund investments.

d. Any other costs necessary to prudently invest or protect the assets of the fund.

Sec. 97. Section 97A.12, Code 1995, is amended to read as follows:

97A.12 EXEMPTION FROM EXECUTION AND OTHER PROCESS OR ASSIGNMENT.

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 created under this chapter, are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or as ~~in this chapter~~ otherwise specifically provided in this chapter. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 98. NEW SECTION. 97A.17 OPTIONAL TRANSFERS WITH CHAPTER 411.

1. For purposes of this section unless the context otherwise requires:

a. "Average accrued benefit" means the average of the amounts representing the present value of the accrued benefit earned by the member determined by the former system and the present value of the accrued benefit earned by the member determined by the current system.

b. "Current system" means the eligible retirement system in which a person has commenced employment covered by the system after having terminated employment covered by the former system.

c. "Eligible retirement system" means the system created under this chapter and the statewide fire and police retirement system established in chapter 411.

d. "Former system" means the eligible retirement system in which a person has terminated employment covered by the system prior to commencing employment covered by the current system.

2. Commencing July 1, 1996, a vested member of an eligible retirement system who terminates employment covered by one eligible retirement system and, within sixty days, commences employment covered by the other eligible retirement system may elect to transfer the average accrued benefit earned from the former system to the current system. The member shall file an application with the current system for transfer of the average accrued benefit within ninety days of the commencement of employment with the current system.

3. Notwithstanding subsection 2, a vested member whose employment with the current system commenced prior to July 1, 1996, may elect to transfer the average accrued benefit earned under the former system to the current system by filing an application with the current system for transfer of the average accrued benefit on or before July 1, 1997.

4. Upon receipt of an application for transfer of the average accrued benefit, the current system shall calculate the average accrued benefit and the former system shall transfer to the current system assets in an amount equal to the average accrued benefit. Once the transfer of the average accrued benefit is completed, the member's service under the former system shall be treated as membership service under the current system for purposes of this chapter and chapter 411.

DIVISION IV
STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 99. Section 400.8, subsection 1, Code 1995, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examinations shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held in accordance with medical protocols established by the board of trustees of the fire and police retirement system established by section 411.5. The board of trustees may change the medical protocols at any time the board so determines. The commission shall conduct a medical examination of an applicant for the position of police officer, police matron, or fire fighter after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 100. Section 411.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13. VOLUNTARY BENEFIT PROGRAMS. The board of trustees shall be responsible for the administration of the voluntary benefit programs established under section 411.40. The board may take any necessary action, including the adoption of rules, for purposes of administering the programs.

Sec. 101. Section 411.6, subsection 7, paragraph a, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Should any beneficiary for either ordinary or accidental disability, except a beneficiary who is fifty-five years of age or over and would have completed twenty-two years of service if the beneficiary had remained in active service, be engaged in a gainful occupation paying more than the difference between the member's retirement allowance and one and one-half times the earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount

of the member's retirement allowance shall be reduced to an amount which together with the amount earned by the member shall equal one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should the member's earning capacity be later changed, the amount of the member's retirement allowance may be further modified, provided, that the new retirement allowance shall not exceed the amount of the retirement allowance adjusted by annual readjustments of pensions pursuant to subsection 12 of this section nor an amount which, when added to the amount earned by the beneficiary, equals one and one-half times the amount of the earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which the member was retired at age fifty-five or greater, shall not again become a member of the retirement system and shall have the member's retirement allowance suspended while in active service. If the rank or position held by the retired member is subsequently abolished, adjustments to the allowable limit on the amount of income which can be earned in a gainful occupation shall be computed ~~in the same manner as provided in subsection 12, paragraph "e", of this section for readjustment of pensions when a rank or position has been abolished~~ by the board of trustees as though such rank or position had not been abolished and salary increases had been granted to such rank or position on the same basis as increases granted to other ranks and positions in the department.

Sec. 102. Section 411.6, subsection 12, paragraphs a through c, Code 1995, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. On each July 1, the monthly pensions authorized in this section payable to retired members and to beneficiaries shall be adjusted as provided in this subsection. An amount equal to the sum of one and one-half percent of the monthly pension of each retired member and beneficiary and the applicable incremental amount shall be added to the monthly pension of each retired member and beneficiary. The board of trustees shall report to the general assembly every six years, by September 15 of that year, beginning with September 15, 2001, on whether the provisions of this subsection continue to provide an equitable method for the annual readjustment of pensions payable under this chapter.

b. For purposes of this subsection, "applicable incremental amount" means the following amount for members receiving a pension under subsection 2, 4, or 6 and for beneficiaries receiving a pension under subsection 11:

(1) Fifteen dollars where the member's retirement date was less than five years prior to the effective date of the increase.

(2) Twenty dollars where the member's retirement date was at least five years, but less than ten years, prior to the effective date of the increase.

(3) Twenty-five dollars where the member's retirement date was at least ten years, but less than fifteen years, prior to the effective date of the increase.

(4) Thirty dollars where the member's retirement date was at least fifteen years, but less than twenty years, prior to the effective date of the increase.

(5) Thirty-five dollars where the member's retirement date was at least twenty years prior to the effective date of the increase.

c. For beneficiaries receiving a pension under subsection 8 or 9, the applicable incremental amount shall be determined as set forth in paragraph "b", except that the date of the member's death shall be substituted for the member's retirement date.

Sec. 103. Section 411.6, subsection 12, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A retired member eligible for benefits under this section and otherwise eligible for the readjustment of benefits provided in this subsection is not eligible for the readjustment unless the member was retired on or before the effective date of the readjustment.

Sec. 104. Section 411.13, Code 1995, is amended to read as follows:

411.13 EXEMPTION FROM EXECUTION AND OTHER PROCESS, OR ASSIGNMENT - EXCEPTIONS.

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 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 for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or as ~~in this chapter~~ otherwise specifically provided in this chapter. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 105. NEW SECTION. 411.31 OPTIONAL TRANSFERS WITH CHAPTER 97A.

1. For purposes of this section, unless the context otherwise requires:

a. "Average accrued benefit" means the average of the amounts representing the present value of the accrued benefit earned by the member determined by the former system and the present value of the accrued benefit earned by the member determined by the current system.

b. "Current system" means the eligible retirement system in which a person has commenced employment covered by the system after having terminated employment covered by the former system.

c. "Eligible retirement system" means the system created under this chapter and the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A.

d. "Former system" means the eligible retirement system in which a person has terminated employment covered by the system prior to commencing employment covered by the current system.

2. Commencing July 1, 1996, a vested member of an eligible retirement system who terminates employment covered by one eligible retirement system and, within sixty days, commences employment covered by the other eligible retirement system may elect to transfer the average accrued benefit earned from the former system to the current system. The member shall file an application with the current system for transfer of the average accrued benefit within ninety days of the commencement of employment with the current system.

3. Notwithstanding subsection 2, a vested member whose employment with the current system commenced prior to July 1, 1996, may elect to transfer the average accrued benefit earned under the former system to the current system by filing an application with the current system for transfer of the average accrued benefit on or before July 1, 1997.

4. Upon receipt of an application for transfer of the average accrued benefit, the current system shall calculate the average accrued benefit and the former system shall transfer to the current system assets in an amount equal to the average accrued benefit. Once the transfer of the average accrued benefit is completed, the member's service under the former system shall be treated as membership service under the current system for purposes of this chapter and chapter 97A.

Sec. 106. Section 411.37, subsection 2, Code 1995, is amended to read as follows:

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~~.

Sec. 107. Section 411.38, subsection 1, paragraph b, unnumbered paragraph 1, Code 1995, is amended to read as follows:

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. The actuary of the statewide system shall redetermine the accrued liabilities of the terminated systems as necessary to take into account additional amounts payable by the city which are attributable to errors or omissions which occurred prior to January 1, 1992, or to matters pending as of January 1, 1992. If the actuary of the statewide system determines that the assets transferred by a terminated system are insufficient to fully fund the accrued liabilities of the terminated system as determined by the actuary as of January 1, 1992, the participating city shall pay to the statewide system an amount equal to the unfunded liability plus interest for the period beginning January 1, 1992, and ending with the date of payment or the date of entry into an amortization agreement pursuant to this section. Interest on the unfunded liability shall be computed at a rate equal to the greater of the actuarial interest rate assumption on investments of the moneys in the fund or the actual investment earnings of the fund for the applicable calendar year. The participating city may enter into an agreement with the statewide system to make additional annual contributions sufficient to amortize the unfunded accrued liability of the terminated system. The terms of an amortization agreement shall be based upon the recommendation of the actuary of the statewide system, and the agreement shall do each of the following:

Sec. 108. NEW SECTION. 411.40 VOLUNTARY BENEFIT PROGRAMS.

The board of trustees may establish voluntary benefit programs for members subject to the following conditions:

1. The voluntary benefit programs may provide benefits including, but not limited to, retiree health benefits, long-term care, and life insurance.

2. Participation in the voluntary benefit programs by members shall be voluntary.

3. Contributions to the voluntary benefit programs shall be paid entirely by each participating member by means of payroll deduction. Cities employing members participating in voluntary benefit programs shall forward the amounts deducted to the board of trustees for deposit in the voluntary benefit fund.

4. The voluntary benefit programs and the voluntary benefit fund shall be administered under the direction of the board of trustees for the exclusive benefit of members paying contributions as provided in subsection 3.

5. The assets of the voluntary benefit programs shall be credited to the voluntary benefit fund, which is hereby created. The voluntary benefit fund shall include contributions deposited in accordance with subsection 3, and any interest and earnings on the contributions. The board of trustees shall annually establish an investment policy to govern the investment and reinvestment of the assets in the voluntary benefit fund. The voluntary benefit fund created under this section and the fire and police retirement fund created under section 411.8 shall not be used to subsidize any portion of the liabilities of the other fund.

6. The board of trustees shall include in its annual budget the amount of money necessary during the following year to provide for the expense of operation of the voluntary benefit programs. The operating expenses shall be paid from the voluntary benefit fund under the direction of the board of trustees.

DIVISION V
JUDICIAL RETIREMENT SYSTEM

Sec. 109. Section 602.9111, Code 1995, is amended to read as follows:

602.9111 INVESTMENT OF FUND.

So much of the judicial retirement fund as may not be necessary to be kept on hand for the making of disbursements under this article shall be invested by the treasurer of state in

~~bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof or in~~ any investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b", and the earnings therefrom shall be credited to ~~said~~ the fund. The treasurer of state may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the judicial retirement fund.

Investment management expenses shall be charged to the investment income of the fund and there is appropriated from the fund an amount required for the investment management expenses. The court administrator shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

For purposes of this section, investment management expenses are limited to the following:

a. Fees for investment advisors, consultants, and investment management and benefit consultant firms hired by the treasurer of state in administering the fund.

b. Fees and costs for safekeeping fund assets.

c. Costs for performance and compliance monitoring, and accounting for fund investments.

d. Any other costs necessary to prudently invest or protect the assets of the fund. The state court administrator and the treasurer of state, and their employees, are not personally liable for claims based upon an act or omission of the person performed in the discharge of the person's duties concerning the judicial retirement fund, except for acts or omissions which involve malicious or wanton misconduct.

DIVISION VI
EFFECTIVE AND APPLICABILITY PROVISIONS

Sec. 110. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The section of this Act which amends section 97B.49, subsection 16, by enacting a new paragraph "m", being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992.

2. The section of this Act which amends section 411.6, subsection 12, paragraphs "a" through "c", takes effect July 1, 1997.

Approved May 10, 1996, except the item which I hereby disapprove and which is designated as Section 32 in its entirety. My reasons for vetoing the item are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2245, an Act relating to public retirement systems, making appropriations, and providing effective and retroactive applicability dates.

Senate File 2245 is therefore approved on this date with the following exception, which I hereby disapprove.

I am unable to approve the item designated as Section 32, in its entirety. This provision is unnecessary and discriminatory. The Legislature appropriately removed the covered wage ceiling for all members in the IPERS system. However, this provision permanently reduces

the value credited to members' salary increments above a set arbitrary amount. In doing so, it unnecessarily discriminates against those members by prohibiting them from receiving full value of their wages in the calculation of their retirement benefits.

For the above reason, I hereby respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2245 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1188

UNECONOMICAL TESTAMENTARY TRUSTS
H.F. 2500

AN ACT providing for the modification or termination of certain testamentary trusts by the court.

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

Section 1. NEW SECTION. 633.699A MODIFICATION OR TERMINATION OF UNECONOMICAL TESTAMENTARY TRUST.

1. On petition by a trustee or beneficiary, and after notice to all interested parties as determined by the court, if the court determines that the fair market value of a testamentary trust has become so low in relation to the cost of administration that continuation of the trust under its existing terms will defeat or substantially impair the accomplishment of its purposes, the court may, in its discretion, order termination of the trust, modification of the trust, or appointment of a new trustee.

a. If the court orders the termination of the trust, disposition of all property shall be made according to the will provisions that address the disposition of the property in the event the trust is terminated. However, if the will does not address the disposition of the property in the event the trust is terminated, the court shall determine the disposition of the trust property, according to what the court determines would be most consistent with the trustor's original intent.

b. The existence of a trust provision restraining transfer of the beneficiary's interest does not prevent application of this subsection.

2. In the case of a charitable testamentary trust, the attorney general shall be considered an interested party under this section. This section shall not be construed to limit intervention by the attorney general according to section 633.303.

Approved May 15, 1996

CHAPTER 1189

BOARD OF EDUCATIONAL EXAMINERS - COMPLAINT PROCEDURES
H.F. 455

AN ACT relating to the filing of complaints with the board of educational examiners.

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

Section 1. Section 272.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Adopt rules that require specificity in written complaints that are filed and accepted by the board, provide for an adequate interval between the receipt of a complaint and public notice of the complaint, permit parties to a complaint to mutually agree to a resolution of the complaint, allow the respondent the right to review any investigative report for accuracy with its author prior to the submission of the report to the board, require that the conduct providing the basis for the complaint occurred within three years of the filing of the complaint unless good cause can be shown for an extension of this limitation, and require complaints to be resolved within one hundred eighty days.

Approved May 16, 1996

CHAPTER 1190

TAPING AND BROADCASTING OF ATHLETIC EVENTS
H.F. 121

AN ACT relating to the taping and broadcasting of certain high school athletic events.

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

Section 1. NEW SECTION. 280.13B TAPING AND BROADCAST FEES RESTRICTED.

The Iowa high school athletic association or its successor organization, and the Iowa girls high school athletic union or its successor organization, shall not assess a charge for the video tape retransmission of a high school athletic tournament contest or event if the video tape retransmission does not occur earlier than twenty-four hours after the starting time of the live athletic contest or event.

Approved May 16, 1996

CHAPTER 1191

SPEED LIMITS - CONSTRUCTION AREA SAFETY STUDY
S.F. 2140

AN ACT increasing the speed limit on certain highways, requiring a report on safety in construction zones, and providing an effective date.

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

Section 1. Section 321.285, subsection 6, Code 1995, is amended to read as follows:

6. Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic on fully controlled-access, divided, multilaned highways including the national system of interstate highways ~~designated by the federal highway administration and this state (23 U.S.C. § 103 (e))~~ is sixty-five miles per hour. The department may establish a speed limit of sixty-five miles per hour on certain divided, multilaned highways. However, the department or cities with the approval of the department may establish a lower speed limit upon such highways located within the corporate limits of a city. For the purposes of this subsection a fully controlled-access highway is a highway that gives preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. A minimum speed of forty miles per hour, road conditions permitting, is established on the highways referred to in this subsection.

It is further provided that any kind of vehicle, implement, or conveyance incapable of attaining and maintaining a speed of forty miles per hour shall be prohibited from using the interstate system.

Sec. 2. CONSTRUCTION AREA SAFETY STUDY. The state department of transportation and the department of public safety shall study and prepare a joint report relating to vehicle speed management, enhanced speed limit enforcement, and work zone safety in construction areas. The departments shall confer with representatives of the private sector construction industry to develop guidelines to promote motorist and construction worker safety. The departments shall file the joint report with the general assembly by January 1, 1997.

Sec. 3. EFFECTIVE DATE. This bill being deemed of immediate importance is effective upon enactment.

Approved May 16, 1996

CHAPTER 1192

ASSISTED LIVING PROGRAM
S.F. 454

AN ACT relating to the establishment of an assisted living program within the department of elder affairs, providing for implementation, and providing penalties.

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

Section 1. NEW SECTION. 231C.1 FINDINGS AND PURPOSE.

1. The general assembly finds that assisted living is an important part of the long-term care system in this state. Assisted living emphasizes the independence and dignity of the individual while providing services in a cost-effective manner.

2. The purposes of establishing an assisted living program include all of the following:

a. To encourage the establishment and maintenance of a safe and homelike environment for individuals of all income levels who require assistance to live independently but who do not require health-related care on a continuous twenty-four-hour per day basis.

b. To establish standards for assisted living programs that allow flexibility in design which promotes a social model of service delivery by focusing on individual independence, individual needs and desires, and consumer-driven quality of service.

c. To encourage general public participation in the development of assisted living programs for individuals of all income levels.

Sec. 2. NEW SECTION. 231C.2 DEFINITIONS.

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

1. "Assisted living" means provision of housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to six or more tenants in a physical structure which provides a homelike environment. "Assisted living" also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. "Assisted living" does not include the provision of housing and assistance with instrumental activities of daily living which does not also include provision of personal care or health-related care.

2. "Department" means the department of elder affairs created in chapter 231 or the department's designee.

3. "Health-related care" means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis, as defined by rule.

4. "Instrumental activities of daily living" means those activities that reflect the tenant's ability to perform household and other tasks necessary to meet the tenant's needs within the community, which may include but are not limited to shopping, cooking, housekeeping, chores, and traveling within the community.

5. "Personal care" means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, housekeeping essential to the health and welfare of the tenant, and supervising of self-administered medications, but does not include the administration of medications.

6. "Tenant" means an individual who receives assisted living services through a certified or accredited assisted living program.

Sec. 3. NEW SECTION. 231C.3 CERTIFICATION OR VOLUNTARY ACCREDITATION OF ASSISTED LIVING PROGRAMS.

1. The department shall establish, by rule in accordance with chapter 17A, a program for certification and monitoring of assisted living programs. An assisted living program which is voluntarily accredited is not required to also be certified by the department and the department shall accept voluntary accreditation in lieu of certification by the department. An assisted living program certified or voluntarily accredited under this section is exempt from the requirements of section 135.63 relating to certificate of need requirements.

2. Each assisted living program operating in the state shall be certified with the department or shall be voluntarily accredited. The owner or manager of a certified assisted living program shall comply with the rules adopted by the department for an assisted living program. A person shall not represent an assisted living program to the public as a certified or voluntarily accredited program unless the program is certified or voluntarily accredited pursuant to this chapter.

3. Services provided by a certified or voluntarily accredited assisted living program may be provided directly by staff of the assisted living program, by individuals contracting with the assisted living program to provide services, or by individuals employed by the tenant or with whom the tenant contracts if the tenant agrees to assume the responsibility and risk of the employment or the contractural* relationship.

*According to enrolled Act

4. The department may enter into contracts to provide certification and monitoring of assisted living programs. The department shall have full access to a program during certification and monitoring of programs seeking certification or currently certified. Upon the request of the department the entity providing accreditation of a program shall provide copies to the department of all materials related to the accreditation process.

Sec. 4. NEW SECTION. 231C.4 FIRE AND SAFETY STANDARDS.

The state fire marshal shall adopt rules, in coordination with the department, relating to the certification or voluntary accreditation and monitoring of the fire and safety of certified or voluntarily accredited assisted living programs.

Sec. 5. NEW SECTION. 231C.5 COORDINATION OF THE LONG-TERM CARE SYSTEM.

1. Any person representing a program to the public as an assisted living program prior to July 1, 1996, shall be granted a temporary certification by the department or shall be voluntarily accredited and shall meet the requirements of this chapter within one year of the issuance of the temporary certification or voluntary accreditation to receive subsequent certification or voluntary accreditation.

2. A hospital licensed pursuant to chapter 135B or a health care facility licensed pursuant to chapter 135C may operate an assisted living program, located in a distinct part of or separate structure under the control of the hospital or health care facility, if certified or voluntarily accredited pursuant to this chapter.

3. This chapter shall not be construed to require that a facility licensed as a different type of facility also comply with the requirements of this chapter, unless the facility is represented to the public as a certified or voluntarily accredited assisted living program.

Sec. 6. MEDICAL ASSISTANCE WAIVER. The department of human services shall take any actions necessary to allow a certified or voluntarily accredited assisted living program to be a provider of personal care services under the medical assistance home and community-based services waiver for the elderly.

Sec. 7. IMPLEMENTATION. It is the intent of the general assembly that sections 1 through 5 of this Act be implemented following the establishment of a funding source for implementation and administration of this Act.

Approved May 17, 1996

CHAPTER 1193

INDIGENT DEFENSE, CRIMINAL SANCTIONS, AND RELATED MATTERS

H.F. 2458

AN ACT relating to criminal and juvenile justice, including criminal corrections sanctions and criminal intelligence data and the right to appointed counsel or a public defender, by relating to the eligibility for certain indigents, the recovery of defense costs, conducting a study on legal representation for indigents, and by restricting the right to counsel for certain parents in child in need of assistance cases.

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

Section 1. Section 13B.1, subsection 3, Code Supplement 1995, is amended to read as follows:

3. "Financial statement" means a full written disclosure of all assets, liabilities, current income, dependents, and other information required to determine if a client qualifies for legal assistance ~~at public expense~~ by an appointed attorney.

Sec. 2. Section 13B.10, subsection 3, Code 1995, is amended to read as follows:

3. A person who knowingly submits a false financial statement for the purpose of obtaining legal assistance ~~at public expense~~ by an appointed attorney commits a fraudulent practice. As used in this subsection, "legal assistance" includes appointed counsel, transcripts, witness fees and expenses, and any other goods or services required by law to be provided to an indigent person ~~at public expense~~.

Sec. 3. Section 216A.136, unnumbered paragraph 1, as enacted* by 1996 Iowa Acts, House File 2448,** section 2, if enacted, is amended to read as follows:

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. Notwithstanding any other provision of state law, unless prohibited by federal law or regulation, the division shall be granted access, for purposes of research and evaluation, to criminal history records, official juvenile court records, juvenile court social records, and any other data collected or under control of the board of parole, department of corrections, district departments of correctional services, department of human services, judicial department, and department of public safety. However, intelligence data and peace officer investigative reports maintained by the department of public safety shall not be considered data for the purposes of this section. Any record, data, or information obtained by the division under this section and the division itself are subject to the federal and state confidentiality laws and regulations which are applicable to the original record, data, or information obtained by the division and to the original custodian of the record, data, or information. The access shall include but is not limited to all of the following:

Sec. 4. Section 216A.136, subsection 4, as enacted by 1996 Iowa Acts, House File 2448,** section 2, if enacted, is amended to read as follows:

4. Criminal history ~~and intelligence~~ data maintained under chapter 692.

Sec. 5. Section 232.89, subsection 1, Code 1995, is amended to read as follows:

1. Upon the filing of a petition the parent, guardian, or custodian identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If that person desires but is financially unable to employ counsel, the court shall appoint counsel. However, an incarcerated parent without legal custody shall not have the right to counsel.

Sec. 6. Section 814.9, Code 1995, is amended to read as follows:

814.9 INDIGENT'S RIGHT TO TRANSCRIPT ON APPEAL.

If a defendant in a criminal cause has perfected an appeal from a judgment and is determined by the court to be indigent, the court may order ~~the~~ a transcript to be made ~~at public expense~~. When an attorney of record is representing an indigent, the attorney shall apply to the district court for the transcript.

Sec. 7. Section 814.10, Code 1995, is amended to read as follows:

814.10 INDIGENT'S APPLICATION FOR TRANSCRIPT IN OTHER CASES.

If a defendant in a criminal cause has been granted discretionary review from an action of the district court and the appellate court deems a transcript or portions thereof are necessary to proper review of the question or questions raised, the district court shall order the transcript to be made ~~at public expense~~ if ~~a determination is made that~~ the defendant is determined to be indigent.

Sec. 8. Section 815.7, Code 1995, is amended to read as follows:

*The word "amended" probably intended

**Chapter 1150 herein

815.7 FEES TO ATTORNEYS.

An attorney who has not entered into a contract authorized under section 13B.4 and who is appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by a judge of the district court, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. However, the reasonable compensation awarded an attorney shall not be calculated based upon an hourly rate that exceeds the rate a contract attorney as provided in section 13B.4 would receive in a similar case. Such attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so, the attorney's fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 9. Section 815.9, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. A person with an income level greater than one hundred fifty percent, but less than two hundred percent, of the most recently revised poverty income guidelines published by the United States department of health and human services may be deemed partially indigent by the court pursuant to a written finding that, given the person's circumstances, not appointing counsel ~~at public expense~~ would cause the person substantial hardship. However, the court shall require a person ~~deemed partially indigent~~ appointed counsel to contribute to the cost of representation in accordance with rules adopted by the state public defender.

Sec. 10. Section 815.9, subsection 1, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A person with an income level greater than two hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be deemed indigent or partially indigent by the court unless the person is charged with a felony and the court makes a written finding that, given the person's circumstances, not appointing counsel would cause the person substantial hardship. However, the court shall require a person appointed counsel to contribute to the cost of representation in accordance with rules adopted by the state public defender.

Sec. 11. Section 815.9, subsection 3, Code 1995, is amended to read as follows:

3. A person who knowingly submits a false financial statement for the purpose of obtaining legal assistance ~~at public expense~~ by appointed counsel commits a fraudulent practice. As used in this subsection, "legal assistance" includes legal counsel, transcripts, witness fees and expenses, and any other goods or services required by law to be provided to an indigent person ~~at public expense~~.

Sec. 12. Section 815.9A, unnumbered paragraph 1, Code 1995, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

All costs and fees incurred for indigent defense shall become due and payable to the clerk of the district court by the person receiving the services not later than the date of sentencing, or if the person is acquitted or the charges are dismissed, within thirty days of the acquittal or dismissal. To the extent that the costs and fees remain unpaid at the time they become due, a judgment shall be entered against the person for the amounts unpaid.

Sec. 13. Section 815.9A, subsection 2, Code 1995, is amended to read as follows:

2. If the person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent but not more than one hundred eighty-five percent of the poverty guidelines, at least two hundred dollars of the indigent defense costs shall be recovered in accordance with rules adopted by the state public defender.

Sec. 14. Section 815.9A, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the person has an income level as determined pursuant to section 815.9 greater than one hundred eighty-five percent of the poverty guidelines, at least three hundred dollars of the indigent defense costs shall be recovered in accordance with rules adopted by the state public defender.

Sec. 15. NEW SECTION. 901A.1 CORRECTIONS CONTINUUM - INTERMEDIATE CRIMINAL SANCTIONS PROGRAM.

1. The corrections continuum consists of the following:

a. LEVEL ONE. Noncommunity-based corrections sanctions including the following:

(1) SELF-MONITORED SANCTIONS. Self-monitored sanctions which are not monitored for compliance including, but not limited to, fines and community service.

(2) OTHER THAN SELF-MONITORED SANCTIONS. Other than self-monitored sanctions which are monitored for compliance by other than the district department of correctional services including, but not limited to, mandatory mediation, victim and offender reconciliation, and noncommunity-based corrections supervision.

b. LEVEL TWO. Probation and parole options consisting of the following:

(1) MONITORED SANCTIONS. Monitored sanctions are administrative supervision sanctions which are monitored for compliance by the district department of correctional services and include, but are not limited to, low-risk offender-diversion programs.

(2) SUPERVISED SANCTIONS. Supervised sanctions are regular probation or parole supervision and any conditions established in the probation or parole agreement or by court order.

(3) INTENSIVE SUPERVISION SANCTIONS. Intensive supervision sanctions provide levels of supervision above sanctions in subparagraph (2) but are less restrictive than sanctions under paragraph "c" and include electronic monitoring, day reporting, day programming, live-out programs for persons on work release or who have violated chapter 321J, and institutional work release under section 904.910.

c. LEVEL THREE. Quasi-incarceration sanctions. Quasi-incarceration sanctions are those supported by residential facility placement or twenty-four hour electronic monitoring including, but not limited to, the following:

(1) Residential treatment facilities.

(2) Operating while intoxicated offender treatment facilities.

(3) Work release facilities.

(4) House arrest with electronic monitoring.

d. LEVEL FOUR. Short-term incarceration designed to be of short duration, including, but not limited to, the following:

(1) Twenty-one-day shock incarceration for persons who violate chapter 321J.

(2) Jail for less than thirty days.

(3) Violators' facilities.

(4) Prison with sentence reconsideration.

e. LEVEL FIVE. Incarceration which consists of the following:

(1) Prison.

(2) Jail for thirty days or longer.

2. "Intermediate criminal sanctions program" means a program structured around the corrections continuum in subsection 1, describing sanctions and services available in each level of the continuum in the district and containing the policies of the district department of correctional services regarding placement of a person in a particular level of sanction and the requirements and conditions under which a defendant will be transferred between levels in the corrections continuum under the program.

3. An intermediate criminal sanctions program shall consist of only levels two, three, and sublevels one and three of level four of the corrections continuum and shall be operated in accordance with an intermediate criminal sanctions plan adopted by the chief judge of the judicial district and the director of the judicial district department of correctional services. The plan adopted shall be designed to reduce probation revocations to prison through the use of incremental, community-based sanctions for probation violations.

The plan shall be subject to rules adopted by the department of corrections. The rules shall include provisions for transferring individuals between levels in the continuum. The provisions shall include a requirement that the reasons for the transfer be in writing and that an opportunity for the individual to contest the transfer be made available.

A copy of the program and plan shall be filed with the chief judge of the judicial district, the department of corrections, and the division of criminal and juvenile justice planning of the department of human rights.

4. a. The district department of correctional services shall place an individual committed to it under section 907.3 to the sanction and level of supervision which is appropriate to the individual based upon a current risk assessment evaluation. Placements may be to levels two and three of the corrections continuum. The district department may, with the approval of the department of corrections, place an individual in a level four violator facility established pursuant to section 904.207 only as a penalty for a violation of a condition imposed under this section.

b. The district department may transfer an individual along the intermediate criminal sanctions program operated pursuant to subsection 3 as necessary and appropriate during the period the individual is assigned to the district department. However, nothing in this section shall limit the district department's ability to seek a revocation of the individual's probation pursuant to section 908.11.

Sec. 16. Section 905.1, subsection 2, Code 1995, is amended to read as follows:

2. "Community-based correctional program" means correctional programs and services, including but not limited to an intermediate criminal sanctions program in accordance with the corrections continuum in section 901A.1, designed to supervise and assist individuals who are charged with or have been convicted of a felony, an aggravated misdemeanor or a serious misdemeanor, or who are on probation or parole in lieu of or as a result of a sentence of incarceration imposed upon conviction of any of these offenses, or who are contracted to the district department for supervision and housing while on work release.

An intermediate criminal sanctions program shall be designed by a district department in a manner that provides services in a manner free of disparities based upon an individual's race or ethnic origin.

Sec. 17. Section 907.3, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

With the consent of the defendant, the court may defer judgment and may place the defendant on probation upon such conditions as it may require. Upon a showing that the defendant is not ~~co-operating~~ cooperating with the program of probation or is not responding to it, the court may withdraw the defendant from the program, pronounce judgment, and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon fulfillment of the conditions of probation, the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 18. Section 907.3, subsection 2, Code Supplement 1995, is amended to read as follows:

2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department

of correctional services. The court may assign the defendant to supervision or services under section 901A.1 at the level of sanctions which the district department determines to be appropriate, if an intermediate criminal sanctions plan and program has been adopted in the judicial district under section 901A.1. However, the court shall not defer the sentence for a violation of section 708.2A if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A. In addition, the court shall not defer a sentence if it is imposed for a conviction for or plea of guilty to a violation of section 236.8 or for contempt pursuant to section 236.8 or 236.14. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 19. Section 907.3, subsection 3, Code Supplement 1995, as amended by 1996 Iowa Acts, Senate File 2269,* section 4, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901A.1 at the level of sanctions which the district department determines to be appropriate. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Sec. 20. Section 907.6, Code 1995, is amended to read as follows:

907.6 CONDITIONS OF PROBATION - REGULATIONS.

Probationers are subject to the conditions established by the judicial district department of correctional services subject to the approval of the court, and any additional reasonable conditions which the court or district department may impose to promote rehabilitation of the defendant or protection of the community. Conditions may include but are not limited to adherence to regulations generally applicable to persons released on parole and including requiring unpaid community service as allowed pursuant to section 907.13.

Sec. 21. Section 910.2, Code Supplement 1995, 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, to the clerk of court for fines, penalties, surcharges, and, to the extent that the offender is reasonably able to pay, 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 fines, penalties, and surcharges, crime victim compensation program reimbursement, court costs, court-appointed attorney's fees, or the expenses of a public defender are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim compensation program 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

*Chapter 1131 herein

compensation program 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 compensation program 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 which, for payment of court-appointed attorney's fees or expenses of a public defender, shall be approximately equivalent in value to those costs. 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. 22. Section 910.4, Code Supplement 1995, is amended to read as follows:

910.4 CONDITION OF PROBATION - PAYMENT PLAN.

1. When restitution is ordered by the sentencing court and the offender is placed on probation, restitution shall be a condition of probation.

a. Failure of the offender to comply with the plan of restitution, plan of payment, or community service requirements when community service is ordered by the court as restitution, shall constitute a violation of probation and shall constitute contempt of court.

b. ~~The~~ If an offender fails to comply with restitution requirements during probation, the court may hold the offender in contempt, revoke probation, or extend the period of probation~~, or upon notice of such noncompliance and hearing thereon, the court may enter a civil judgment against the offender for the outstanding balance of payments under the plan of restitution and such judgment shall be governed by the law relating to judgments, judgment liens, executions, and other process available to creditors for the collection of debts~~.

(1) ~~However, if~~ If the court extends the period of probation, ~~is extended~~ it shall not be for more than the maximum period of probation for the offense committed as provided in section 907.7. After discharge from probation or after the expiration of the period of probation, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. ~~As part of the order discharging an offender from probation, the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.~~

(2) If an offender's probation is revoked, the offender's assigned probation officer shall forward to the director of the Iowa department of corrections, information concerning the offender's restitution plan, restitution plan of payment, the restitution payment balance, and any other pertinent information concerning or affecting restitution by the offender.

2. When the offender is committed to a county jail, or to an alternate facility, the office or individual charged with supervision of the offender shall prepare a restitution plan of payment taking into consideration the offender's income, physical and mental health, age, education, employment and family circumstances.

a. The office or individual charged with supervision of the offender shall review the plan of restitution ordered by the court, and shall submit a restitution plan of payment to the sentencing court.

b. When community service is ordered by the court as restitution, the restitution plan of payment shall set out a plan to meet the requirement for the community service.

c. The court may approve or modify the plan of restitution and restitution plan of payment.

d. When there is a significant change in the offender's income or circumstances, the office or individual which has supervision of the plan of payment shall submit a modified restitution plan of payment to the court.

3. When there is a transfer of supervision from one office or individual charged with supervision of the offender to another, the sending office or individual shall forward to the receiving office or individual all necessary information regarding the balance owed against the original amount of restitution ordered and the balance of public service required.

When the offender's circumstances and income have significantly changed, the receiving office or individual shall submit a new plan of payment to the sentencing court for approval or modification based on the considerations enumerated in this section.

Sec. 23. Section 910.5, Code Supplement 1995, is amended to read as follows:

910.5 CONDITION OF WORK RELEASE OR PAROLE.

1. a. When an offender is committed to the custody of the director of the Iowa department of corrections pursuant to a sentence of confinement, the sentencing court shall forward to the director, a copy of the offender's restitution plan, present restitution payment plan if any, and other pertinent information concerning or affecting restitution by the offender.

b. ~~However, if~~ If the offender is committed to the custody of the director after revocation of probation, ~~this~~ all information regarding the offender's restitution plan shall be forwarded by the offender's probation officer.

c. An offender committed to a penal or correctional facility of the state shall make restitution while placed in that facility.

d. Upon commitment to the custody of the director of the Iowa department of corrections, the director or the director's designee shall prepare a restitution plan of payment or modify any existing plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) The director or the director's designee may modify the plan of payment at any time to reflect the offender's present circumstances.

e. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. ~~Upon the expiration of the offender's sentence, the department shall notify the court which sentenced the offender and the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.~~

2. If an offender is to be placed on work release from an institution under the control of the director of the Iowa department of corrections, restitution shall be a condition of work release.

a. The chief of the bureau of community correctional services of the Iowa department of corrections shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) The bureau chief may modify the plan of payment at any time to reflect the offender's present circumstances.

b. Failure of the offender to comply with the restitution plan of payment, including the community service requirement, if any, shall constitute a violation of a condition of work release and the work release privilege may be revoked.

c. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. ~~Upon the expiration of the offender's sentence, the bureau chief shall notify the court which sentenced the offender and the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.~~

3. If an offender is to be placed on work release from a facility under control of a county sheriff or the judicial district department of correctional services, restitution shall be a condition of work release.

a. The office or individual charged with supervision of the offender shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances.

(2) Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, constitutes a violation of a condition of work release.

(3) The office or individual charged with supervision of the offender may modify the plan of restitution at any time to reflect the offender's present circumstances.

b. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. ~~Upon the expiration of the offender's sentence, the office or individual charged with supervision of the offender shall notify the court which sentenced the offender and the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.~~

4. If an offender is to be placed on parole, restitution shall be a condition of parole.

a. The district department of correctional services to which the offender will be assigned shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment.

(1) The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances.

(2) Failure of the offender to comply with the restitution plan of payment including a community service requirement, if any, shall constitute a violation of a condition of parole.

(3) The parole officer may modify the plan of payment any time to reflect the offender's present circumstances.

(4) A restitution plan of payment or modified plan of payment, prepared by a parole officer, must meet the approval of the director of the district department of correctional services.

b. After the expiration of the offender's sentence, the failure of an offender to comply with the plan of restitution ordered by the court shall constitute contempt of court. ~~Upon the expiration of the offender's sentence, the parole officer shall notify the court which sentenced the offender and the court shall enter a civil judgment against the offender for the balance, if any, of any restitution owed by the offender to the victim of the crime.~~

5. The director of the Iowa department of corrections shall ~~promulgate~~ adopt rules pursuant to chapter 17A concerning the policies and procedures to be used in preparing and implementing restitution plans of payment for offenders who are committed to an institution under the control of the director of the Iowa department of corrections, for offenders who are to be released on work release from institutions under the control of the director of the Iowa department of corrections, for offenders who are placed on probation, and for offenders who are released on parole.

Sec. 24. LEGAL REPRESENTATION OF INDIGENTS – STUDY. The legislative council is requested to establish an interim committee to study issues concerning the provision of legal representation to indigents. Matters to be reviewed by the interim committee shall include, but are not limited to, reclassification of indictable misdemeanors as simple misdemeanors, the efficiencies of the state public defender's office, and recoupment of indigent defense costs. The legislative fiscal bureau, the department of justice, and the state public defender shall provide information requested by the committee pertaining to indigent defense, including but not limited to information concerning total cost expenditures by the state public defender, including costs for employee salaries and benefits and for all related office expenses, and statistical data concerning crimes for which penalties have been increased, or which have been recently reclassified as a higher level offense. The interim committee shall consider input from the Iowa state bar association, the Iowa association of criminal defense lawyers, the Iowa judges association, the Iowa magistrates association, the public defenders association, the state public defender, and the county attorneys association. The interim committee shall submit a report and recommendations to the general assembly by January 1, 1997.

Approved May 17, 1996

CHAPTER 1194

JOINT EQUIPMENT PURCHASES BY POLITICAL SUBDIVISIONS
H.F. 400

AN ACT relating to the joint purchasing of equipment by political subdivisions of the state.

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

Section 1. REPEAL. Section 28E.20, Code 1995, is repealed.

Approved May 20, 1996

CHAPTER 1195

DOMESTIC RELATIONS – MISCELLANEOUS PROVISIONS
S.F. 2265

AN ACT relating to domestic relations including the required participation of parents in a mandatory course prior to the granting of a dissolution of marriage decree and certain other orders, and providing an effective date.

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

Section 1. Section 598.7A, Code Supplement 1995, is amended to read as follows:

598.7A ~~DISSOLUTION OF MARRIAGE~~ DOMESTIC RELATIONS PROCEEDING – MEDIATION.

In addition to the custody mediation provided pursuant to section 598.41, unless the court determines that a history of domestic abuse exists as specified in section 598.41, subsection 3, paragraph "j", or unless the court determines that direct physical harm or significant emotional harm to the child, other children, or a parent is likely to result, or unless the action involves a child support or medical support obligation enforced by the child support recovery unit, on the application of either party~~,~~ or on the court's own motion, the court ~~may require~~ shall determine in each domestic relations proceeding or modification of any order relating to those proceedings whether the parties to the proceeding shall participate in mediation to attempt to resolve differences between the parties ~~relative to the granting of a marriage dissolution decree, if the court determines that mediation may effectuate a resolution of the differences~~ without court intervention. The court may order participation in mediation at any time prior to the entering of a final order or the granting of a final decree.

The costs of mediation shall be paid in full or in part by the parties, as determined by the court and taxed as court costs.

Sec. 2. NEW SECTION. 598.19A MANDATORY COURSE – PARTIES TO CERTAIN PROCEEDINGS.

1. The parties to any action which involves the issues of child custody or visitation shall participate in a court-approved course to educate and sensitize the parties to the needs of any child or party during and subsequent to the proceeding within forty-five days of the service of notice and petition for the action or within forty-five days of the service of notice and application for modification of an order. Participation in the course may be waived or delayed by the court for good cause including, but not limited to, a default by any of the parties. Participation in the course is not required if the proceeding involves termination of parental rights of any of the parties. A final decree shall not be granted or a final order shall not be entered until the parties have complied with this section.

2. Each party shall be responsible for arranging for participation in the course and for payment of the costs of participation in the course.

3. Each party shall submit certification of completion of the course to the court prior to the granting of a final decree or the entry of an order.

4. Each judicial district shall certify approved courses for parties required to participate in a course under this section. Approved courses may include those provided by a public or private entity. At a minimum and as appropriate, an approved course shall include information relating to the parents regarding divorce and its impact on the children and family relationship, parenting skills for divorcing parents, children's needs and coping techniques, and the financial responsibilities of parents following divorce.

5. In addition to the provisions of this section relating to the required participation in a court-approved course by the parties to an action as described in subsection 1, the court may require age-appropriate counseling for children who are involved in a dissolution of marriage action. The counseling may be provided by a public or private entity approved by the court. The costs of the counseling shall be taxed as court costs.

6. The supreme court may prescribe rules to implement this section.

Sec. 3. EFFECTIVE DATE. Section 2 of this Act takes effect January 1, 1997.

Approved May 20, 1996

CHAPTER 1196

ENERGY EFFICIENCY AND PUBLIC UTILITY REGULATION

S.F. 2370

AN ACT relating to energy efficiency programs, electric and gas public utility energy efficiency mandates, and the Iowa energy center and the center for global and regional environmental research and requiring the location of a principal office within the state and providing an effective date.

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

Section 1. Section 476.1, unnumbered paragraph 7, Code 1995, is amended to read as follows:

The jurisdiction of the board under this chapter shall include ~~programs~~ efforts designed to promote the use of energy 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. 2. Section 476.1A, subsections 5 and 6, Code 1995, are amended to read as follows:

5. Assessment of fees for the support of the Iowa energy center created in section 266.39C and the center for global ~~warming~~ and regional environmental research established by the state board of regents.

6. Filing energy efficiency plans and energy efficiency results with the board. The energy efficiency plans as a whole shall be cost-effective. The board may permit these utilities to file joint plans.

Sec. 3. Section 476.1A, unnumbered paragraph 2, Code 1995, is amended to read as follows:

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~~ efforts.

Sec. 4. Section 476.1B, subsection 1, paragraphs k and l, Code 1995, are amended to read as follows:

k. Assessment of fees for the support of the Iowa energy center created in section 266.39C and the ~~global warming~~ center for global and regional environmental research created by the state board of regents.

l. Filing energy efficiency plans and energy efficiency results with the board. The energy efficiency plans as a whole shall be cost-effective. The board may permit these utilities to file joint plans.

Sec. 5. Section 476.1B, subsection 2, Code 1995, is amended to read as follows:

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~~ efforts.

Sec. 6. Section 476.1C, subsection 1, unnumbered paragraph 2, Code 1995, is amended to read as follows:

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 for global and regional environmental research created by the state board of regents and shall file energy efficiency plans and energy efficiency results with the board. The energy efficiency plans as a whole shall be cost-effective. 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~~ efforts.

Sec. 7. Section 476.2, subsections 5, 6, and 7, Code 1995, are amended by striking the subsections and inserting in lieu thereof the following:

5. Each rate-regulated gas and electric utility operating within the state shall maintain within the state the utility's principal office for Iowa operations. The principal office shall be subject to the jurisdiction of the board and shall house those books, accounts, papers, and records of the utility deemed necessary by the board to be housed within the state. The utility shall maintain within the state administrative, technical, and operating personnel necessary for the delivery of safe and reasonably adequate services and facilities as required pursuant to section 476.8. A public utility which violates this section shall be subject to the penalties provided in section 476.51 and shall be denied authority to recover, for a period determined by the board, the costs of an energy efficiency plan pursuant to section 476.6, subsection 11.

6. The board shall provide the general assembly with a report on the energy efficiency planning efforts undertaken by utilities required to offer energy efficiency plans pursuant to section 476.6, subsection 17. The report shall be completed by January 1, 1998.

Sec. 8. Section 476.6, subsection 17, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

17. ENERGY EFFICIENCY PLANS. Electric and gas public utilities shall offer energy efficiency programs to their customers through energy efficiency plans. An energy efficiency plan as a whole shall be cost-effective. In determining the cost-effectiveness of an energy efficiency plan, the board shall apply the societal test, utility cost test, rate-payer impact test, and participant test. Energy efficiency programs for qualified low-income persons and for tree planting programs need not be cost-effective and shall not be considered in determining cost-effectiveness of plans as a whole. The energy efficiency programs in the plans may be provided by the utility or by a contractor or agent of the utility.

Sec. 9. Section 476.6, subsection 19, paragraphs a through f, Code 1995, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. Gas and electric utilities required to be rate-regulated under this chapter shall file energy efficiency plans with the board. An energy efficiency plan and budget shall include a range of programs, tailored to the needs of all customer classes, including residential, commercial, and industrial customers, for energy efficiency opportunities. The plans shall include programs for qualified low-income persons including 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. Rate-regulated gas and electric utilities shall utilize Iowa agencies and Iowa contractors to the maximum extent cost-effective in their energy efficiency plans filed with the board.

b. A gas and electric utility required to be rate-regulated under this chapter shall assess potential energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings. The utility shall submit the assessment to the board. Upon receipt of the assessment, the board shall consult with the energy bureau of the division of energy and geological resources of the department of natural resources to develop specific capacity and energy savings performance standards for each utility. The utility shall submit an energy efficiency plan which shall include economically achievable programs designed to attain these energy and capacity performance standards.

c. The board shall conduct contested case proceedings for review of energy efficiency plans and budgets filed by gas and electric utilities required to be rate-regulated under this chapter. 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 gas or electric utility required to be rate-regulated under this chapter, 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.

d. Notice to customers of a contested case proceeding for review of energy efficiency plans and budgets shall be in a manner prescribed by the board.

e. A gas or electric utility required to be rate-regulated under this chapter may recover, through an automatic adjustment mechanism filed pursuant to subsection 11, over a period not to exceed the term of the plan, the costs of an energy efficiency plan approved by the board, including amounts for a plan approved prior to July 1, 1996, in a contested case proceeding conducted pursuant to paragraph "c". The board shall periodically conduct a contested case proceeding to evaluate the reasonableness and prudence of the utility's implementation of an approved energy efficiency plan and budget. If a utility is not taking all reasonable actions to cost-effectively implement an approved energy efficiency plan, the board shall not allow the utility to recover from customers costs in excess of those costs that would be incurred under reasonable and prudent implementation and shall not allow the utility to recover future costs at a level other than what the board determines to be reasonable and prudent. If the result of a contested case proceeding is a judgment against a utility, that utility's future level of cost recovery shall be reduced by the amount by which the programs were found to be imprudently conducted. The utility shall not represent energy efficiency in customer billings as a separate cost or expense unless the board otherwise approves.

Sec. 10. Section 476.10A, Code 1995, is amended to read as follows:

476.10A FUNDING FOR IOWA ENERGY CENTER AND ~~GLOBAL WARMING~~ CENTER FOR GLOBAL AND REGIONAL ENVIRONMENTAL RESEARCH.

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~~ and regional environmental research established by the state board of regents.

Notwithstanding section 8.33, any unexpended moneys remitted to the treasurer of state under this section shall be retained for the purposes designated. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys remitted under this section shall be retained and used for the purposes designated.

The Iowa energy center and the center for global and regional environmental research shall each provide a written annual report to the utilities board which describes each center's activities and the results that each center has accomplished. Each report shall include an explanation of initiatives and projects of importance to the state of Iowa.

Sec. 11. NEW SECTION. 476.46 ALTERNATE ENERGY REVOLVING LOAN PROGRAM.

1. The Iowa energy center created under section 266.39C shall establish and administer an alternate energy revolving loan program to encourage the development of alternate energy production facilities and small hydro facilities within the state.

2. An alternate energy revolving loan fund is created in the office of the treasurer of state to be administered by the Iowa energy center. The fund shall include moneys remitted to the fund pursuant to subsection 3 and any other moneys appropriated or otherwise directed to the fund. Moneys in the fund shall be used to provide loans for the construction of alternate energy production facilities or small hydro facilities as defined in section 476.42. A gas or electric utility which is not required to be rate-regulated shall not be eligible for a loan under this section. A facility shall be eligible for no more than two hundred fifty thousand dollars in loans outstanding at any time under this program. Each loan shall be for a period not to exceed twenty years, shall bear no interest, and shall be repayable to the fund created under this section in installments as determined by the Iowa energy center. The interest rate upon delinquent payments shall accelerate immediately to the current legal usury limit. Any loan made pursuant to this program shall become due for payment upon sale of the facility for which the loan was made. Interest on the fund shall be deposited in the fund. Section 8.33 shall not apply to the moneys in the fund.

3. The board shall direct all gas and electric utilities required to be rate-regulated to remit to the treasurer of state by July 1, 1996, eighty-five one-thousandths of one percent of the total gross operating revenues during calendar year 1995 derived from their intrastate public utility operations, by July 1, 1997, eighty-five one-thousandths of one percent of the total gross operating revenues during calendar year 1996 derived from their intrastate public utility operations and by July 1, 1998, eighty-five one-thousandths of one percent of the total gross operating revenues during calendar year 1997 derived from their intrastate public utility operations. The amounts collected pursuant to this section shall be in addition to the amounts permitted to be assessed pursuant to section 476.10 and the amounts assessed pursuant to section 476.10A. The board shall allow inclusion of these amounts in the budgets approved by the board pursuant to section 476.6, subsection 19, paragraph "a".

Sec. 12. Section 476.78, Code 1995, is amended to read as follows:

476.78 CROSS-SUBSIDIZATION PROHIBITED.

A rate-regulated gas or electric public utility shall not directly or indirectly include any costs or expenses attributable to providing nonutility service in regulated rates or charges. Except for contracts existing as of July 1, 1996, a rate-regulated gas or electric public utility or its affiliates shall not use vehicles, service tools and instruments, or employees, the costs, salaries, or benefits of which are recoverable in the regulated rates for electric service or gas service to install, service, or repair residential or commercial gas or electric heating, ventilating, or air conditioning systems, or interior lighting systems and fixtures; or to sell at retail heating, ventilating, air conditioning, or interior lighting equipment. For the purpose of this section, "commercial" means a place of business primarily used for the storage or sale, at wholesale or retail, of goods, wares, services, or merchandise. Nothing in this section shall be construed to prohibit a rate-regulated gas or electric public utility from using its utility vehicles, service tools and instruments, and employees to market systems, services, and equipment, to light pilots, or to eliminate a customer emergency or threat to public safety.

Sec. 13. Section 476.83, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

476.83 COMPLAINTS.

Any person may file a written complaint with the board requesting that the board determine compliance by a rate-regulated gas or electric public utility with the provisions of section 476.78, 476.79, or 476.80, or any validly adopted rules to implement these sections. Upon the filing of a complaint, the board may promptly initiate a formal complaint proceeding and give notice of the proceeding and the opportunity for hearing. The formal complaint proceeding may be initiated at any time by the board on its own motion. The board shall render a decision in the proceeding within ninety days after the date the written complaint was filed, unless additional time is requested by the complainant.

Sec. 14. Section 476.65, Code 1995, is repealed.

Sec. 15. Notwithstanding the restrictions contained in section 28F.1, third and fourth unnumbered paragraphs, and section 28F.7, a municipal utility may enter into an agreement with a public agency which has received for this purpose before the effective date of this Act a commitment for a United States department of energy grant, to jointly finance one wind turbine alternate energy production facility as defined in section 476.42 of not more than twenty megawatts nameplate-rated capacity, and to provide the municipal utility and other public or private agencies with electricity from the facility. An electric utility shall not be required to purchase electricity from such an alternate energy production facility pursuant to sections 476.43 and 476.44.

Sec. 16. Section 7 of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 17. Section 11 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 20, 1996

CHAPTER 1197

TAX REVISIONS AND RELATED MATTERS

S.F. 2449

AN ACT changing the computation of the inflation factors for the tax brackets and standard deduction under the individual income tax; changing the computation of taxable income of shareholders of certain subchapter S corporations; increasing the amount of the appropriations for homestead credit, military service credit, and low-income elderly and disabled credit and reimbursement claims; providing tax credits for livestock production; increasing the regular program foundation base level under the school aid program; requiring full funding for certain property tax credits; and providing effective and applicability date provisions.

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

DIVISION I
INDEXATION

Section 1. Section 422.4, subsection 1, paragraph a, Code 1995, is amended to read as follows:

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

Sec. 2. Section 422.4, subsection 1, paragraph d, Code 1995, is amended by striking the paragraph.

Sec. 3. Section 422.4, subsection 2, paragraph a, Code 1995, is amended to read as follows:

a. "Annual standard deduction factor" means an index, expressed as a percentage, determined by the department by October 15 of the calendar year preceding the calendar year for which the factor is determined, which reflects the purchasing power of the dollar as a result of inflation during the fiscal year ending in the calendar year preceding the calendar year for which the factor is determined. In determining the annual standard deduction factor, the department shall use the annual percent change, but not less than zero percent, in the ~~implicit price deflator for the gross national product~~ gross domestic product price deflator computed for the second quarter of the calendar year by the bureau of economic analysis of the United States department of commerce and shall add ~~one-half~~ all of that percent change to one hundred percent. The annual standard deduction factor and the cumulative standard deduction factor shall each be expressed as a percentage rounded to the nearest one-tenth of one percent. The annual standard deduction factor shall not be less than one hundred percent.

Sec. 4. This division of this Act, being deemed of immediate importance, takes effect upon enactment and applies to the computation of the annual inflation factor and annual standard deduction factor for calendar years beginning on or after January 1, 1996. The department of revenue and finance shall adjust the annual inflation factor and annual standard deduction factor previously computed for the 1996 calendar year to reflect the change made in the computation of those factors in this Act.

DIVISION II
SCHOOL PROPERTY TAX

Sec. 5. Section 257.1, subsection 2, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

For the budget year commencing July 1, ~~1991~~ 1996, and for each succeeding budget year the regular program foundation base per pupil is ~~eighty-three~~ eighty-seven and five-tenths percent of the regular program state cost per pupil, except that the regular program foundation base per pupil for the portion of weighted enrollment that is additional enrollment because of special education is seventy-nine percent of the regular program state cost per pupil. For the budget year commencing July 1, 1991, and for each succeeding budget year the special education support services foundation base is seventy-nine percent of the special education support services state cost per pupil. The combined foundation base is the sum of the regular program foundation base and the special education support services foundation base.

Sec. 6. This division of this Act, being deemed of immediate importance, takes effect upon enactment and applies to the computation of school foundation aid payable during school budget years beginning on or after July 1, 1996.

DIVISION III
HOMESTEAD, MILITARY, AND ELDERLY OR DISABLED
TAX CREDIT AND REIMBURSEMENT CLAIMS

*Sec. 7. *Section 8.59, Code 1995, is amended to read as follows:*

8.59 APPROPRIATIONS FREEZE.

*Notwithstanding contrary provisions of the Code, the amounts appropriated under the applicable sections of the Code for fiscal years commencing on or after July 1, 1993, are limited to those amounts expended under those sections for the fiscal year commencing July 1, 1992. If an applicable section appropriates moneys to be distributed to different recipients and the operation of this section reduces the total amount to be distributed under the applicable section, the moneys shall be prorated among the recipients. As used in this section, "applicable sections" means the following sections: 53.50, 229.35, 230.8, 230.11, 405A.8, 411.20, ~~425.1, 425.39, 426A.1,~~ 663.44, and 822.5.**

**Sec. 8. *Section 425.1, subsection 1, Code 1995, is amended to read as follows:*

1. A homestead credit fund is created. There is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the homestead credit fund, ~~an amount sufficient~~ the sum of one hundred fourteen million four hundred thousand dollars to implement this chapter.

*The director of revenue and finance shall issue warrants on the homestead credit fund payable to the county treasurers of the several counties of the state under this chapter.**

**Sec. 9. *Section 425.39, Code 1995, is amended to read as follows:*

1. The extraordinary property tax credit and reimbursement fund is created. There is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the extraordinary property tax credit and reimbursement fund, from funds not otherwise appropriated, ~~an amount sufficient~~ the sum of twelve million five hundred thousand dollars to implement this division.

2. If the amount appropriated under subsection 1, ~~as limited by section 8.59,~~ plus any supplemental appropriation made for purposes of this section for a fiscal year is insufficient to pay all claims in full, the director shall pay, in full, all claims to be paid during the fiscal year for reimbursement of rent constituting property taxes paid or if moneys are insufficient to pay all such claims on a pro rata basis. If the amount of claims for credit for property taxes due to be paid during the fiscal year exceed the amount remaining after

*Item veto; see message at end of the Act

*payment to renters, the director of revenue and finance shall prorate the payments to the counties for the property tax credit. In order for the director to carry out the requirements of this subsection, notwithstanding any provision to the contrary in this division, claims for reimbursement for rent constituting property taxes paid filed before May 1 of the fiscal year shall be eligible to be paid in full during the fiscal year and those claims filed on or after May 1 of the fiscal year shall be eligible to be paid during the following fiscal year and the director is not required to make payments to counties for the property tax credit before June 15 of the fiscal year.**

**Sec. 10. Section 426A.1, Code 1995, is amended to read as follows:*

426A.1 APPROPRIATION.

*There is appropriated from the general fund of the state the ~~amounts necessary~~ sum of two million eight hundred thousand dollars to fund the credits provided under this chapter.**

Sec. 11. It is the intent of the general assembly to provide property tax relief to the citizens of Iowa by fully funding the homestead credit, the elderly and disabled credit, and military tax exemption. The general assembly directs local officials to join the general assembly in providing property tax relief to the fullest extent possible by reducing property tax levies in proportion to increased reimbursement from the state. However, the general assembly recognizes that the most efficient method of achieving property tax relief is through a locally determined strategy based upon the fiscal needs of the local government. This section applies to the 1996-1997 fiscal year only.

Sec. 12. This division of this Act takes effect July 1, 1996, and applies to homestead, military service, and elderly or disabled tax credit and rent reimbursement claims payable in fiscal years beginning on or after July 1, 1996.

DIVISION IV
SUBCHAPTER S CORPORATIONS

Sec. 13. Section 422.4, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 17A. The term "value-added corporation" means a corporation that purchases, receives, or holds personal property of any description and which adds to its value by a process of manufacturing, construction, processing, or combining of different materials, and shall specifically include the economic activity identified in divisions C and D of the standard industrial classification codes appearing in 13 C.F.R. ch. 1(1-1-94 edition), with a view to selling the finished product for gain or profit. A corporation engaged in more than one business activity is a value-added corporation if more than fifty percent of its gross receipts, figured on a three-year annual average, or such shorter period as the corporation shall have been in existence, are from the processes previously identified.

Sec. 14. Section 422.5, subsection 1, paragraph j, Code 1995, is amended to read as follows:

j. (1) The tax imposed upon the taxable income of a nonresident shall be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the nonresident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "a", is the numerator and the nonresident's total net income computed under section 422.7 is the denominator. This provision also applies to individuals who are residents of Iowa for less than the entire tax year.

(2) The tax imposed upon the taxable income of a resident shareholder in a value-added corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state may be computed by reducing the amount determined pursuant to paragraphs "a" through "i" by

*Item veto; see message at end of the Act

the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the resident's net income allocated to Iowa, as determined in section 422.8, subsection 2, paragraph "b", is the numerator and the resident's total net income computed under section 422.7 is the denominator. This paragraph also applies to individuals who are residents of Iowa for less than the entire tax year.

(a) In order for a resident shareholder in a value-added corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state, to claim the benefits of apportionment of income of the value-added corporation, the taxpayer must completely fill out the return, determine the taxpayer's income tax liability without the benefit of apportionment of the value-added corporation's income, and pay the amount of tax owed. The taxpayer shall recompute the taxpayer's income tax liability, by applying the provisions of this subparagraph on a special return. This special return shall be filed under rules of the director and constitutes a claim for refund of the difference between the amount of tax the taxpayer paid as determined without the provisions of this subparagraph and the amount of tax determined with the provisions of this subparagraph.

(b) This subparagraph shall not affect the amount of the taxpayer's checkoff to the Iowa election campaign fund under section 56.18, the checkoff for the fish and game fund in section 107.16, the credits from tax provided in sections 422.10, 422.11A, and 422.12 and the allocation of these credits between spouses if the taxpayers filed separate returns or separately on combined returns.

(c) For any tax year, the aggregate amount of refund claims that shall be paid pursuant to this subparagraph shall not exceed five million dollars. If, for a tax year, the aggregate amount of refund claims filed pursuant to this subparagraph exceeds five million dollars, each claim for refund shall be paid on a pro rata basis so that the aggregate amount of refund claims does not exceed five million dollars. In the case where refund claims are not paid in full, the amount of the refund to which the taxpayer is entitled under this subparagraph is the pro rata amount that was paid and the taxpayer is not entitled to a refund of the unpaid portion and is not entitled to carry that amount forward or backward to another tax year. Taxpayers shall not use refunds as estimated payments for the succeeding tax year. Taxpayers whose tax years begin on January 1 must file their refund claims by October 31 of the calendar year following the end of their tax year to be eligible for refunds. Taxpayers whose tax years begin on a date other than January 1 must file their refund claims by the end of the tenth month following the end of their tax years to be eligible. The department shall determine on February 1 of the second succeeding calendar year if the total amount of claims for refund exceeds five million dollars for the tax year. Notwithstanding any other provision, interest shall not be due on any refund claims that are paid by the last day of February of the second succeeding calendar year. If the claim is not payable on February 1 of the second succeeding calendar year, because the taxpayer is a fiscal year filer, then the amount of the claim allowed shall be in the same ratio as the refund claims available on February 1 of the second succeeding calendar year. These claims shall be funded by moneys appropriated for payment of individual income tax refunds.

Sec. 15. Section 422.5, subsection 1, paragraph k, unnumbered paragraph 4, Code 1995, is amended to read as follows:

In the case of a resident, including a resident estate or trust, the state's apportioned share of the state alternative minimum tax is one hundred percent of the state alternative minimum tax computed in this subsection. In the case of a resident or part year resident shareholder in a value-added corporation which has in effect for the tax year an election under subchapter S of the Internal Revenue Code and carries on business within and without the state, a nonresident, including a nonresident estate or trust, or an individual, estate, or trust that is domiciled in the state for less than the entire tax year, the state's apportioned share of the state alternative minimum tax is the amount of tax computed under this subsection, reduced by the applicable credits in sections 422.10 through 422.12

and this result multiplied by a fraction with a numerator of the sum of state net income allocated to Iowa as determined in section 422.8, subsection 2, paragraph "a" or "b" as applicable, plus tax preference items, adjustments, and losses under subparagraph (1) attributable to Iowa and with a denominator of the sum of total net income computed under section 422.7 plus all tax preference items, adjustments, and losses under subparagraph (1). In computing this fraction, those items excludable under subparagraph (1) shall not be used in computing the tax preference items. Married taxpayers electing to file separate returns or separately on a combined return must allocate the minimum tax computed in this subsection in the proportion that each spouse's respective preference items, adjustments, and losses under subparagraph (1) bear to the combined preference items, adjustments, and losses under subparagraph (1) of both spouses.

Sec. 16. Section 422.8, subsection 2, Code 1995, is amended to read as follows:

2. a. Nonresident's net income allocated to Iowa is the net income, or portion ~~thereof~~ of net income, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. However, income derived from a business, trade, profession, or occupation carried on within this state and income from any property, trust, estate, or other source within Iowa shall not include distributions from pensions, including defined benefit or defined contribution plans, annuities, individual retirement accounts, and deferred compensation plans or any earnings attributable thereto so long as the distribution is directly related to an individual's documented retirement and received while the individual is a nonresident of this state. If a business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of section 422.5, subsection 1, paragraph "j", and section 422.13 and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state.

b. A resident's income allocable to Iowa is the income determined under section 422.7 reduced by items of income and expenses from a subchapter S corporation which is a value-added corporation that carries on business within and without the state when those items of income and expenses pass directly to the shareholders under provisions of the Internal Revenue Code. These items of income and expenses are increased by the greater of the following:

(1) The net income or loss of the corporation which is fairly and equitably attributable to this state under section 422.33, subsections 2 and 3.

(2) Any cash or the value of property distributions which are made only to the extent that they are paid from income upon which Iowa income tax has not been paid, as determined under rules of the director, reduced by fifty percent of the amount of any of these distributions that are made to enable the shareholder to pay federal income tax on items of income, loss, and expenses from the corporation.

Sec. 17. Section 422.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If the resident or part-year resident is a shareholder of a value-added corporation which has in effect an election under subchapter S of the Internal Revenue Code, subsections 1 and 3 do not apply to any income taxes paid to another state or foreign country on the income from the value-added corporation which has in effect an election under subchapter S of the Internal Revenue Code.

Sec. 18. This division of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1996, for tax years beginning on or after that date.

DIVISION V
LIVESTOCK PRODUCTION TAX CREDIT

Sec. 19. NEW SECTION. 422.120 LIVESTOCK PRODUCTION TAX CREDIT ALLOWED.

1. a. There is allowed a state tax credit for livestock production operations located in the state. The amount of the credit equals ten cents for each corn equivalent consumed by the livestock in the production operation as specified under this section. The credit shall be refunded as provided in section 422.121.

b. The credit shall be available to an individual or corporate taxpayer who owns livestock, if all of the following apply:

(1) The total net worth of the taxpayer during the taxpayer's tax year is less than one million dollars.

(2) The taxpayer receives, or accrues in the case of an accrual-basis taxpayer, more than one-half of the taxpayer's gross income from farming or ranching operations during the tax year. Gross income from farming or ranching is the amount reported as gross income on schedule F, or the equivalent schedule, of the taxpayer's income tax return, the total gains from sales of breeding livestock, and, if applicable, the taxpayer's distributive share of income from farming or ranching from a partnership, limited liability company, subchapter S corporation, or an estate or trust. To determine whether a taxpayer receives more than one-half of gross income from farming or ranching, the taxpayer's amount of gross income from farming or ranching shall be divided by the taxpayer's total gross income as defined in section 61 of the federal Internal Revenue Code.

2. The amount of the credit per operation is determined by adding together for each head of livestock in the operation the product of ten cents times the number of corn equivalents consumed by that head of livestock. The amount of livestock production credit per operation per tax year shall not exceed three thousand dollars and the amount of livestock production credit per taxpayer per tax year shall not exceed three thousand dollars.

The maximum amount of corn equivalents for a head of livestock in a production operation is the following:

	Corn equivalents:
a. Hog operations:	
(1) Farrow to finish	13.0
(2) Farrow to feeder pig	2.6
(3) Finishing feeder pigs	10.4
b. Poultry operations:	
(1) Layers	0.88
(2) Turkeys	1.5
(3) Broilers	0.15
c. Beef operations:	
(1) Cow-calf	111.5
(2) Stocker	41.5
(3) Feedlot	75.0
(4) Dairy	350.0
d. Sheep operations:	
(1) Ewe flock	20.5
(2) Feedlot	4.1

3. If the livestock operation is carried on partly within and partly without the state, the portion of the operation attributable to this state shall be determined pursuant to rules adopted by the department. The department may adjust the allocation upon request of the taxpayer in order to reflect the actual livestock operation carried on within this state.

4. An individual may claim the livestock production tax credit allowed a partnership, limited liability company, 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 earning of the partnership, limited liability company, subchapter S corporation, or estate or trust.

5. A fraudulent claim for a credit refund under this division shall cause the forfeiture of any right or interest to a tax credit refund in subsequent tax years under this division.

Sec. 20. NEW SECTION. 422.121 APPROPRIATION.

Beginning with the fiscal year beginning July 1, 1997, there is appropriated annually from the general fund of the state two million dollars to refund the credits allowed under this division.

Sec. 21. NEW SECTION. 422.122 REFUND OF LIVESTOCK PRODUCTION CREDIT CLAIMS.

1. Each tax year the total amount of livestock production credit refund claims that shall be paid pursuant to section 422.120 shall not exceed the amount appropriated by the general assembly for that purpose. If the total dollar amount of the refund claims exceeds that amount, each claim shall be paid an amount equal to that amount divided by the total number of claims, not to exceed the amount of the taxpayer's claim. Remaining funds shall be prorated among those claims not paid in full in the proportion that each such claim bears to the total amount of such claims not paid in full.

2. In the case where refund claims are not paid in full, the amount of the refund to which the taxpayer is entitled is the amount computed in subsection 1, and paid to the taxpayer, and the taxpayer is not entitled to any unpaid portion of a claim and is not entitled to carry forward or backward to another tax year any unpaid portion of a claim. A taxpayer shall not use a refund as an estimated payment for the succeeding tax year.

3. A taxpayer must file a claim for refund within ten months from the last day of the taxpayer's tax year. An extension for filing shall not be allowed. The department shall determine by February 28 of the calendar year following the calendar year in which the claims were filed if the total amount of claims for refund exceeds the amount appropriated for that purpose by the general assembly for the tax year. If the claim is not payable on February 28 because the taxpayer is a fiscal year filer, the claim shall be considered as a claim filed for the following tax year.

4. A claim for refund shall be made on claim forms to be made available by the department. In order for a taxpayer to have a valid refund claim, the taxpayer must supply legible copies of documents the director deems necessary to verify the amount of the refund.

Sec. 22. FISCAL YEAR 1997-1998 APPROPRIATION. Notwithstanding the livestock production operations described in section 422.120, for the tax year beginning on or after January 1, 1996, the appropriation in section 422.121 shall only be used to satisfy claims for cow-calf production.

Sec. 23. APPLICABILITY. This division of this Act applies to tax years beginning on or after January 1, 1996.

DIVISION VI
SCHOOL STUDY GOALS

Sec. 24. It is the intent of the general assembly to support the study of the department of education required in 1996 Iowa Acts, House File 2477, if enacted,* with the specified goals of increasing the capacity of the whole school to meet the needs of all children; increasing support available to at-risk students; and ensuring predictable and equitable special education funding at both the state and local levels; and with the additional goal of achieving parity between the percentage of regular program state cost per pupil and the percentage for that portion of weighted enrollment that is additional enrollment because of special education which constitute the regular program foundation base and the percentage of special education support services state cost per pupil which constitutes the special education support services foundation base.

*Chapter 1215 herein

DIVISION VII
FUNDING CREDITS AND EXEMPTIONS

*Sec. 25. NEW SECTION. 25B.7 FUNDING PROPERTY TAX CREDITS AND EXEMPTIONS.

1. Beginning with property taxes due and payable in the fiscal year beginning July 1, 1997, the cost of providing a property tax credit or property tax exemption which is enacted by the general assembly on or after January 1, 1997, shall be fully funded by the state. If a state appropriation made to fund a credit or exemption which is enacted on or after January 1, 1997, is not sufficient to fully fund the credit or exemption, the political subdivision shall be required to extend to the taxpayer only that portion of the credit or exemption funded by the state appropriation. The department of revenue and finance shall determine the portion of the credit or exemption which will be funded by the state appropriation.

2. The requirement for fully funding and the consequences of not fully funding credits and exemptions under subsection 1 also apply to all of the following:

a. Homestead tax credit pursuant to sections 425.1 through 425.15.

b. Elderly, low-income, and disabled property tax credits pursuant to sections 425.16 through 425.40.

c. Military service property tax credits and exemptions pursuant to chapter 426A and sections 427.3 through 427.7.*

Sec. 26. This division of this Act takes effect July 1, 1996.

Approved May 29, 1996, except the items which I hereby disapprove and which are designated as Sections 7, 8, 9, 10, 11, and 12 in their entirety; and Section 25 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 Mr. Secretary:

I hereby transmit Senate File 2449, an Act changing the computation of the inflation factors for the tax brackets and standard deduction under the individual income tax; changing the computation of taxable income of shareholders of certain subchapter S corporations; increasing the amount of the appropriations for homestead credit, military service credit, and low-income elderly and disabled credit and reimbursement claims; providing tax credits for livestock production; increasing the regular program foundation base level under the school aid program; requiring full funding for certain property tax credits; and providing effective and applicability date provisions.

Senate File 2449 represents the second year of a major commitment to reduce the tax burden for Iowa families and businesses. Following up on last year's $100 million reduction, this bill contains an additional $90 million of actual tax reductions in fiscal year 1997. The value of these reductions will grow in the future.

I am especially pleased that Iowa's income tax rates will now be fully indexed to inflation, as I had recommended, so that Iowans will not be pushed into higher tax brackets simply as a result of inflationary growth in their incomes. Also, Iowa's competitive position will be enhanced as a result of changes in the taxation of certain Subchapter S corporations. While this action does not totally remove the inequity in the way that Iowa Sub-S corporations are treated, it does begin to remove the disincentive for a Sub-S corporation to locate or expand in Iowa. Tax changes for smaller cow-calf operations will also enhance Iowa's economic growth.

*Item veto; see message at end of the Act

Most significantly, Senate File 2449 will decrease the tax burden for property taxpayers by enhancing the state's share of K-12 school funding. An increase in the program foundation base level from 83 percent to 87.5 percent will result in annual property tax savings of $85 million.

Senate File 2449 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, 10, 11 and 12, in their entirety. These items would provide for full funding of certain property tax credits. While property taxpayers already enjoy the full benefit of the homestead, military and the elderly or disabled tax credits, the cost to local governments of providing these credits is not currently fully reimbursed by the state. These sections would appropriate a total of $22.5 million to local governments.

While the concept of full funding for these tax credits has been characterized as property tax relief, in fact there is no assurance of property tax relief. Local budgets for fiscal year 1997 have already been set, meaning none of these funds would be used for tax relief this year. Future tax relief would depend on what each local government chooses to do with the additional funds. I feel there are better alternatives to changing Iowa's property tax system, and instead invite local governments to join in a more comprehensive review aimed at making the overall system simpler, more predictable, and giving local governments greater flexibility in their budgets.

I am unable to approve the item designated as Section 25, in its entirety. This item provides that if the state ever fails to fully fund a property tax credit in the future, the local government may reduce the amount of credit to the taxpayer in an amount equivalent to the shortfall. This action would place the taxpayer at a permanent disadvantage, when the taxpayer, instead, should be protected.

For the above reasons, I 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 2449 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1198

FAMILY FARM TAX CREDIT
H.F. 560

AN ACT relating to the definition of "designated person" for purposes of the family farm tax credit and providing effective and applicability dates.

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

Section 1. Section 425A.2, subsection 4, Code 1995, is amended to read as follows:

4. "Designated person" means one of the following:

a. If the owner is an individual, the designated person includes the owner of the tract ~~or a person related to the owner as,~~ the owner's spouse, ~~parent, grandparent,~~ the owner's

child~~, grandchild,~~ or stepchild, and their spouses, or the owner's relative within the third degree of consanguinity, and the relative's spouse.

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.

e. If the owner is an individual who leases the tract to a family farm corporation, a shareholder of the corporation if the combined stock of the family farm corporation owned by the owner of the tract and persons related to the owner as enumerated in paragraph "a" is equal to at least fifty-one percent of the stock of the family farm corporation.

f. If the owner is an individual who leases the tract to a partnership, a partner if the combined partnership interest owned by a designated person as defined in paragraph "a" is equal to at least fifty-one percent of the ownership interest of the partnership.

Sec. 2. This Act takes effect January 1, 1996, and applies to family farm tax credit claims filed on or after that date.

Approved May 30, 1996

CHAPTER 1199

NEW JOBS AND INCOME PROGRAM

H.F. 2481

AN ACT relating to eligibility criteria and benefits, including tax benefits to businesses under the new jobs and income program and establishing a penalty.

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

Section 1. Section 15.327, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Contractor or subcontractor" means a person who contracts with the eligible business or a supporting business or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility, located within the economic development area, of the eligible business or a supporting business.

NEW SUBSECTION. 3A. "Economic development area" means a site or sites designated by the department of economic development for the purpose of attracting an eligible business and supporting businesses to locate facilities within the state.

NEW SUBSECTION. 6. "Project completion" means the first date upon which the average annualized production of finished product for the preceding ninety-day period at the manufacturing facility operated by the eligible business within the economic development area is at least fifty percent of the initial design capacity of the facility. The eligible business shall inform the department of revenue and finance in writing within two weeks of project completion.

NEW SUBSECTION. 7. "Supporting business" means a business under contract with the eligible business to provide property, materials, or services which are a necessary component of the operation of the manufacturing facility. To qualify as a supporting business, the business shall have a permanent facility or operations located within the economic development area and the revenue from fulfilling the contract with the eligible

business shall constitute at least seventy-five percent of the revenue generated by the business from all activities undertaken from the facility within the economic development area.

Sec. 2. NEW SECTION. 15.331A SALES, SERVICE, AND USE TAX REFUND - CONTRACTOR OR SUBCONTRACTOR.

The eligible business or a supporting business shall be entitled to a refund of the taxes paid under chapters 422 and 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the economic development area of the eligible business or a supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

To receive the refund a claim shall be filed by the eligible business or a supporting business with the department of revenue and finance as follows:

a. The contractor or subcontractor shall state under oath, on forms provided by the department, the amount of the sales of goods, wares, or merchandise or services rendered, furnished, or performed including water, sewer, gas, and electric utility services for use in the economic development area upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the eligible business or supporting business before final settlement is made.

b. The eligible business or a supporting business shall, not more than six months after project completion, make application to the department for any refund of the amount of the taxes paid pursuant to chapter 422 or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business or a supporting business in accordance with this subsection shall not be denied by reason of a limitation provision set forth in chapter 421, 422, or 423.

c. A contractor or subcontractor who willfully makes a false report of tax paid under the provisions of this subsection is guilty of a simple misdemeanor and in addition is liable for the payment of the tax and any applicable penalty and interest.

Sec. 3. NEW SECTION. 15.334A SALES AND USE TAX EXEMPTION.

An eligible business may claim an exemption from sales and use taxation under section 422.45, subsection 27, for property which is exempt from taxation under section 15.334, notwithstanding the requirements of section 422.45, subsection 27, or any other provision of the Code to the contrary.

Sec. 4. Section 15.335, unnumbered paragraph 2, Code 1995, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following year.

Sec. 5. NEW SECTION. 15.337 WAIVER OF PROGRAM QUALIFICATION REQUIREMENTS.

A community may request the waiver of the capital investment requirement or the requirement for number of positions created under section 15.329. However, in no event shall the minimum number of jobs created be less than fifteen or the minimum capital investment be less than three million dollars per application under the program. The department shall develop an appropriate formula of minimum jobs created and capital

investment required per program application which can be authorized under the waiver. The department may grant a waiver for good cause shown and approve the program application.

As used in this section, "good cause shown" includes but is not limited to a demonstrated lack of growth in the community, a significant percentage of persons in the community who have incomes at or below the poverty level, community unemployment rate higher than the state average, a unique opportunity to use existing unutilized or underutilized facilities in the community, or an immediate threat posed to the community's workforce due to business downsizing or closure.

The department shall not grant a waiver under this section after June 30, 1998.

Approved May 30, 1996

CHAPTER 1200

IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

S.F. 2147

AN ACT increasing the membership of the Iowa telecommunications and technology commission, providing for matters relating to the authority and duties of the commission, and providing an effective date.

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

Section 1. Section 8D.3, subsection 2, Code Supplement 1995, is amended to read as follows:

2. MEMBERS. The commission is composed of ~~three~~ five members appointed by the governor and subject to confirmation by the senate. Members of the commission shall not serve in any manner or be employed by an authorized user of the network or by an entity seeking to do or doing business with the network. The governor shall appoint a member as the chairperson of the commission from the ~~three~~ five members appointed by the governor, subject to confirmation by the senate. Members of the commission shall serve six-year staggered terms as designated by the governor and appointments to the commission are subject to the requirements of sections 69.16, 69.16A, and 69.19. Vacancies shall be filled by the governor for the duration of the unexpired term. The salary of the members of the commission shall be ~~twenty~~ twelve thousand dollars per year, except that the salary of the chairperson shall be ~~twenty-five~~ seventeen thousand dollars per year. Members of the commission shall also be reimbursed for all actual and necessary expenses incurred in the performance of duties as members. Meetings of the commission shall be held at the call of the chairperson of the commission. In addition to the members appointed by the governor, the auditor of state or the auditor's designee shall serve as a nonvoting, ex officio member of the commission.

The benefits and salary paid to the members of the commission shall be adjusted annually equal to the average of the annual pay adjustments, expense reimbursements, and related benefits provided under collective bargaining agreements negotiated pursuant to chapter 20.

Sec. 2. Section 68B.35, subsection 2, paragraph e, Code 1995, is amended to read as follows:

e. Members of the banking board, the ethics and campaign disclosure board, the credit union review board, the economic development board, the employment appeal board, the

environmental protection commission, the health facilities council, the Iowa business investment corporation board of directors, the Iowa finance authority, the Iowa seed capital corporation, the Iowa public employees' retirement system investment board, the lottery board, the natural resource commission, the board of parole, the petroleum underground storage tank fund board, the public employment relations board, the state racing and gaming commission, the state board of regents, the tax review board, the transportation commission, the office of consumer advocate, the utilities board, the Iowa telecommunications and technology commission, and any full-time members of other boards and commissions as defined under section 7E.4 who receive an annual salary for their service on the board or commission.

Sec. 3. INITIAL APPOINTMENTS OF NEW COMMISSION MEMBERS. The two new members of the Iowa telecommunications and technology commission provided for in section 1 of this Act shall be appointed on or before July 1, 1996, to the following terms:

1. One member shall be appointed for a term of five years.
2. One member shall be appointed for a term of three years.

Approved May 30, 1996

CHAPTER 1201

LAW ENFORCEMENT OFFICER CERTIFICATION

S.F. 2153

AN ACT relating to Iowa law enforcement officer certification by the Iowa law enforcement academy.

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

Section 1. Section 80B.11, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Certification through examination for individuals who have successfully completed the federal bureau of investigation national academy, have corrected Snellen vision in both eyes of 20/20 or better, and were employed on or before January 1, 1996, as chief of police of a city in this state with a population of twenty thousand or more.

Approved May 30, 1996

CHAPTER 1202

POSTDELIVERY BENEFITS AND CARE

H.F. 2369

AN ACT relating to the postdelivery care requirements for mothers and newborns.

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

Section 1. NEW SECTION. 514C.11 POSTDELIVERY BENEFITS AND CARE.

1. Notwithstanding section 514C.6, a person who provides an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 509A, 514, or 514A or an individual or group health maintenance organization contract issued and regulated under chapter 514B, which is delivered, amended, or renewed on or after July 1, 1996, and which provides maternity benefits, which are not limited to complications of pregnancy, or newborn care benefits, shall not terminate inpatient benefits or require discharge of a mother or the newborn from a hospital following delivery earlier than determined to be medically appropriate by the attending physician after consultation with the mother and in accordance with guidelines adopted by rule by the commissioner. The guidelines adopted by rule shall be consistent with or may adopt by reference the guidelines for perinatal care established by the American academy of pediatrics and the American college of obstetricians and gynecologists which provide that when complications are not present, the postpartum hospital stay ranges from a minimum of forty-eight hours for a vaginal delivery to a minimum of ninety-six hours for a cesarean birth, excluding the day of delivery. The guidelines adopted by rule by the commissioner shall also provide that in the event of a discharge from the hospital prior to the minimum stay established in the guidelines, a postdischarge follow-up visit shall be provided to the mother and newborn by providers competent in postpartum care and newborn assessment if determined medically appropriate as directed by the attending physician, in accordance with the guidelines.

2. When performing utilization review of inpatient hospital services related to maternity and newborn care, including but not limited to length of postdelivery stay and postdischarge follow-up care, any person who provides an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 509A, 514, or 514A, or an individual or group health maintenance organization contract issued and regulated under chapter 514B, shall use the guidelines adopted by rule by the commissioner, and shall not deselect, require additional documentation, require additional utilization review, terminate services to, reduce payment to, or in any manner provide a disincentive to an attending physician solely on the basis that the attending physician provided or directed the provision of services in compliance with the guidelines adopted by rule.

3. Preauthorization or precertification for a hospital stay or for a postdischarge follow-up visit in accordance with the guidelines adopted by rule by the commissioner shall not be required.

Approved May 30, 1996

CHAPTER 1203

LANDLORDS AND TENANTS

S.F. 2372

AN ACT relating to termination of rental agreements, the definition of notice, and notice provisions for actions to recover property.

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

Section 1. Section 562A.8, subsections 1 and 3, Code 1995, are amended by striking the subsections.

Sec. 2. Section 562A.8, subsection 2, Code 1995, is amended to read as follows:

~~2.~~ A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when it comes to that person's attention or in the case of the landlord, it is delivered ~~at~~ in hand or mailed by certified mail, or restricted certified mail to the place of business of the landlord through which the rental agreement was made or at a place held out by the landlord as the place for receipt of the communication or delivered to any individual who is designated as an agent of the landlord or, when in the case of the tenant, it is delivered in hand to the tenant or mailed by ~~registered or~~ certified mail or restricted certified mail to such person at the place held out by such person as the place for receipt of the communication, or in the absence of such designation, to such person's last known place of residence.

Sec. 3. Section 562A.29A, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Notwithstanding sections 631.4 and 648.5, the written notice of termination required by section 562A.27, subsection 1 or 2, a notice of termination and notice to quit under section 562A.27A, a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, may be served upon the tenant in any of the following ways:

Sec. 4. Section 562B.9, subsections 1 and 3, Code 1995, are amended by striking the subsections.

Sec. 5. Section 562B.9, subsection 2, Code 1995, is amended to read as follows:

~~2.~~ A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when it comes to that person's attention, or in the case of the landlord, it is delivered in hand or mailed by ~~registered~~ certified mail or restricted certified mail to the place of business of the landlord through which the rental agreement was made or at any place held out by the landlord as the place for receipt of the communication or delivered to any individual who is designated as an agent by section 562B.14 or, in the case of the tenant, it is delivered in hand to the tenant or mailed by ~~registered mail return receipt requested~~ certified mail or restricted certified mail to the tenant at the place held out by the tenant as the place for receipt of the communication or, in the absence of such designation, to the tenant's last known place of residence other than the landlord's mobile home or space.

Sec. 6. Section 562B.27A, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Notwithstanding sections 631.4 and 648.5, the written notice of termination required by section 562B.25, subsection 1 or 2, a notice of termination and notice to quit under section 562B.25A, a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, may be served upon the tenant in any of the following ways:

Sec. 7. Section 631.4, subsection 2, paragraph c, Code Supplement 1995, is amended to read as follows:

c. If personal service cannot be made upon each defendant, as provided in rule of civil procedure 56.1, the plaintiff may elect to post, after at least ~~three~~ two attempts to perfect service upon each defendant, one or more copies of the original notice upon the real property being detained by each defendant at least ~~five~~ three days prior to the date set for hearing. The attempts to perfect personal service may be made on the same day. In ~~such instances~~ addition to posting, the plaintiff shall also mail, by certified mail ~~and first class mail~~, to each defendant, at the place held out by each defendant as the place for receipt of such communications or, in the absence of such designation, at each defendant's last known place of residence, a copy of the original notice at least ~~five~~ three days prior to the date set for hearing. Under this paragraph, service shall be deemed complete upon each defendant by the filing with the clerk of the district court of one or more affidavits indicating that a copy of the original notice was both posted and mailed to each defendant as provided in this paragraph, whether or not the defendant signs a receipt for the notice.

Approved May 30, 1996

CHAPTER 1204

HOUSING DEVELOPMENT AND RELATED MATTERS

S.F. 2464

AN ACT relating to housing development, including tax increment financing, providing for the assessment of certain property for tax purposes, and providing effective and applicability dates.

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

DIVISION I

Section 1. Section 358C.1, subsection 2, paragraphs c and d, Code Supplement 1995, are amended to read as follows:

c. "Cost" of a public improvement includes the cost of engineering, preliminary reports, property valuations, estimates, plans, specifications, notices, legal services, acquisition of land, consequential damages, easements, rights-of-way, construction, repair, supervision, inspection, testing, notices and publication, interest during construction and for not more than ~~six~~ twelve months thereafter, and printing and sale of bonds.

d. "District" means a real estate improvement district as created in this chapter~~, in a county designated as a pilot county under section 358C.2~~. A real estate improvement district shall not be created after June 30, 2000.

Sec. 2. Section 358C.3, subsection 6, Code Supplement 1995, is amended to read as follows:

6. The petition shall propose the names of three or more trustees who shall be owners of real estate in the proposed district or the designees of owners of property in the proposed district, to serve as a board of trustees until their successors are elected and qualified if the district is organized. The board of trustees shall only carry out those purposes which are authorized in this chapter and listed in the petition. Each person proposed as a trustee shall disclose whether the person has any financial interest in any business which is or may be a developer or contractor for public improvements within the proposed real estate improvement district and the extent of the person's land ownership in the district, if any.

Sec. 3. Section 358C.4, subsection 2, paragraph i, Code Supplement 1995, is amended to read as follows:

i. ~~Street~~ Clearing, stripping, grubbing, earthwork, erosion control, lot grading, street grading, paving, graveling, macadamizing, curbing, guttering, and surfacing with oil and gravel or chloride.

Sec. 4. Section 358C.10, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A candidate to fill a vacancy or as a successor trustee shall disclose prior to selection as a trustee whether the person has any financial interest in any business which is or may be a developer or contractor for public improvements within the real estate improvement district and the extent of the person's land ownership in the district, if any.

Sec. 5. Section 358C.13, Code Supplement 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. The board of trustees shall maintain the official records of the district, which shall include information regarding the service of any indebtedness of the district, including special assessment bonds. The board shall report annually on the progress of the district in retiring indebtedness.

NEW SUBSECTION. 2A. The board of trustees shall provide public notice prior to each meeting of the board. The notice shall contain the agenda of the meeting which shall describe the proposed actions to be taken by the board at the meeting.

NEW SUBSECTION. 6. The board of trustees shall not prohibit or restrict the construction of manufactured homes in a real estate improvement district. As used in this subsection, "manufactured home" has the same meaning as under section 435.1, subsection 2.

NEW SUBSECTION. 7. The board of trustees shall not enter into a contract for public improvements or other services with a board member or with any person owning more than twenty-five percent of the land of a real estate improvement district except as a result of competitive bidding.

Sec. 6. Section 358C.16, subsection 4, Code Supplement 1995, is amended to read as follows:

4. The proceeds of any bond issue made under this section shall be used only for the cost of public improvements as specified in ~~section~~ sections 358C.1 and 358C.4. Proceeds from the bond issue may also be used for the payment of special assessment deficiencies. The bonds shall be payable in not more than forty annual installments and with interest at a rate not exceeding that permitted by chapter 74A, and shall be made payable at the place and be of the form as the board of trustees shall by resolution designate. A district issuing bonds as authorized in this section is granted authority to pledge the future avails of a tax levy to the payment of the principal and interest of the bonds after the same come due, and the power to impose and certify the levy is granted to the trustees of real estate improvement districts organized under this chapter.

Sec. 7. Section 358C.17, subsection 1, Code Supplement 1995, is amended to read as follows:

1. The board of trustees of a real estate improvement district may provide for payment of all or any portion of the costs of a public improvement as specified in ~~section~~ sections 358C.1 and 358C.4, by assessing all, or any portion of, the costs on adjacent property according to the benefits derived. For the purposes of this chapter, the board of trustees may define "adjacent property" as all that included within a designated benefited district to be fixed by the board, which may be all of the property located within the real estate improvement district or any lesser portion of that property. It is not a valid objection to a special assessment that the improvement for which the assessment is levied is outside the limits of the district, but a special assessment shall not be made upon property situated

outside of the district. Special assessments pursuant to this section shall be in proportion to the special benefits conferred upon the property, and not in excess of the benefits. The value of a property is the present fair market value of the property with the proposed public improvements completed. Payment of installments of a special assessment against property shall be made in the same manner and under the same procedures as provided in chapter 384 for special assessments by cities. Notwithstanding the provisions of section 384.62, the combined assessments against any lot for public improvements included in the petition creating the housing development district or as authorized in section 358C.4 shall not exceed the valuation of that lot as established by section 384.46.

Sec. 8. Section 358C.17, Code Supplement 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 4. A special assessment under this section shall be recorded in the county in which the district is located for each lot in the district.

NEW SUBSECTION. 5. Notwithstanding section 384.65, subsection 5, a district shall have a lien on the benefited property only in the amount of special assessment installments that have come due but have not been paid. The district shall not have a lien for the total amount of the special assessment originally levied against the benefited property. A lien, including, but not limited to, a lien for a mortgage for the construction or the purchase of housing on property benefited by improvements and against which a special assessment is levied under this chapter, shall have precedence over a special assessment which has been levied by the district but is not due. A district's lien shall only be in the amount of installments whose due dates have passed without payment, along with all interest and penalties on the delinquent installments. The district's lien for delinquent installments, interest, and penalties shall have equal precedence with ordinary taxes and shall not be divested by judicial sale. Any remaining special assessment installments that have not become due shall not be divested by judicial sale and shall become a lien when the special assessment installments become due.

Sec. 9. NEW SECTION. 358C.24 DISCLOSURE OF SPECIAL ASSESSMENT.

A person interested in transferring real property located in a district, or a broker or salesperson acting on behalf of the person, shall disclose, in accordance with chapter 558A, that the property is located in a real estate improvement district and the amount of any special assessment under this chapter against the property.

Sec. 10. NEW SECTION. 368.24 NOTIFICATION TO PUBLIC UTILITIES.

Notwithstanding any other provision of law to the contrary, any city that annexes territory shall provide written notification consisting of a legal description and map of the annexed territory, each street address within the annexed area, where possible, a statement containing the effective date of the annexation and a copy of the order, resolution, or ordinance proclaiming the annexation to all public utilities operating in the annexed area. If the notification of the annexation is provided to a public utility less than sixty days prior to the effective date of the annexation, the public utility shall have sixty days from the date of notification to adjust its tax and accounting records to reflect the annexation for any tax purpose.

Sec. 11. Section 558A.4, subsection 1, Code 1995, is amended to read as follows:

1. The disclosure statement shall include information relating to the condition and important characteristics of the property and structures located on the property, including significant defects in the structural integrity of the structure, as provided in rules which shall be adopted by the real estate commission pursuant to section 543B.9. The disclosure statement shall also include whether the property is located in a real estate improvement district and the amount of any special assessment against the property under chapter 358C. The rules may require the disclosure to include information relating to the property's zoning classification; the condition of plumbing, heating, or electrical systems; or the presence of pests.

Sec. 12. Section 358C.2, Code Supplement 1995, is repealed.

DIVISION II

Sec. 13. Section 403.2, subsection 3, Code 1995, is amended to read as follows:

3. It is further found and declared that there exists in this state the continuing need for programs to alleviate and prevent conditions of unemployment and a shortage of housing; and that it is accordingly necessary to assist and retain local industries and commercial enterprises to strengthen and revitalize the economy of this state and its municipalities; that accordingly it is necessary to provide means and methods for the encouragement and assistance of industrial and commercial enterprises in locating, purchasing, constructing, reconstructing, modernizing, improving, maintaining, repairing, furnishing, equipping, and expanding in this state and its municipalities, for the provision of public improvements related to housing and residential development, and for the ~~provision~~ construction of housing ~~and residential development~~ for low and moderate income families; that accordingly it is necessary to authorize local governing bodies to designate areas of a municipality as economic development areas for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing ~~and residential development~~ for low and moderate income families; and that it is also necessary to encourage the location and expansion of commercial enterprises to more conveniently provide needed services and facilities of the commercial enterprises to municipalities and the residents of the municipalities. Therefore, the powers granted in this chapter constitute the performance of essential public purposes for this state and its municipalities.

Sec. 14. Section 403.5, subsection 2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The municipality may itself prepare or cause to be prepared an urban renewal plan; or any person or agency, public or private, may submit such a plan to a municipality. Prior to its approval of an urban renewal plan, the local governing body shall submit such plan to the planning commission of the municipality, if any, for review and recommendations as to its conformity with the general plan for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within thirty days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or, if no recommendations are received within the thirty days, then, without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal ~~project~~ plan prescribed by subsection 3.

Sec. 15. Section 403.5, subsection 3, Code 1995, is amended to read as follows:

3. The local governing body shall hold a public hearing on an urban renewal ~~project~~ plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the municipality. The notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area covered by the plan, and shall outline the general scope of the urban renewal ~~project~~ activities under consideration. A copy of the notice shall be sent by ordinary mail to each affected taxing entity.

Sec. 16. Section 403.5, subsection 4, paragraph b, subparagraph (1), Code 1995, is amended to read as follows:

(1) If it is to be developed for residential uses, the local governing body shall determine that a shortage of housing of sound standards and design with decency, safety and sanitation exists in the municipality; that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality; and that one or more of the following conditions exist:

(a) That the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas, including other portions of the urban renewal area.~~; that the~~

(b) That conditions of blight in the ~~area~~ municipality and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime, ~~and~~ so as to constitute a menace to the public health, safety, morals, or welfare~~; and that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality~~.

(c) That the provision of public improvements related to housing and residential development will encourage housing and residential development which is necessary to encourage the retention or relocation of industrial and commercial enterprises in this state and its municipalities.

(d) The acquisition of the area is necessary to provide for the construction of housing for low and moderate income families.

Sec. 17. Section 403.6, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The provisions of this chapter shall be liberally interpreted to achieve the purposes of this chapter.

Sec. 18. Section 403.9, subsection 3, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Before the local governing body may institute proceedings for the issuance of bonds under this section, a notice of the proposed action, including a statement of the amount and purposes of the bonds and the time and place of the meeting at which the local governing body proposes to take action for the issuance of the bonds, must be published as provided in section 362.3. At the meeting, the local governing body shall receive oral or written objections from any resident or property owner of the municipality. After all objections have been received and considered, the local governing body, at that meeting or any subsequent meeting, may take additional action for the issuance of the bonds or abandon the proposal to issue the bonds. Any resident or property owner of the municipality may appeal the decision of the local governing body to take additional action to the district court of the county in which any part of the municipality is located, within fifteen days after the additional action is taken. The additional action of the local governing body is final and conclusive unless the court finds that the municipality exceeded its authority.

Sec. 19. Section 403.9, subsection 4, Code 1995, is amended to read as follows:

4. Such bonds may be sold at not less than ninety-eight percent of par at public or private sale, or may be exchanged for other bonds ~~on the basis~~ at not less than ninety-eight percent of par.

Sec. 20. Section 403.10, Code 1995, is amended to read as follows:

403.10 BONDS AS LEGAL INVESTMENT.

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, curators, 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 other obligations issued by a municipality pursuant to this chapter, or those issued by any urban renewal agency vested with urban renewal project powers under section 403.14~~: Provided, that such bonds and other obligations shall be secured by an agreement between the issuer and the federal government, in which the issuer agrees to borrow from the federal government and the federal government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount~~

~~which, together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations, will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity~~. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

Sec. 21. Section 403.17, subsection 9, Code 1995, is amended to read as follows:

9. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate income families, including single or multifamily housing. If an urban renewal plan for an urban renewal area is based upon a finding that the area is an economic development area and that no part contains slum or blighted conditions, then the division of revenue provided in section 403.19 and stated in the plan shall be limited to twenty years from the calendar year following the calendar year in which the city first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in section 403.19. Such area designated before July 1, 1994, shall not include land which is part of a century farm.

Sec. 22. Section 403.19, subsection 2, Code 1995, is amended to read as follows:

2. That portion of the taxes each year in excess of such amount shall be allocated to and when collected be paid into a special fund of the municipality to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of section 403.9, subsection 1, incurred by the municipality to finance or refinance, in whole or in part, an urban renewal project within the area, and to provide assistance for low and moderate income family housing as provided in section 403.22, except that taxes for the payment of bonds and interest of each taxing district must be collected against all taxable property within the taxing district without limitation by the provisions of this subsection. Unless and until the total assessed valuation of the taxable property in an urban renewal area exceeds the total assessed value of the taxable property in such area as shown by the last equalized assessment roll referred to in subsection 1, all of the taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such urban renewal area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Sec. 23. Section 403.19, subsection 7, Code 1995, is amended by striking the subsection.

Sec. 24. NEW SECTION. 403.22 FINANCING PUBLIC IMPROVEMENTS RELATED TO LOW INCOME HOUSING AND RESIDENTIAL DEVELOPMENT.

1. With respect to any urban renewal area established upon the determination that the area is an economic development area, a division of revenue as provided in section 403.19 shall not be allowed for the purpose of providing or aiding in the provision of public improvements related to housing and residential development, unless the municipality assures that the project will include assistance for low and moderate income family housing. For a municipality with a population over fifteen thousand, the amount to be provided for low and moderate income family housing for such projects shall be either equal to or greater than the percentage of the original project cost that is equal to the percentage of

low and moderate income residents for the county in which the urban renewal area is located as determined by the United States department of housing and urban development using section 8 guidelines or by providing such other amount as set out in a plan adopted by the municipality and approved by the Iowa department of economic development if the municipality can show that it cannot undertake the project if it has to meet the low and moderate income assistance requirements. However, the amount provided for low and moderate income family housing for such projects shall not be less than an amount equal to ten percent of the original project cost.

For a municipality with a population of fifteen thousand or less, the amount to be provided for low and moderate income family housing shall be the same as for a municipality of over fifteen thousand in population, except that a municipality of fifteen thousand or less in population is not subject to the requirement to provide not less than an amount equal to ten percent of the original project cost for low and moderate income family housing.

2. The assistance to low and moderate income housing may be in, but is not limited to, any of the following forms:

a. Lots for low and moderate income housing within or outside the urban renewal area.

b. Construction of low and moderate income housing within or outside the urban renewal area.

c. Grants, credits or other direct assistance to low and moderate income families living within or outside the urban renewal area, but within the area of operation of the municipality.

d. Payments to a low and moderate income housing fund established by the municipality to be expended for one or more of the above purposes, including matching funds for any state or federal moneys used for such purposes.

3. Sources for low and moderate income family housing assistance may include the following:

a. Proceeds from loans, advances, bonds or indebtedness incurred.

b. Annual distributions from the division of revenues pursuant to section 403.19 related to the urban renewal area.

c. Lump sum or periodic direct payments from developers or other private parties under an agreement for development or redevelopment between the municipality and a developer.

d. Any other sources which are legally available for this purpose.

4. The assistance to low and moderate income family housing may be expended outside the boundaries of the urban renewal area.

5. Except for a municipality with a population under fifteen thousand, the division of the revenue under section 403.19 for each project under this section shall be limited to tax collections for ten fiscal years beginning with the second fiscal year after the year in which the municipality first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of the revenue in connection with the project. A municipality with a population under fifteen thousand may, with the approval of the governing bodies of all other affected taxing districts, extend the division of revenue under section 403.19 for up to five years if necessary to adequately fund the project. The portion of the urban renewal area which is involved in a project under this section shall not be subject to any subsequent division of revenue under section 403.19.

6. A municipality shall not prohibit or restrict the construction of manufactured homes in any project for which public improvements were finalized under this section. As used in this subsection, "manufactured home" means the same as under section 435.1, subsection 2.

DIVISION III

Sec. 25. Section 331.384, subsection 1, paragraph c, Code 1995, is amended to read as follows:

c. Require the removal, repair, or dismantling of ~~a~~ an abandoned or dangerous building or structure.

Sec. 26. NEW SECTION. 364.12A CONDEMNATION OF RESIDENTIAL BUILDINGS – PUBLIC PURPOSE.

For the purposes of section 6A.4, subsection 6, a city may condemn a residential building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

Sec. 27. Section 657A.1, subsections 1, 3, and 4, Code 1995, are amended to read as follows:

1. "Abandoned" or "abandonment" means that a building has remained vacant and has been in violation of the housing code of the city in which the property is located or the housing code applicable in the county in which the property is located if outside the limits of a city for a period of six consecutive months.

3. "Building" means a building or structure located in a city or outside the limits of a city in a county, which is used or intended to be used for residential purposes, and includes a building or structure in which some floors may be used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and other floors are used, designed, or intended to be used for residential purposes.

4. "Interested person" means an owner, mortgagee, lienholder, or other person that possesses an interest of record or an interest otherwise provable in property that becomes subject to the jurisdiction of the court pursuant to this chapter, the city in which the property is located, the county in which the property is located if the property is located outside the limits of a city, and an applicant for the appointment as receiver pursuant to this chapter.

Sec. 28. Section 657A.2, subsections 1 and 2, Code 1995, are amended to read as follows:

1. A petition for abatement under this chapter may be filed in the district court of the county in which the property is located, by the city in which the property is located, by the county if the property is located outside the limits of a city, a neighboring landowner, or a duly organized nonprofit corporation which has as one of its goals the improvement of housing conditions in the county or city in which the property in question is located. Service on the owner shall be by personal service or by certified mail, or if service cannot be made by either method, by posting the notice in a conspicuous place on the building and by publication.

2. If a petition filed pursuant to this chapter alleges that a building is abandoned or is in a dangerous or unsafe condition, the city, county, if the property is located outside the limits of a city, neighboring landowner, or nonprofit corporation may apply for an injunction requiring the owner of the building to correct the condition or to eliminate the condition or violation. The court shall conduct a hearing at least twenty days after written notice of the application for an injunction and of the date and time of the hearing is served upon the owner of the building. Notice of the hearing shall be served in the manner provided in subsection 1.

Sec. 29. Section 657A.4, Code 1995, is amended to read as follows:

657A.4 APPOINTMENT OF RECEIVER.

After conducting a hearing pursuant to section 657A.3, the court may appoint a receiver to take possession and control of the property in question. A person shall not be appointed as a receiver unless the person has first provided the court with a viable financial and construction plan for the rehabilitation of the property in question and has demonstrated the capacity and expertise to perform the required work in a satisfactory manner. The appointed receiver may be a financial institution that possesses an interest of record in the property, a nonprofit corporation that is duly organized and exists for the primary purpose of improving housing conditions in the county or city in which the property in question is located, or any person deemed qualified by the court. No part of the net earnings of a

nonprofit corporation serving as a receiver under this section shall benefit a private shareholder or individual. Membership on the board of trustees of a nonprofit corporation does not constitute the holding of a public office or employment and is not an interest, either direct or indirect, in a contract or expenditure of money by a city or county. No member of a board of trustees of a nonprofit corporation appointed as receiver is disqualified from holding public office or employment, nor is a member required to forfeit public office or employment by reason of the membership on the board of trustees.

DIVISION IV

Sec. 30. Section 331.361, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. An interest in real property which is assessed for taxation as residential or commercial multifamily property may be disposed of through a public request for proposal process. A proposal submitted pursuant to this section shall state the housing use planned by the person submitting the proposal. The board shall publish the proposals in a notice of the time and place of a public hearing on the proposals, in accordance with section 331.305. After the public hearing, the board may choose by resolution from among the proposals submitted or may reject all proposals and submit a new request for proposals.

Sec. 31. NEW SECTION. 446.19A PURCHASE BY COUNTY OR CITY FOR LOW OR MODERATE INCOME HOUSING.

Notwithstanding section 446.18, a city or county may purchase abandoned property assessed as residential or commercial multifamily housing which did not sell at an annual tax sale under section 446.7 for the total amount due. Money shall not be paid by the county or other tax-levying or tax-certifying body for the purchase, but each of the tax-levying and tax-certifying bodies having any interest in the taxes shall be charged with the total amount due the tax-levying or tax-certifying body as its just share of the purchase price. Prior to the purchase the city or county shall file with the county treasurer a verified statement that a parcel to be purchased is abandoned and deteriorating in condition or is, or is likely to become, a public nuisance, and that the parcel is suitable for use for low or moderate income housing following rehabilitation.

The city or county may sell the certificate of purchase. Preference shall be given to purchasers who are low or moderate income families or organizations which assist low and moderate income families to obtain housing. For the purpose of this section, "low or moderate income families" has the same meaning as in section 403.17. All persons who purchase certificates under this section shall demonstrate the intent to rehabilitate the property for habitation if the property is not redeemed. In the alternative, the county may, if title to the property has vested in the county under section 447.9, dispose of the property in accordance with section 331.361.

Sec. 32. Section 569.8, subsection 1, Code 1995, is amended to read as follows:

1. Disposition by a county of a parcel acquired by tax deed shall comply with section 331.361, subsection 2 or 2A.

DIVISION V

*Sec. 33. *Section 16.100, Code 1995, is amended by adding the following new subsection:*

NEW SUBSECTION. 1A. a. Moneys transferred to the housing improvement fund pursuant to section 428A.8, subsection 1, paragraph "a", for the purposes of this paragraph, shall be distributed, on a per capita basis according to the 1990 federal census, to each county.

*Item veto; see message at end of the Act

b. In order to receive moneys under this subsection, a county shall be a member of a housing council. The housing council shall consist of the supervisors of the county and the mayor of each city in the county, or their designees. A housing council may represent more than one county and the cities within each county and may be an entity formed under chapter 28E or an entity under chapter 28H.

c. The function of the housing council shall be to coordinate housing programs in the county including having housing needs assessments completed if not already done, developing or coordinating a housing plan approved by the department of economic development, encouraging the formation of partnerships with other governmental entities and public-private partnerships regarding housing, and recommending funding for projects under the housing plan from moneys received under this subsection.

d. Moneys received under this subsection shall only be used for housing programs which facilitate housing development, including housing trust funds or programs for the rehabilitation or construction of housing. The cost of the housing needs assessment may be paid from moneys received under this subsection. Moneys not obligated for a project recommended by the housing council within one year of transfer shall revert to the housing improvement fund.

e. Counties receiving moneys under this subsection shall track the use of the funds by project, program, or activity and shall provide a report to the department of economic development and the Iowa finance authority regarding the use of the funds by December 15 of each year.

f. Moneys provided under this subsection shall not be used to supplant funding for housing programs provided by a city or county.

*g. The authority shall adopt rules to administer this subsection.**

**Sec. 34. Section 428A.8, Code 1995, is amended to read as follows:*

428A.8 REMITTANCE TO STATE TREASURER – PORTION RETAINED IN COUNTY.

1. On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state eighty-two and three-fourths percent of the receipts from the real estate transfer tax collected during the preceding month and the treasurer of state shall deposit ~~ninety-five~~ the receipts as follows:

a. Two-thirds ~~percent~~ of the receipts ~~in the general fund of the state and transfer five percent of the receipts~~ shall be transferred to the Iowa finance authority for deposit in the housing improvement fund created in section 16.100. Of the moneys transferred under this paragraph, sixty percent shall be used in accordance with section 16.100, subsection 1A, and forty percent shall be used for the other purposes of the housing improvement fund.

b. One-third of the receipts shall be deposited in the general fund of the state.

2. The county recorder shall deposit the remaining seventeen and one-fourth percent of the receipts in the county general fund.

*3. The county recorder shall keep records and make reports with respect to the real estate transfer tax as the director of revenue and finance prescribes.**

DIVISION VI

Sec. 35. Section 331.441, subsection 2, paragraph b, subparagraph (10), Code Supplement 1995, is amended to read as follows:

(10) The establishment or funding of programs to provide for or assist in providing for the acquisition, restoration, or demolition of housing, as part of a municipal housing project under chapter 403 or otherwise, or for other purposes as may be authorized under chapter 403A.

Sec. 36. Section 384.24, subsection 3, paragraph u, Code 1995, is amended to read as follows:

u. The establishment or funding of programs to provide for or assist in providing for the acquisition, restoration, or demolition of housing, as part of a municipal housing project under chapter 403 or otherwise, or for other purposes as may be authorized under chapter 403A.

*Item veto; see message at end of the Act

DIVISION VII

Sec. 37. NEW SECTION. 404A.1 HOUSING DEVELOPMENT - TAX STATUS - LIMITATION.

1. The board of supervisors of a county with a population of less than twenty thousand may adopt an ordinance providing that property acquired and subdivided for development of housing shall continue to be assessed for taxation in the manner that it was prior to the acquisition for housing. Each lot shall continue to be taxed in the manner it was prior to its acquisition for housing until the lot is sold for construction or occupancy of housing or five years from the date of subdivision, whichever is shorter. Upon the sale or the expiration of the five-year period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

2. The board of supervisors of a county with a population of twenty thousand or more may adopt an ordinance providing that property acquired and subdivided for development of housing shall continue to be assessed for taxation in the manner that it was prior to the acquisition for housing. Each lot shall continue to be taxed in the manner it was prior to its acquisition for housing until the lot is sold for construction or occupancy of housing or three years from the date of subdivision, whichever is shorter. Upon the sale or the expiration of the three-year period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

DIVISION VIII

Sec. 38. Section 404.2, subsection 2, paragraph f, unnumbered paragraph 1, Code 1995, is amended to read as follows:

A statement specifying whether the revitalization is applicable to none, some, or all of the property assessed as residential, agricultural, commercial or industrial property within the designated area or a combination thereof and whether the revitalization is for rehabilitation and additions to existing buildings or new construction or both. If revitalization is made applicable only to some property within an assessment classification, the definition of that subset of eligible property must be by uniform criteria which further some planning objective identified in the plan. The city shall state how long it is estimated that the area shall remain a designated revitalization area which time shall be longer than one year from the date of designation and shall state any plan by the city to issue revenue bonds for revitalization projects within the area. For a county, a revitalization area shall include only property which will be used as industrial property ~~only~~, commercial property, commercial property consisting of three or more separate living quarters with at least seventy-five percent of the space used for residential purposes, or residential property. However, a county shall not provide a tax exemption under this chapter to commercial property, commercial property consisting of three or more separate living quarters with at least seventy-five percent of the space used for residential purposes, or residential property which is located within the limits of a city.

Sec. 39. Section 404.2, subsection 6, Code 1995, is amended to read as follows:

6. The city or county has adopted the proposed or amended plan for the revitalization area after the requisite number of hearings. The city or county may subsequently amend this plan after a hearing. Notice of the hearing shall be published as provided in section 362.3 or 331.305, except that at least seven days' notice must be given and the public hearing shall not be held earlier than the next regularly scheduled city council or board of supervisors meeting following the published notice. A city which has adopted a plan for a revitalization area which covers all property within the city limits may amend that plan at any time, pursuant to this section, to include property which has been or will be annexed to the city. The provisions of the original plan shall be applicable to the property which is annexed and the property shall be considered to have been part of the revitalization area as of the effective date of its annexation to the city.

Sec. 40. Section 404.5, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this section, the actual value of the property upon which the value of improvements in the form of rehabilitation or additions to existing structures shall be determined shall be the lower of either the amount listed on the assessment rolls in the assessment year in which such improvements are first begun or the price paid by the owner if the improvements in the form of rehabilitation or additions to existing structures were begun within one year of the date the property was purchased and the sale was a fair and reasonable exchange between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property.

Sec. 41. APPLICABILITY. This amendment in this division to section 404.5 applies to tax exemptions granted under chapter 404 for improvements to real property first begun on or after January 1, 1995.

DIVISION IX

Sec. 42. APPROPRIATION. There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For assisting counties and cities in forming or organizing housing councils:

..... $ 1,000,000

Notwithstanding section 8.33, moneys remaining unobligated or unexpended shall not revert but shall remain available to the Iowa finance authority for the purposes of this section for the fiscal year beginning July 1, 1996, and ending June 30, 1997. Funds remaining unobligated on June 30, 1997, shall be transferred to the housing improvement fund created in section 16.100.

DIVISION X

Sec. 43. EFFECTIVE DATES. Divisions I, II, VIII, and IX of this Act, being deemed of immediate importance, take effect upon enactment. Division V of this Act takes effect July 1, 1997.

Approved May 30, 1996, except the items which I hereby disapprove and which are designated as Sections 33 and 34 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 Mr. Secretary:

I hereby transmit Senate File 2464, an Act relating to housing development, including tax increment financing, providing for the assessment of certain property for tax purposes, and providing effective and applicability dates.

Senate File 2464 is a significant accomplishment of the Seventy-Sixth General Assembly, containing many of the recommendations that I made to enhance the ability of local communities to provide for quality, affordable housing. Among other provisions, the bill expands

the real estate improvement district program from six counties to the entire state, provides additional flexibility in Iowa's Tax Increment Financing (TIF) law for residential development and gives local governments a variety of tools to expedite the process of dealing with vacant or dilapidated housing stock. In addition, a $1 million appropriation is provided to assist cities and counties in organizing housing councils to conduct housing needs assessments and develop pro-active housing strategies and actions tailored to the needs of the community. Together, this set of tools will enable local communities to eliminate what has been one of the state's most significant barriers to economic development.

Senate File 2464 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as Sections 33 and 34, in their entirety. Beginning in fiscal year 1998, Section 34 would divert $5.1 million from the general fund into the housing improvement fund, and Section 33 specifies how a portion of these new funds are to be spent. If the General Assembly wishes to enhance spending for housing, it should do so in a straightforward manner through a general fund appropriation rather than through an earmarking of receipts. Because these sections would not take effect until fiscal year 1998, this item veto will have no impact on our ability to address housing needs this year.

For the above reasons, I 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 2464 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1205

MENTAL HEALTH AND DEVELOPMENTAL DISABILITY FUNDING AND RELATED PROVISIONS

S.F. 2030

AN ACT relating to state and county mental health and developmental disability funding and related provisions and including an appropriation, an effective date, and an applicability provision.

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

Section 1. Section 331.424A, subsection 4, Code Supplement 1995, is amended to read as follows:

4. For the fiscal year beginning July 1, 1996, and for each subsequent fiscal year, the county shall certify a levy for payment of services. Unless otherwise provided by state law, for each fiscal year, county revenues from taxes imposed by the county credited to the services fund shall not exceed an amount equal to the amount of base year expenditures for services ~~in the fiscal year beginning July 1, 1993, and ending June 30, 1994,~~ as defined in section 331.438, less the amount of property tax relief to be received pursuant to section 426B.2, subsections 1 and 3, in the fiscal year for which the budget is certified. The county auditor and the board of supervisors shall reduce the amount of the levy certified for the services fund by the amount of property tax relief to be received.

Sec. 2. Section 331.438, subsection 1, Code Supplement 1995, is amended to read as follows:

1. For the purposes of section 331.424A, this section, ~~and~~ section 331.439, and chapter 426B, unless the context otherwise requires:

a. "Base year expenditures" means ~~the actual~~ the amount selected by a county and reported to the county finance committee pursuant to this paragraph. The amount selected shall be equal to the amount of net expenditures made by ~~a~~ the county for qualified mental health, mental retardation, and developmental disabilities services provided in either of the following fiscal ~~year beginning July 1, 1993, and ending June 30, 1994.~~ years:

(1) The actual amount reported to the state on October 15, 1994, for the fiscal year beginning July 1, 1993.

(2) The net expenditure amount contained in the county's final budget certified in accordance with chapter 24 for the fiscal year beginning July 1, 1995, and reported to the county finance committee.

b. "Qualified mental health, mental retardation, and developmental disabilities services" means the services specified on forms issued by the county finance committee following consultation with the state-county management committee.

~~b.~~ c. "State payment" means the payment made by the state to a county determined to be eligible for the payment in accordance with section 331.439.

Sec. 3. Section 331.439, subsection 3, Code Supplement 1995, is amended to read as follows:

3. a. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, the county's mental health, mental retardation, and developmental disabilities service expenditures for a fiscal year are limited to a fixed budget amount. The fixed budget amount shall be the amount identified in the county's management plan and budget for the fiscal year. The county shall be authorized an allowed growth factor adjustment as established by the general assembly for services paid from the county's services fund under section 331.424A which is in accordance with the county's management plan and budget, implemented pursuant to this section.

b. Based upon information contained in county management plans and budgets, the state-county management committee shall recommend an allowed growth factor adjustment to the governor by November 15 for the succeeding fiscal year. The allowed growth factor adjustment shall address costs associated with new consumers of service, service cost inflation, and investments for economy and efficiency. The governor shall consider the committee's recommendation in developing the governor's recommendation for an allowed growth factor adjustment for inclusion in the governor's proposed budget for the succeeding fiscal year submitted in accordance with chapter 8.

Sec. 4. Section 426B.2, subsection 1, paragraph c, Code Supplement 1995, is amended to read as follows:

c. One-third based upon the county's proportion of all counties' base year expenditures, as defined in section 331.438, Code 1995, and reported to the state on October 15, 1994.

Sec. 5. Section 426B.2, subsection 1, Code Supplement 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Moneys provided to a county for property tax relief in a fiscal year in accordance with this subsection shall not be less than the amount provided for property tax relief in the previous fiscal year.

Sec. 6. BASE YEAR DEFINITION ESTABLISHED. For purposes of establishing the amount of a county's base year expenditures under section 331.438, subsection 1, as enacted by this Act, unless a county submits a revision request in accordance with the provisions of this section, the amount the county shall be deemed to have selected for the county's base year expenditures is the amount of mental health, mental retardation, and developmental disabilities expenditures in the county's certified budget for fiscal year 1995-1996

the county reported to the county finance committee by December 1, 1995. A revision request must be submitted in writing to the county finance committee which may accept or reject the revision in whole or in part. The revised amount shall be either the amount specified in section 331.438, subsection 1, paragraph "a", subparagraph (1), or correction of the amount reported by December 1, 1995, to the county finance committee. The request for revision must be submitted within fourteen days of the effective date of this section, and a decision by the county finance committee to accept or reject the revised amount must be issued within twenty-eight days of the effective date of this section. The decision of the county finance committee is final.

Sec. 7. APPEAL FOR PROPERTY TAXES IN EXCESS OF LIMITATION. Notwithstanding section 444.25A, subsection 3, the requirement for a county to submit budget forms by March 1, 1996, to be considered for appeal, is changed to March 15, 1996, for budgets submitted for the fiscal year beginning July 1, 1996, and ending June 30, 1997.

Sec. 8. COUNTY MANAGEMENT PLAN SUBMISSION DATE. Notwithstanding section 331.439, subsection 1, paragraph "c", subparagraph (1), a county may apply to the director of human services for an extension of not more than thirty days beyond the April 1, 1996, deadline for submission of the county's plan for mental health service management for the fiscal year beginning July 1, 1996. The director may grant the extension if the director determines there are exceptional circumstances which warrant the extension.

Sec. 9. MEDICAL ASSISTANCE COSTS FOR SERVICES TO MINORS WITH MENTAL RETARDATION. There is appropriated from the property tax relief fund created in section 426B.1 to the department of human services to supplement the medical assistance appropriation for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the nonfederal share of the costs of services provided to minors with mental retardation under the medical assistance program to meet the requirements of section 249A.12, subsection 4:

..... $ 6,600,000

Notwithstanding section 426B.2, subsection 1, the amount of moneys distributed under that subsection shall be $71.4 million.

Sec. 10. EFFECTIVE DATE. Sections 1, 2, 4, 6, 7, 8, and this section of this Act, being deemed of immediate importance, take effect upon enactment. If this Act is enacted on or after March 15, 1996, notwithstanding section 24.17, a county may recertify the county's budget as necessary to incorporate the change in the maximum amount for the county's mental health, mental retardation, and developmental disabilities services fund as authorized in section 6 of this Act. A budget recertified pursuant to this section must be recertified in duplicate to the county auditor not later than twenty days following the date of enactment of this Act and protests to the recertified budget must be filed not later than thirty days following the date of enactment of this Act.

Sec. 11. APPLICABILITY. The amendment in this Act to section 331.439, subsection 3, relating to an allowed growth factor adjustment, first applies to the budget process for the fiscal year beginning July 1, 1997.

Approved February 8, 1996

CHAPTER 1206

SUPPLEMENTAL APPROPRIATIONS - JUDICIAL DEPARTMENT PLANNING
H.F. 2065

AN ACT relating to an appropriation to the judicial department for long-range and strategic planning 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 judicial department for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the development and implementation of a long-range and strategic plan for the judicial branch of government through the supreme court's commission on planning for the 21st century:

..... $ 50,000

Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the designated purpose in the succeeding fiscal year.

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

Approved February 12, 1996

CHAPTER 1207

MISCELLANEOUS SUPPLEMENTAL APPROPRIATIONS
H.F. 2114

AN ACT relating to and making supplemental appropriations for the fiscal year beginning July 1, 1995, and providing an effective date.

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

Section 1. DEPARTMENT OF ECONOMIC DEVELOPMENT - STRATEGIC INVESTMENT FUND - TOURISM. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriations made in 1995 Iowa Acts, chapter 204, section 1, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For deposit in the Iowa strategic investment fund, to supplement the amount appropriated in 1995 Iowa Acts, chapter 204, section 1, subsection 2, paragraph "d":

..... $ 2,100,000

2. To supplement the amount allocated for heritage tourism and sesquicentennial advertising in 1995 Iowa Acts, chapter 204, section 1, subsection 5, paragraph "b", to be used for media purchases and other promotional efforts for the sesquicentennial advertising:

..... $ 2,000,000

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unencumbered or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for the purpose designated in the succeeding fiscal year.

Sec. 2. DEPARTMENT OF HUMAN SERVICES – CHILD DAY CARE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 205, section 6, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state child care assistance, provided moneys appropriated in this section are not subject to transfer under section 8.39 or any other provision but shall only be used for funding of state child care assistance for persons who are eligible for or are on a waiting list for but who are not receiving the assistance as of the effective date of this section:

..... $ 1,274,000

*Sec. 3. *STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 207, section 16, subsection 2, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For court-appointed attorney fees for indigent adults and juveniles, as specified in law by the general assembly:

..... $ *6,400,000**

Sec. 4. DEPARTMENT OF EDUCATION – GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the amount appropriated in 1995 Iowa Acts, chapter 218, section 1, subsection 1, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For general administration to be used to provide assistance to school districts involved in a financial reporting pilot project:

..... $ 50,000

Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure in the succeeding fiscal year for the purpose designated.

Sec. 5. SCHOOL FOR THE DEAF AND BRAILLE AND SIGHT SAVING SCHOOL. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the amounts appropriated in 1995 Iowa Acts, chapter 218, section 6, subsections 5 and 6, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the state school for the deaf:

..... $ 47,000

2. For the Iowa braille and sight saving school:

..... $ 47,000

3. Of the moneys appropriated to the state school for the deaf and the Iowa braille and sight saving school in this section, each school may expend not more than $45,000 for technology needs of the school. Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state, but shall remain available for expenditure for technology needs at the designated school in the succeeding fiscal year.

Sec. 6. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 219, section 5, subsection 6, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For utility costs:

..... $ 55,000

*Item veto; see message at end of the Act

Sec. 7. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 219, section 9, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For racetrack regulation, to be used for employment of not more than one full-time equivalent position which shall be in addition to the full-time equivalent positions authorized in 1995 Iowa Acts, chapter 219, section 9:

..... $ 42,000

Sec. 8. DEPARTMENT OF PERSONNEL. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 219, section 16, subsection 1, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

..... $ 116,850

Sec. 9. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 219, section 19, subsection 3, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For internal resources management:

..... $ 104,500

**Sec. 10. DEPARTMENT OF REVENUE AND FINANCE - REFUND CLAIMS. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1995, and ending June 30, 1996, an amount sufficient to pay all refund claims timely filed pursuant to section 422.73, subsection 3, as enacted by this Act, and to pay up to $75,000 for processing such claims.*

*Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure in the succeeding fiscal year for the purposes of paying refund claims and processing costs as provided in this section and the moneys are not subject to transfer under section 8.39.**

**Sec. 11. Section 422.73, Code 1995, is amended by adding the following new subsection:*

NEW SUBSECTION. 3. Notwithstanding subsection 2, a claim for refund of individual income tax paid for any tax year beginning on or after January 1, 1985, and before January 1, 1989, is considered timely if filed with the department on or before October 31, 1996, if the taxpayer's claim is the result of the unconstitutional taxation of federal pension benefits based upon the decision in Davis v. Michigan Department of Treasury, 489 U.S. 803, 109 S. Ct. 1500 (1989).

A taxpayer entitled to a refund of tax paid under this subsection shall receive an amount equal to one hundred percent of the refund without interest. The claim for refund shall be filed separate from any income tax return and shall not be allowed as a credit for income taxes owed. A claim shall be filed between the effective date of this subsection and October 31, 1996. An extension for filing shall not be allowed and claims disallowed on the basis of timeliness shall not be allowed upon appeal to any other state agency notwithstanding any other provision of law.

The claim for refund shall be made on claim forms to be made available by the department. In order for a taxpayer to have a valid refund claim, the taxpayer must supply legible copies of documents the director deems necessary to show entitlement to the refund, including

*Item veto; see message at end of the Act

but not limited to income tax forms and W-2P forms, which will establish the state income tax that was paid on the federal pension benefits for the tax years in question. The burden of proof is on the taxpayer to show that the claim for refund is valid. Estates are not entitled to file a claim for refund under this subsection, except a spouse of a deceased taxpayer who was the spouse of the taxpayer when the unconstitutional tax was imposed may file a claim for refund without reopening the deceased taxpayer's estate. If a taxpayer has filed a claim under this subsection and subsequently dies before receipt of the refund, the taxpayer's estate is entitled to receipt of any valid refund claim.

*The department shall make a reasonable attempt to notify individuals who are entitled to a refund under this subsection.**

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 19, 1996, except the items which I hereby disapprove and which are designated as Section 3 in its entirety; and Sections 10 and 11 in their 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 2114, an Act relating to and making supplemental appropriations for the fiscal year beginning July 1, 1995, and providing an effective date.

House File 2114, the supplemental appropriations bill, is the first budget bill of the 1996 session. It is disappointing to me that so early in the session the legislature has succumbed to the temptation of excessive spending. Even in times of a budget surplus we must remain vigilant in our resolve to spend responsibly. If an area of the budget is out of control, action should be taken to bring it under control before additional funding is provided. If spending for a particular item would establish a dangerous precedent, funds should not be spent for that purpose.

The amount of spending in House File 2114 is substantially over the budget recommendations I submitted to the legislature in January. The bill provides approximately $10.3 million to pay claims barred by the statute of limitations which I believe would set bad precedent. It also contains $6.4 million in additional spending for court appointed attorneys that cannot be approved without accompanying reforms. Failure to adopt the reforms recommended by the state public defender and me in the past has contributed to the present deficit in this area.

House File 2114 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 3, in its entirety. This item would provide $6.4 million to address a shortfall in funding to pay for costs of indigent defense. In the past year alone, the costs for this program have increased by 31 percent. While I recommended this additional funding to the legislature, it cannot be approved until the reforms proposed to contain these costs have been passed and presented for my signature. Failing to adequately control these costs has led to continued abuses and unnecessary costs to the taxpayers. This area of the budget must be brought under control.

I am unable to approve the items designated as Sections 10 and 11, in their entirety. These items would create a standing unlimited appropriation, estimated at $10.3 million, to provide

*Item veto; see message at end of the Act

refunds to certain federal retirees. This action would supersede the state's statute of limitations for filing claims, thereby setting a precedent that could create untold future financial exposure. It is unfortunate that these claims were not filed timely. However, there is no compelling reason why they should be treated different than claims filed by any other group or individual. Allowing the filing of claims after the statute of limitations has run out is bad public policy.

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 2114 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1208

APPROPRIATIONS - ENERGY CONSERVATION - PETROLEUM OVERCHARGE FUNDS
H.F. 2444

AN ACT relating to energy conservation including making appropriations of petroleum overcharge funds.

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 473.11, for disbursement pursuant to section 473.11, to the following named agencies for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the division of community action agencies of the department of human rights for qualifying energy conservation programs for low-income persons, including but not limited to energy weatherization projects, which target the highest energy users, and may include the low-income home energy assistance program, and including administrative costs, to be expended first from the available balances in the Warner/ Imperial, the office of hearings and appeals second-stage settlement (OHA), and Amoco funds and then the Stripper Well fund for a total appropriation not to exceed:

From the Warner/Imperial, the office of hearings and appeals second-stage settlement (OHA), Amoco, and Stripper Well funds:

..... $ 700,000

2. To the department of natural resources for the following purposes:

a. For the state energy conservation program from the Exxon fund:

..... $ 115,000

b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:

..... $ 300,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of the fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Approved April 15, 1996

CHAPTER 1209

IOWA COMMUNICATIONS NETWORK APPROPRIATIONS

S.F. 2195

AN ACT relating to the Iowa communications network by providing for state ownership of a Part III connection and for the connection and support of certain Part III users, making appropriations, 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 Iowa communications network fund created in section 8D.14 for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service:

..... $ 12,754,000

Upon the appropriation of the funds in this section to the Iowa communications network fund, the Iowa telecommunications and technology commission shall immediately transfer $12,754,000 of the appropriated amount to a separate fund established in the office of the treasurer of state, to be used solely for debt service for the Iowa communications network. The commission shall certify to the treasurer of state when a debt service payment is due, and upon receipt of the certification the treasurer shall make the payment. The commission shall pay any additional amount due from funds deposited in the Iowa communications network fund.

Sec. 2. PART III RELATED APPROPRIATIONS.

1. PART III AUTHORIZED USERS.

a. There is appropriated from the rebuild Iowa infrastructure fund of the state created in section 8.57, subsection 5, to the Iowa communications network fund under the control of the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the connection of a minimum of 110 Part III authorized users as determined by the commission and communicated to the general assembly:

..... $ 19,600,095

b. It is the intent of the general assembly that the connection of the authorized user sites pursuant to this subsection be awarded based upon the Part III contracts executed in 1995.

c. It is also the intent of the general assembly that the commission lease DS-1 or T-1 circuits for Part III connections currently using analog technology.

d. Notwithstanding the fact that funds appropriated pursuant to this subsection will not be made available prior to July 1, 1996, the Iowa telecommunications and technology commission is authorized to negotiate and enter into contracts for ordering necessary equipment related to the completion of the connections authorized in paragraph "a" as deemed appropriate by the commission upon the effective date of this paragraph.

2. PART III NETWORK COSTS - SUBSIDIZATION FUND. There is appropriated from the general fund of the state to the Iowa communications network fund created in section 8D.14 for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated in this subsection:

For the subsidization of video rates for authorized users as determined by the commission and consistent with chapter 8D:

..... $ 2,400,000
..... FTEs 57.00

3. PART III NETWORK COSTS - MAINTENANCE AND LEASE COSTS.

a. There is appropriated from the rebuild Iowa infrastructure fund of the state created in section 8.57, subsection 5, to the Iowa communications network fund under the control

of the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For maintenance costs and recurring lease costs as provided in this subsection:

..... $ 1,199,905

b. As a condition of the appropriation in this subsection, $209,298 of the amount appropriated shall be expended by the Iowa telecommunications and technology commission for maintenance costs associated with Part III connections of the network.

c. As a further condition of the appropriation in this subsection, $990,607 of the amount appropriated shall be expended by the Iowa telecommunications and technology commission for recurring lease costs associated with Part III connections of the network.

4. SUPPORT SERVICES. There is appropriated from the general fund of the state to the Iowa communications network fund created in section 8D.14 for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes designated in paragraphs "a" and "b", and for not more than the following full-time equivalent positions:

..... $ 1,950,000
..... FTEs 10.00

a. As a condition of the appropriation in this subsection, $450,000 of the amount appropriated shall be expended by the public broadcasting division of the department of education to provide support for functions related to the network, including but not limited to the following functions: scheduling for video classrooms; development of distance learning applications; development of a central information source on the Internet relating to educational uses of the network; second-line technical support for network sites; testing and initializing sites onto the network; and coordinating the work of the education telecommunications council. The division is authorized an additional 5.00 FTEs for a total of 10.00 FTEs for the purpose of providing such support.

b. As a further condition of the appropriation in this subsection, $1,500,000 of the amount appropriated shall be allocated by the public broadcasting division of the department of education to the regional telecommunications councils established in section 8D.5. The regional telecommunications councils shall use the funds to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

*5. *SPARE PARTS. There is appropriated from the rebuild Iowa infrastructure fund of the state created in section 8.57, subsection 5, to the Iowa communications network fund created in section 8D.14, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For establishing and maintaining a spare parts depot related to the network:

..... $ *220,000*

6. COMPUTERS, INTERNET CONNECTION, AND RELATED COSTS. There is appropriated from the rebuild Iowa infrastructure fund of the state created in section 8.57, subsection 5, to the Iowa communications network fund created in section 8D.14, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purchase of computer equipment to be used in connection with the network, providing for connections to the Internet through the use of the network, and for maintaining the regional scheduling system:

..... $ *110,000**

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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the center for educational technology at the university of northern Iowa to coordinate staff development for educators using educational technology in this state:

*Item veto; see message at end of the Act

..... $ 500,000

Sec. 4. LEGISLATIVE INTENT.

1. It is the intent of the general assembly that the Iowa telecommunications and technology commission develop recommendations concerning the expenses which should be recovered in the rates established by the commission for use of the network, and any necessary subsidies. The commission shall file a written report concerning these recommendations with the senate committee on communications and information policy and the house of representatives committee on technology by no later than January 13, 1997.

2. It is also the intent of the general assembly that the education telecommunications council and the regional telecommunications councils give priority to network video usage during the normal school hours for grades prekindergarten through twelve at those video sites which are located within school district facilities. The commission, in consultation with the education telecommunications council, shall establish a policy for flexibility of use for educational video classrooms during normal school hours for events unrelated to network use.

Sec. 5. CONTRACT MODIFICATION. Notwithstanding section 8D.13, the commission is authorized to negotiate a contract with Sooland Cable involving the connection of five Part III sites, to provide for a lump-sum payment at the time of installation and activation of the circuit which will result in a real savings within a range of $23,400 up to $27,000 per site when compared to the original contract price.

Sec. 6. ADDITIONAL CONNECTIONS.

1. LEWIS CENTRAL HIGH SCHOOL. Notwithstanding section 8D.13, subsection 5, the state may own and the Iowa telecommunications and technology commission shall provide for the construction and connection to the Iowa communications network of the Lewis Central high school, located in Council Bluffs and contiguous to the school for the deaf established under chapter 270.

2. ADDITIONS TO PART III. The Iowa telecommunications and technology commission may contract for construction relating to connections to the Iowa communications network for the following authorized users which were not identified in the original Part III request for proposals, but which meet the definition of a Part III user pursuant to section 8D.13, subsection 2, paragraph "c":

a. Meservey-Thornton community school district, Thornton.
b. Eldora state training school, Eldora.
c. Iowa juvenile home, Toledo.
d. Four oaks educational center, Cedar Rapids.
e. Keystone area education agency, Dubuque.

Sec. 7. EFFECTIVE DATE.

1. Section 2, subsection 1, paragraph "d", of this Act, which authorizes the Iowa telecommunications and technology commission to begin negotiations for ordering necessary equipment prior to the availability of funding, being deemed of immediate importance, takes effect upon enactment.

2. Section 6, subsection 1, of this Act, which authorizes the state to construct and own the Iowa communications network connection to Lewis Central high school, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 1996, except the items which I hereby disapprove and which are designated as Section 2, subsections 5 and 6 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 Mr. Secretary:

I hereby transmit Senate File 2195, an Act relating to the Iowa communications network by providing for state ownership of a Part III connection and for the connection and support of certain Part III users, making appropriations, and providing effective dates.

Approval of this bill means that work can immediately proceed on connecting an additional 110 video classroom sites. This work represents the second year of a four-year commitment to construct Part III of the network.

Senate File 2195 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 item appropriates $220,000 for a spare parts depot. This amount exceeds the $450,000 recommended in my budget and approved by the General Assembly which includes funding for the same purpose. The funding otherwise provided in the bill is sufficient.

I am unable to approve the item designated as Section 2, subsection 6, in its entirety. This item would provide for the purchase of new computers for a regional scheduling system. I support the concept of a regional scheduling system, however, I do not believe that new computers are needed for every new application. This effort can proceed without the additional $110,000 in funding.

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 2195 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1210

FEDERAL BLOCK GRANT APPROPRIATIONS
H.F. 2486

AN ACT appropriating federal funds made available from federal block grants and other federal 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.

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

Section 1. SUBSTANCE ABUSE 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, 1996, and ending September 30, 1997, the following amount:

..... $ 11,190,416

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the substance abuse prevention and treatment block grant. The department shall expend the funds appropriated in 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 5 percent shall be used by the department for administrative expenses.

The department shall expend no less than an amount equal to the amount expended for treatment services in state fiscal year beginning July 1, 1995, for pregnant women and women with dependent children.

Of the funds appropriated in this subsection, an amount not exceeding $24,585 shall be used for audits.

2. The funds remaining from the appropriation made in subsection 1 shall be allocated as follows:

a. At least 20 percent of the allocation shall be for prevention programs.

b. At least 35 percent of the allocation shall be spent on drug treatment and prevention activities.

c. At least 35 percent of the allocation shall be spent on alcohol treatment and prevention activities.

3. The substance abuse block grant funds received from the federal government in excess of the amount of the anticipated federal fiscal year 1996-1997 award appropriated in subsection 1 shall be distributed at least 50 percent to treatment programs and 50 percent to prevention programs except that, based upon federal guidelines, the total amount of the excess awarded to prevention programs shall not exceed $1,000,000.

Sec. 2. COMMUNITY MENTAL HEALTH SERVICES APPROPRIATION.

1. a. There is appropriated from the fund created by section 8.41 to the Iowa department of human services for the federal fiscal year beginning October 1, 1996, and ending September 30, 1997, the following amount:

..... $ 2,829,397

b. Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the community mental health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

c. The administrator of the division of mental health and developmental disabilities shall allocate not less than 95 percent of the amount of the block grant to eligible community mental health services providers for carrying out the plan submitted to and approved by the federal substance abuse and mental health services administration for the fiscal year involved.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the department of human services for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of mental health and developmental disabilities 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 mental health and developmental disabilities for the costs of the audits.

Sec. 3. 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, 1996, and ending September 30, 1997, the following amount:

..... $ 6,949,058

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter V, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated in 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 $45,700 shall be used for audits.

Funds appropriated in this subsection shall not be used by the university of Iowa hospitals and clinics for indirect costs.

2. An amount not exceeding $150,000 of the funds appropriated in subsection 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.

The departments of public health, human services, and education and the university of Iowa's mobile and regional child health specialty clinics shall continue to pursue to the maximum extent feasible the coordination and integration of services to women and children.

3. a. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, $284,548 shall be set aside for the statewide perinatal care program.

b. Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics. The university of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds for this program. Priority shall be given to establishment and maintenance of a statewide system of mobile and regional child health specialty clinics.

4. Those federal maternal and child health services block grant funds transferred from the federal preventive health and health services block grant funds in section 4, subsection 4 of this Act for the federal fiscal year beginning October 1, 1996, 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 3.

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 federal Social Security Act.

Sec. 4. 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, 1996, and ending September 30, 1997, the following amount:

..... $ 1,783,899

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated in 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 $5,522 shall be used for 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 stipulated by the notice of block grant award shall be allocated to the rape prevention program.

4. Of the remaining funds appropriated in subsection 1, seven percent 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 42 U.S.C., chapter 33, subchapter III, and section 3 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 healthy people 2000/healthy Iowans 2000 program objectives, preventive health advisory committee,

and risk reduction services, including nutrition programs, health incentive programs, chronic disease services, emergency medical services, monitoring of the fluoridation program and start-up fluoridation grants, and acquired immune deficiency syndrome services. The moneys used pursuant to this subsection shall not be used by the university of Iowa hospitals and clinics or by the state hygienic laboratory 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 at least $50,000 shall be used to provide chlamydia testing.

Sec. 5. DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug enforcement and abuse prevention coordinator for the federal fiscal year beginning October 1, 1996, and ending September 30, 1997, the following amount:

..... $ 5,657,000

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter V, which provides for the drug control and system improvement grant program. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 7 percent of the funds appropriated in subsection 1 shall be used by the drug enforcement and abuse prevention coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the 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.

Sec. 6. STOP VIOLENCE AGAINST WOMEN GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug enforcement and abuse prevention coordinator for the federal fiscal year beginning October 1, 1996, and ending September 30, 1997, the following amount:

..... $ 750,000

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter XII-H, which provides for grants to combat violent crimes against women. The drug enforcement and abuse prevention coordinator shall expend the funds appropriated in 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 drug enforcement and abuse prevention coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug enforcement and abuse prevention coordinator shall pay to the auditor of the 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.

Sec. 7. 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, 1996, and ending September 30, 1997, the following amount:

..... $ 4,216,399

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 106,

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 in 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 eligible community action agencies for programs benefiting low-income persons. Each eligible agency shall receive a minimum allocation of no less than $100,000. The minimum allocation shall be achieved by redistributing increased funds from agencies experiencing a greater share of available funds. The funds shall be distributed on the basis 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 for the costs of the audits.

Sec. 8. 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, 1996, and ending September 30, 1997, the following amount:

..... $ 31,501,000

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 69, which provides for community development block grants. The department of economic development shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $1,460,000 for the federal fiscal year beginning October 1, 1996, 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 $730,000 for the federal fiscal year beginning October 1, 1996, of funds appropriated in subsection 1 and a matching contribution from the state equal to $730,000 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 for the costs of the audit.

Sec. 9. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 1996, and ending September 30, 1997, the following amount:

..... $ 23,976,768

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 94, subchapter II, 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 in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $2,038,025 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 in 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 of state shall bill the division of community action agencies for the costs of the audits.

3. The remaining funds appropriated in subsection 1 shall be allocated to help eligible households, as defined under 42 U.S.C., chapter 94, subchapter II, 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, 1997, at least 15 percent of the funds appropriated in 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.

5. Not more than $1,000,000 of the funds appropriated in subsection 1 shall be used for assessment and resolution of energy problems.

Sec. 10. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 1996, and ending September 30, 1997, the following amount:

..... $ 30,379,684

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter XX, which provides for the social services block grant. The department of human services shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than $1,844,952 of the funds appropriated in subsection 1 shall be used by the department of human services for general administration. From the funds set aside in 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.

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, 1996, for the following programs within the department of human services:

a. Field operations:

..... $ 11,034,866

b. Child and family services:

..... $ 1,650,509

c. Child care assistance:

..... $ 1,365,329

d. Local administrative costs and other local services:

..... $ 1,170,281

e. Volunteers:

..... $ 127,900

f. Community-based services:
..... $ 147,084
g. MH/MR/DD/BI community service (local purchase):
..... $ 13,038,763

Sec. 11. SOCIAL SERVICES BLOCK GRANT PLAN. The department of human services during each state fiscal year shall develop a plan for the use of federal social services block grant funds for the subsequent state fiscal year.

The proposed plan shall include all programs and services at the state level which the department proposes to fund with federal social services block grant funds, and shall identify state and other funds which the department proposes to use to fund the state programs and services.

The proposed plan shall also include all local programs and services which are eligible to be funded with federal social services block grant funds, the total amount of federal social services block grant funds available for the local programs and services, and the manner of distribution of the federal social services block grant funds to the counties. The proposed plan shall identify state and local funds which will be used to fund the local programs and services.

The proposed plan shall be submitted with the department's budget requests to the governor and the general assembly.

Sec. 12. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS. Upon receipt of the minimum formula grant from the federal alcohol, drug abuse, and mental health administration to provide mental health services for the homeless, the division of mental health and developmental disabilities of the department of human services shall assure that a project which receives funds under the formula grant from either the federal or local 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.

6. Projects may expend funds for housing services including minor renovation, expansion and repair of housing, security deposits, planning of housing, technical assistance in applying for housing, improving the coordination of housing services, the costs associated with matching eligible homeless individuals with appropriate housing, and one-time rental payments to prevent eviction.

Sec. 13. CHILD CARE AND DEVELOPMENT BLOCK GRANT. 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, 1996, and ending September 30, 1997, the following amount:
..... $ 8,633,742

Funds appropriated in this section are the funds anticipated to be received from the federal government under 42 U.S.C., chapter 105, subchapter II-B, which provides for the child care and development block grant. The department shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 14. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. If the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the rape prevention program under section 4, subsection 3 of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, the director of the legislative service bureau, 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. 15. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 2, 3, 4, 5, 8, 10, and 13 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 amount appropriated in section 9 of this Act, 15 percent of the excess shall be allocated to the low-income residential weatherization program.

3. If funds received from the federal government from community services block grants exceed the amount appropriated in section 7 of this Act, 100 percent of the excess is allocated to the community services block grant program.

Sec. 16. PROCEDURE FOR EXPENDITURE OF ADDITIONAL FEDERAL FUNDS. 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 applicable department or agency prior to March 15 of the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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. 17. 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, 1996, and ending June 30, 1997, 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. 18. 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, 1996, and ending June 30, 1997, 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. 19. 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, 1996, and ending June 30, 1997, 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. 20. 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, 1996, and ending June 30, 1997, 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. 21. IOWA ETHICS AND CAMPAIGN DISCLOSURE 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, 1996, and ending June 30, 1997, are appropriated to the Iowa ethics and campaign disclosure board for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 22. 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, 1996, and ending June 30, 1997, 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. 23. COLLEGE STUDENT 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, 1996, and ending June 30, 1997, are appropriated to the college student 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. 24. 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, 1996, and ending June 30, 1997, 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. 25. 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, 1996, and ending June 30, 1997, 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. 26. 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, 1996, and ending June 30, 1997, 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. 27. 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, 1996, and ending June 30, 1997, 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. 28. 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, 1996, and ending June 30, 1997, 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. 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, 1996, and ending June 30, 1997, 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. OFFICES OF THE GOVERNOR AND 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, 1996, and ending June 30, 1997, are appropriated to the offices of the governor and 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. 31. 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, 1996, and ending June 30, 1997, 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. 32. 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, 1996, and ending June 30, 1997, 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. 33. 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, 1996, and ending June 30, 1997, 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. 34. 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, 1996, and ending June 30, 1997, 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. 35. 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, 1996, and ending June 30, 1997, 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. 36. 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, 1996, and ending June 30, 1997, 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. 37. 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, 1996, and ending June 30, 1997, 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. 38. 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, 1996, and ending June 30, 1997, 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. 39. 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, 1996, and ending June 30, 1997, 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. 40. 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, 1996, and ending June 30, 1997, 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. 41. 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, 1996, and ending June 30, 1997, 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. 42. 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, 1996, and ending June 30, 1997, 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. 43. 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, 1996, and ending June 30, 1997, 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. 44. 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, 1996, and ending June 30, 1997, 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. 45. OFFICE OF STATE-FEDERAL 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, 1996, and ending June 30, 1997, are appropriated to the office of state-federal relations for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 46. 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, 1996, and ending June 30, 1997, 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. 47. DEPARTMENT OF PUBLIC SAFETY. 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, 1996, and ending June 30, 1997, are appropriated to the department of public safety, 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 DEPARTMENT OF PUBLIC HEALTH. 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, 1996, and ending June 30, 1997, are appropriated to the Iowa department of public health for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 49. 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, 1996, and ending June 30, 1997, 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. 50. 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, 1996, and ending June 30, 1997, 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. 51. 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, 1996, and ending June 30, 1997, 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. 52. 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, 1996, and ending June 30, 1997, 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. 53. COMMISSION OF VETERANS 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, 1996, and ending June 30, 1997, are appropriated to the commission of veterans affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 54. GOVERNOR'S ALLIANCE ON SUBSTANCE ABUSE. 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, 1996, and ending June 30, 1997, are appropriated to the governor's alliance on substance abuse for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 55. CONTINGENT PROVISION. To the extent that section 8.41, new subsection 3, if enacted by the 1996 General Assembly,* conflicts with the provisions of sections 14 and 15 of this Act, the provisions in section 8.41, subsection 3, shall prevail over the provisions of this Act.

Sec. 56. LIHEAP FUNDING - DISCONNECTION PROHIBITION. It is the intent of the general assembly that if the governor determines federal funds are insufficient to adequately provide for certification of eligibility for the low-income home energy assistance

*See chapter 1105, §1 herein

program by the community action agencies, the Iowa utilities board shall issue an order prohibiting disconnection of service from November 1 through April 1 by a regulated public utility furnishing gas or electricity to households whose income falls at or below one hundred fifty percent of the federal poverty level as established by the United States office of management and budget. The board shall promptly adopt rules in accordance with section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this requirement. The energy assistance bureau of the department of human rights, in consultation with the community action agencies, shall certify to the utilities, households that are eligible for moratorium protection utilizing the agency's existing electronic database.

Sec. 57. CULTURAL AFFAIRS – FEDERAL ACTIONS. The department of management shall conduct a review of federal actions concerning the level of funding and policies relating to the arts and to cultural affairs and the anticipated effects of the federal actions upon the department of cultural affairs and the department of cultural affairs' programs. Based upon the anticipated effects, the department of management shall examine the functions and programs of the department of cultural affairs and make recommendations to the governor and the general assembly as to options for restructuring the department of cultural affairs' programs. The recommendations shall be submitted to the governor and the general assembly prior to the convening of the Seventy-seventh General Assembly.

Sec. 58. WELFARE REFORM BLOCK GRANT.

1. Notwithstanding contrary provisions of section 8.41, subsection 3, as enacted in 1996 Iowa Acts, House File 2256,* the provisions of this section shall apply if all of the following conditions are met:

a. The provisions of this section shall apply only to programs, funding, and policies of the family investment program and the job opportunities and basic skills (JOBS) program.

b. Federal law creating a welfare reform block grant is enacted which provides for optional early implementation dates which precede the convening of the Seventy-seventh General Assembly.

c. The department of human services determines early implementation of the federal block grant provisions is advantageous to Iowa. All of the following requirements shall apply in order for the department to make such a determination:

(1) Early implementation will result in additional federal funding for the family investment program or the JOBS program.

(2) The early implementation of the block grant provisions will not disadvantage any applicant or recipient of assistance under the family investment program by resulting in reduced benefits, terminated eligibility, or denied eligibility to the extent those conditions would not have resulted under Iowa's welfare reform provisions in effect prior to the early implementation of the federal block grant provisions. The department may satisfy this requirement by using one hundred percent state funds to offset any disadvantage to an applicant or recipient for services eligible for federal financial participation prior to the early implementation of the federal block grant provisions if the increase in state funds used does not exceed any additional federal funding received under the block grant.

(3) The department can reasonably make computer system and procedural changes necessary to implement the provisions within any federally mandated time frames as necessary to qualify for early implementation of the federal block grant provisions.

(4) The state will not incur any excessive financial risks with early implementation of the federal block grant provisions.

2. If the federal legislation described is enacted, the department shall seek input from the individuals of the work group which considered the state human investment policy or a successor interagency task force which makes recommendations to the department concerning the family investment program.

3. If all of the conditions of subsections 1 and 2 are met, the department may take steps to notify the United States department of health and human services, or some other such

*Chapter 1105, §1 herein

entity as designated in the federal legislation, that the state of Iowa is opting for early implementation of the federal welfare reform block grant provisions. If the department takes steps to elect early implementation of the federal block grant provisions, the department shall notify the fiscal committee of the legislative council, the legislative fiscal bureau, the chairpersons and ranking members of the senate and house committees on human resources, and the chairpersons and ranking members of the senate and house appropriations subcommittee on human services of all of the following:

a. The findings that the conditions in subsection 1 are met.

b. The notice to the federal government of electing early implementation of the block grant provisions.

c. Fiscal impacts of electing early implementation of the block grant provisions.

4. If allowed by federal law, the department may discontinue the provisions for control groups as required by the federal government and apply welfare reform policies to all applicants and recipients of assistance in the family investment program equally. The department shall make notifications similar to those required in subsection 3 of any decision to continue or discontinue control groups.

5. 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 this section and the rules shall become effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this subsection shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with the provisions of this subsection shall also be published as notice of intended action as provided in section 17A.4.

Sec. 59. FEDERAL FUNDING STUDY. The legislative council is requested to provide for a review during the 1996 legislative interim of issues associated with federal funding and federal block grants. Issues considered may include but are not limited to all of the following:

1. Methods for the general assembly to provide greater oversight.

2. Methods for appropriations subcommittees to effectively incorporate planning for federal funding and grants into budget deliberations.

3. An analysis of the impact of federal funding and grants and their associated federal requirements upon the effectiveness and efficiency of the state and local government agencies administering the federal funding and grants.

4. Methods for analysis of the cash flows associated with federal funding and grants, including variations between state and federal fiscal years, and the multiple year commitment of federal funding known as "forward funding."

5. Policy analysis tools for use in addressing new and revised federal block grants and federal funding.

Approved May 15, 1996

CHAPTER 1211

APPROPRIATIONS - ADMINISTRATION AND REGULATION

H.F. 2416

AN ACT relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, providing for legislative studies, providing an effective date, and other properly related matters.

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

Section 1. AUDITOR OF STATE. 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, 1996, and ending June 30, 1997, 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:

..... $ 1,344,845

..... FTEs 112.50

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative fiscal bureau of the additional full-time equivalent positions retained.

Sec. 2. IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD. There is appropriated from the general fund of the state to the Iowa ethics and campaign disclosure board for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

..... $ 420,554

..... FTEs 8.00

Sec. 3. DEPARTMENT OF COMMERCE. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 235,556

..... FTEs 2.00

It is the intent of the general assembly that the two positions authorized in this subsection for the division shall coordinate the administrative services to be provided to the divisions in the department. These two positions are under the direct supervision of, and shall report to, the director of the department.

The division of administrative services shall assess each division within the department of commerce and the office of consumer advocate within the department of justice a pro rata share of the operating expenses of the division of administrative services. The pro rata share shall be determined pursuant to a cost allocation plan established by the division of administrative services and agreed to by the administrators of the divisions and the consumer advocate. To the extent practicable, the cost allocation plan shall be based on the proportion of the

administrative expenses incurred on behalf of each division and the office of consumer advocate. Each division and the office of consumer advocate shall include in its charges assessed or revenues generated, an amount sufficient to cover the amount stated in its appropriation, any state assessed indirect costs determined by the department of revenue and finance, and the cost of services provided by the division of administrative services.

2. ALCOHOLIC BEVERAGES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,824,481
.....	FTEs	32.50

3. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	5,506,749
.....	FTEs	84.00

4. CREDIT UNION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,076,131
.....	FTEs	20.00

5. INSURANCE DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,013,049
.....	FTEs	91.50

Of the amounts appropriated in this section to the insurance division, not more than $100,000 shall be used for the regulation of health insurance purchasing cooperatives.

The insurance division shall monitor public utilization of the coverages identified in chapter 514C under managed care plans in this state.

The insurance division may reallocate authorized full-time equivalent positions as necessary to respond to accreditation recommendations or requirements. The insurance division expenditures for examination purposes may exceed the projected receipts, refunds and reimbursements, estimated pursuant to section 505.7, subsection 7, including the expenditures for retention of additional personnel, if the expenditures are fully reimburseable and the division first does both of the following:

a. Notifies the department of management, legislative fiscal bureau, and the legislative fiscal committee of the need for the expenditures.

b. Files with each of the entities named in paragraph "a" the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

6. PROFESSIONAL LICENSING AND REGULATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	923,357
.....	FTEs	14.00

7. UTILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	5,227,076
.....	FTEs	79.00

The utilities division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for utility regulation. Before the division expends or encumbers an amount in excess of the funds budgeted for regulation, 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 regulation expenses exceed the funds budgeted by the general assembly to the division and that the division does not have other funds from which regulation expenses can be paid. Upon approval of the director of the department of management the division may expend and encumber funds for excess regulation expenses. The amounts necessary to fund the excess regulation expenses shall be collected from those utility companies being regulated which caused the excess expenditures, and the collections shall be treated as repayment receipts as defined in section 8.2.

Sec. 4. LEGISLATIVE AGENCIES. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of the members:

..... $ 22,741

2. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

..... $ 91,427

Sec. 5. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,188,790
..... FTEs 31.35

2. INFORMATION SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,623,195
..... FTEs 141.60

3. PROPERTY MANAGEMENT

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,994,000
..... FTEs 114.00

In addition to the requirements in section 8.39, the department of general services shall not change the appropriations for the purposes designated in subsections 1 through 3 from the amounts appropriated under those subsections unless notice of the revisions is given prior to their effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the changes.

Savings achieved in providing telephone services shall be used by the department of general services to increase efficiencies in the provision of those services. The department of general services shall report not later than August 31, 1997, on the projects undertaken to the chairpersons and the ranking members of the joint appropriations subcommittee on administration and regulation and to the legislative fiscal bureau. The report shall include a listing of the projects and efficiencies undertaken during the fiscal year, the cost of each project, and the benefits, including the projected savings on an annual basis and for the life of the efficiency improvement.

There is appropriated from the rebuild Iowa infrastructure fund to the property management division of the department of general services for the fiscal year beginning July 1, 1996,

and ending June 30, 1997, the sum of $50,000, or so much thereof as is necessary, to be used for purposes provided in this subsection.

4. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

..... $ 2,000

5. 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:

..... $ 656,104

6. UTILITY COSTS

For payment of utility costs and for not more than the following full-time equivalent positions:

..... $ 2,000,444

..... FTEs 1.00

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. In addition, notwithstanding sections 8.33 and 18.12, subsection 11, any excess funds appropriated for utility costs in this subsection shall not revert to the general fund of the state on June 30, 1997, and these funds shall be used for implementation of energy conservation projects having a payback of 100 percent within a two-year to six-year period. The department of general services shall report not later than August 31, 1997, on the projects having 100 percent payback within a six-year period to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation and to the legislative fiscal bureau. The report 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.

7. TERRACE HILL OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes necessary for the operation of Terrace Hill and for not more than the following full-time equivalent positions:

..... $ 188,701

..... FTEs 4.00

Sec. 6. REVOLVING FUNDS. There is appropriated from the designated revolving funds to the department of general services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRALIZED PRINTING

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:

..... $ 932,915

..... FTEs 26.05

2. CENTRALIZED PRINTING - REMAINDER

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, 1996, and ending June 30, 1997, which are legally payable from this fund.

3. CENTRALIZED PURCHASING

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:

..... $ 816,123

..... FTEs 17.05

4. CENTRALIZED PURCHASING – REMAINDER

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, 1996, and ending June 30, 1997, which are legally payable from this fund.

5. VEHICLE DISPATCHER

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:

.....	$	627,701
.....	FTEs	15.00

6. VEHICLE DISPATCHER – REMAINDER

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, 1996, and ending June 30, 1997, which are legally payable from this fund.

The vehicle dispatcher shall report, not later than February 15, 1997, to the chairpersons and the ranking members of the joint appropriations subcommittee on administration and regulation and to the legislative fiscal bureau regarding the efficiencies of the vehicle fleet and the changes in the efficiencies. The report shall include the cost per mile, fuel efficiencies, maintenance costs, useful life, the costs of extending the useful life, and other measures which the vehicle dispatcher or the legislative fiscal bureau finds appropriate. The information shall be reported for each general type of vehicle. The overhead costs shall also be reported with the total costs of the vehicle dispatcher operations.

The department of general services shall report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation and the legislative fiscal bureau not later than February 15, 1997, a comparison of the performance of vehicles burning an 85 percent ethanol mixture and those burning a 10 percent ethanol mixture. The report shall include, but is not limited to, average mileage, vehicle life, and problems encountered.

Sec. 7. GOVERNOR AND LIEUTENANT GOVERNOR. There is appropriated from the general fund of the state to the offices of the governor and the lieutenant governor for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, and miscellaneous purposes for the general office of the governor and the general office of the lieutenant governor, and for not more than the following full-time equivalent positions:

.....	$	1,145,681
.....	FTEs	17.25

2. TERRACE HILL QUARTERS

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:

.....	$	67,254
.....	FTEs	2.00

3. ADMINISTRATIVE RULES COORDINATOR

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:

.....	$	111,781
.....	FTEs	3.00

4. NATIONAL GOVERNORS' ASSOCIATION

For payment of Iowa's membership in the national governors' association:

.....	$	62,435

Sec. 8. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

..... $ 495,682
..... FTEs 21.00

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 372,432
..... FTEs 11.00

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 170,823
..... FTEs 24.50

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 756,040
..... FTEs 35.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,797,191
..... FTEs 103.00

It is the intent of the general assembly that $120,000 and 2 FTEs included in this subsection shall be used for additional inspections of state-licensed residential care facilities only.

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 600,210
..... FTEs 13.00

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 33,181
..... FTEs 14.00

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 may expend, in addition to the amount appropriated under this subsection, additional amounts as are directly billable to the labor services division under this subsection and to retain the additional full-time equivalent positions as needed to conduct hearings required pursuant to chapter 91C.

8. STATE FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 547,579
..... FTEs 13.00

The department of human services, in coordination with the state foster care review board and the department of inspections and appeals, shall submit an application for funding

available pursuant to Title IV-E of the federal Social Security Act for claims for state foster care review board administrative review costs.

The department of inspections and appeals shall provide an accounting of all costs associated with negotiating agreements and compacts pursuant to section 10A.104, subsection 10, and all costs associated with monitoring such agreements and compacts. Information in the accounting shall include the dates and destinations of all travel related to the negotiations and monitoring, and all costs associated with the personnel involved, including salary, travel, and support costs.

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.

Notwithstanding section 8.33, any funds remaining from the funds appropriated to the state foster care review board for the fiscal year beginning July 1, 1995, pursuant to 1995 Iowa Acts, chapter 219, shall not revert until August 31, 1998. Any such funds remaining shall be used by the state foster care review board for program operations during the fiscal years beginning July 1, 1996, and ending June 30, 1998.

Sec. 9. RACETRACK REGULATION. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, for the regulation of pari-mutuel racetracks, and for not more than the following full-time equivalent positions:

..... $ 1,789,375
..... FTEs 24.07

It is the intent of the general assembly that the state racing and gaming commission may expend funds during the fiscal year beginning July 1, 1996, and ending June 30, 1997, as approved by the department of management, for regulation of live and simultaneously telecast pari-mutuel racing at the Waterloo greyhound park if the national cattle congress is issued a license from the state racing and gaming commission for the conduct of pari-mutuel racing.

Sec. 10. EXCURSION BOAT REGULATION. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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 excursion boat gambling laws, and for not more than the following full-time equivalent positions:

..... $ 1,128,828
..... FTEs 23.79

It is the intent of the general assembly that the racing and gaming commission shall only employ additional full-time equivalent positions for riverboat gambling enforcement as authorized by the department of management as needed for enforcement on new riverboats. If more than nine riverboats are operating during the fiscal year beginning July 1, 1996, and ending June 30, 1997, the commission may expend no more than $84,917 for no more than 2 FTEs for each additional riverboat in excess of nine. The additional expense associated with the positions shall be paid from fees assessed by the commission as provided in chapter 99F.

Notwithstanding section 8.39, funds shall not be transferred to the department of inspections and appeals which would be used for monitoring Indian gaming.

Sec. 11. USE TAX APPROPRIATION. There is appropriated from the use tax receipts collected pursuant to section 423.7 prior to their deposit in the road use tax fund pursuant to

section 423.24, subsection 1, to the appeals and fair hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,012,835

Sec. 12. DEPARTMENT OF MANAGEMENT. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,073,779
..... FTEs 30.00

2. LAW ENFORCEMENT TRAINING REIMBURSEMENTS

For reimbursement to local law enforcement agencies for the training of officers who resign pursuant to section 384.15, subsection 7:

..... $ 47,500

3. COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

..... $ 75,500

Sec. 13. ROAD USE TAX APPROPRIATION. There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 56,000

The department of management shall report to the chairpersons and ranking members of the senate and house committees on appropriations, the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation, and the legislative fiscal bureau, the number of furloughs and the number of layoffs that occur in each state agency, the savings associated with those furloughs and layoffs, the effect of the furloughs and layoffs on services provided by the state agency, and other relevant information. The department shall provide a year-end report summarizing the information for the fiscal year beginning July 1, 1996, which will be due by September 1, 1997.

When addressing staffing targets for state agencies, the department of management shall state the number of staff authorized for a state agency in terms of full-time equivalent positions.

Sec. 14. DEPARTMENT OF PERSONNEL. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated including the filing of quarterly reports as required in this section:

1. OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes for the director's staff, information services, data processing, and financial services, and for not more than the following full-time equivalent positions:

..... $ 992,321
..... FTEs 17.08

*Item veto; see message at end of the Act

2. PROGRAM DELIVERY SERVICES

For salaries for personnel services, employment law and labor relations and training for not more than the following full-time equivalent positions:

..... $ 1,292,434
..... FTEs 33.20

3. PROGRAM ADMINISTRATION AND DEVELOPMENT

For salaries for employment, compensation, and benefits and workers' compensation and for not more than the following full-time equivalent positions:

..... $ 1,511,191
..... FTEs 34.80

Any funds received by the department for workers' compensation purposes other than the funds appropriated in subsection 3 shall be used only for the payment of workers' compensation claims.

The funds for support, maintenance, and miscellaneous purposes for personnel assigned to program delivery under subsection 2 and program administration and development under subsection 3 are payable from the appropriation made in subsection 1.

The department of personnel shall report semi-annually to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation 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.

The department of personnel shall report annually to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation concerning the number of private consultant contracts of one year or more which are entered into or extended each year by the departments and agencies of the state. All departments and agencies of the state shall cooperate with the department in the preparation of this report.

The department of personnel shall submit, annually, a report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation 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. 15. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

..... $ 4,368,900

2. It is the intent of the general assembly that the Iowa public employees' retirement system employ sufficient staff within the appropriation provided in this section to meet the developing requirements of the investment program.

Sec. 16. PRIMARY ROAD FUND APPROPRIATION. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... $ 358,671

Sec. 17. ROAD USE TAX FUND APPROPRIATION. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1996, and

ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... $ 58,388

Sec. 18. STATE WORKERS' COMPENSATION CLAIMS. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution, subject to approval of the department of management, to various state departments to fund the premiums for paying workers' compensation claims which are assessed to and collected from the state department by the department of personnel based upon a rating formula established by the department of personnel:

..... $ 5,884,740

The premiums collected by the department of personnel shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in this workers' compensation fund at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the fund for subsequent fiscal years.

Sec. 19. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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 3:

..... FTEs 576.43

1. COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 10,789,038

2. STATE FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 9,717,637

3. INTERNAL RESOURCES MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 6,025,904

4. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

..... $ 45,000

5. a. In addition to the requirements in section 8.39, the department of revenue and finance shall not change the appropriations for the purposes designated in subsections 1 through 3 from the amounts appropriated in 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.

b. The department of revenue and finance shall report quarterly to the legislative fiscal bureau 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.

c. The director of revenue and finance shall report annually to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation and the legislative fiscal bureau on the implementation and financial status of the integrated

revenue information system. The report shall include any changes from the scheduled progress including expenditures or estimated revenue.

d. The director of revenue and finance shall prepare and issue a state appraisal manual and the revisions to the state appraisal manual as provided in section 421.17, subsection 18, without cost to a city or county.

Sec. 20. LOTTERY. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes for the administration and operation of lottery games, and for not more than the following full-time equivalent positions:

.....	$	7,494,998
.....	FTEs	120.00

Sec. 21. MOTOR VEHICLE FUEL TAX APPROPRIATION. There is appropriated from the motor vehicle fuel tax fund created by section 452A.77 to the department of revenue and finance for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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 452A and the motor vehicle use tax program:

.....	$	1,034,482

Sec. 22. SECRETARY OF STATE. 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, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION AND ELECTIONS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	368,508
.....	FTEs	5.00

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,745,502
.....	FTEs	32.00

Sec. 23. STATE-FEDERAL RELATIONS. There is appropriated from the general fund of the state to the office of state-federal relations for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

.....	$	240,172
.....	FTEs	3.00

Sec. 24. TREASURER. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

.....	$	902,594
.....	FTEs	27.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 25. SURCHARGE FOR THE SECOND INJURY FUND - TASK FORCE.

1. For the fiscal period commencing on the effective date of this section and ending June 30, 1997, the treasurer of state may assess a surcharge on workers' compensation weekly benefits paid in the state during the fiscal year commencing July 1, 1994. The surcharge is payable by all self-insured employers making weekly benefit payments and all insurers making weekly benefit payments on behalf of insured employers. The surcharge applies to all workers' compensation insurance policies and self-insurance coverages of employers approved for self-insurance by the commissioner of insurance pursuant to section 87.4 or 87.11, and to the state of Iowa, its departments, divisions, agencies, commissions, and boards, or any political subdivision coverages whether insured or self-insured. The surcharge shall not apply to any reinsurance or retrocessional transaction under section 520.4 or 520.9. The treasurer of state shall base the surcharge for each payor upon the payor's pro rata share of weekly benefits paid in the state during the fiscal year commencing July 1, 1994. The treasurer may use reports of weekly benefits paid derived from the last completed policy or reporting year, or other consistent allocation methodology. The surcharge is collectable by an insurer or from its policyholders if the insured employer fails to pay the insurer. An insurance carrier, its agent, or a third-party administrator shall not be entitled to any portion of the surcharge as a fee or commission for its collection. The surcharge is not subject to any taxes, licenses, or fees. The surcharge is not deemed to be an assessment or tax, but shall be deemed an additional benefit paid for injuries compensable under the second injury fund. However, the treasurer of state shall not collect over $870,000 in assessing the surcharge.

2. a. A second injury task force is created. The task force shall consist of representatives of business and labor appointed by the industrial commissioner who shall serve as chairperson of the task force. The task force shall study issues relating to the second injury fund including, but not limited to, the following:

(1) The role and purpose of the second injury fund within the workers compensation system.

(2) The source of funding for administrative expenses.

(3) The need for continuation of the second injury fund.

(4) The continuation of the surcharge imposed by this section.

b. The second injury task force shall complete its study and submit its recommendations to the chairpersons and ranking members of the standing committee on business and labor and the standing committee on labor and industrial relations of the general assembly by January 15, 1997.

c. The second injury task force is abolished upon submission of its report and recommendations to the general assembly as provided in this subsection.

3. The surcharges collected pursuant to this section shall be deposited in the second injury fund.

4. The administrative costs and expenses incurred by the treasurer of state, the attorney general, the second injury fund, or the department of revenue and finance, in connection with the second injury fund, may be paid from the fund to the extent authorized by 1995 Iowa Acts, chapter 219, section 25, and this section. However, the payment of administrative costs and expenses incurred by the treasurer of state, the attorney general, the second injury fund, and the department of revenue and finance, as authorized in this subsection, shall only be permitted for administrative costs and expenses incurred in the fiscal year commencing July 1, 1996, and ending June 30, 1997, and shall not exceed $170,000.

5. An insurer or self-insurer shall pay a surcharge imposed by this section no later than thirty days following the assessment.

6. a. If an insurer, policyholder, or self-insurer withdraws from doing business in this state before the surcharges authorized by this section become due, or fails or neglects to pay the surcharge imposed, the treasurer of state shall at once proceed to collect the surcharge, and may employ such legal process as may be necessary for that purpose, and when so collected shall deposit the surcharge into the second injury fund. The treasurer may bring the

suit in any court of this state having jurisdiction, and reasonable attorney's fees may be taxed as costs in the suit.

b. If the surcharges imposed by this section are not paid or transferred when due, the insurer, policyholder, or self-insurer responsible for the failure shall be required to pay, as part of the surcharge, interest on the surcharge at the rate of one and one-half percent per month for each month or fraction of a month delinquent. If the treasurer of state prevails in any dispute concerning the assessment of a surcharge which has not been paid or transferred, interest shall be paid upon the amount found due to the state at the rate of one and one-half percent per month for each month or fraction of a month delinquent.

c. An insurer is not liable for a surcharge which is not paid to the insurer by the policyholder or employer provided the insurer has made good faith efforts to collect the surcharge from the policyholder or employer. An insurance carrier shall report to the treasurer of state a policyholder or employer who fails to pay a surcharge within thirty days of its due date.

d. In any action concerning the amount of a surcharge imposed by this section, any other surcharge shall continue to be made based upon the amount assessed by the treasurer of state. In the event of an overpayment, the excess amount paid may be credited against future payments otherwise due.

e. An employer who fails to pay the surcharges imposed under this section shall not be allowed to purchase workers' compensation insurance coverage or to renew a self-insurance authorization unless and until the surcharge has been paid.

7. For the purposes of this section, "insurer" includes a self-insurance group approved by the commissioner of insurance pursuant to section 87.4.

Sec. 26. IMPLEMENTATION OF FUNDING REDUCTIONS - INTENT OF GENERAL ASSEMBLY. It is the intent of the general assembly that the departments, agencies, and offices of the executive department of state government shall implement funding reductions through organizational changes which reduce supervisory positions, vertically and horizontally, and increase the span of control of the remaining supervisors as recommended by the governor's committee on government spending reform.

Sec. 27. ELIMINATION OF VACANT UNFUNDED JOBS. The state departments, agencies, or offices receiving appropriations under this Act shall eliminate, within thirty days after the beginning of a fiscal year, all vacant unfunded positions on the table of organization of the state department, agency, or office.

Sec. 28. STATE COMMUNICATIONS NETWORK - REDUCTION OF TRAVEL AND RELATED EXPENSES. The offices of the governor and lieutenant governor, the office of secretary of state, the office of treasurer of state, the auditor of state, the department of commerce, the department of inspections and appeals, the Iowa ethics and campaign disclosure board, the department of general services, the department of management, the department of revenue and finance, and the department of personnel shall use the services of the state communications network as much as possible for interagency communication, meetings, and conferences to reduce travel and related expenses for the respective offices or departments.

Sec. 29. REPORT OF ADDITIONAL INCOME AND EXPENDITURES. The state departments, agencies, and offices receiving appropriations under this Act shall report all expenses in excess of the funds appropriated from any statutory revolving funds during the fiscal year beginning July 1, 1995, and ending June 30, 1996. The report shall also include any income and the beginning and ending balances of the revolving funds.

The report required pursuant to this section shall be submitted not later than September 30, 1996, for expenditures made during the fiscal year beginning July 1, 1995, and ending June 30, 1996, to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation and the legislative fiscal bureau.

Sec. 30. STUDY OF LOTTERY INTERNAL OPERATION.

1. The legislative fiscal bureau shall conduct a study of the administrative practices and advertising practices of the state lottery. The legislative fiscal bureau shall report its findings to the legislative fiscal committee, legislative council, and to the interim legislative study committee established pursuant to subsection 2.

2. The legislative council is requested to establish an interim study of the administrative practices and advertising practices of the state lottery. The study committee shall evaluate the information received from the legislative fiscal bureau pursuant to subsection 1 and make recommendations to be submitted to the legislative council and the general assembly in January 1997.

Sec. 31. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 32. Section 99D.11, subsection 6, paragraph b, Code 1995, is amended to read as follows:

b. The commission may authorize the licensee to simultaneously telecast within the racetrack enclosure, for the 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 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 a licensee that schedules no less than sixty performances of nine live races each day of the season. 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. Notwithstanding any contrary provision in this chapter, the commission may allow a licensee to adopt the same deductions as those of the pari-mutuel racetrack from which the races are being simultaneously telecast.

Sec. 33. Section 321.19, subsection 1, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

The department shall furnish, on application, free of charge, distinguishing plates for vehicles thus exempted, which plates except plates on Iowa highway safety patrol vehicles shall bear the word "official" and the department shall keep a separate record. Registration plates issued for Iowa highway safety patrol vehicles, except unmarked patrol vehicles, shall bear two red stars on a yellow background, one before and one following the registration number on the plate, which registration number shall be the officer's badge number. Registration plates issued for a county sheriff's patrol vehicles shall display one seven-pointed gold star followed by the letter "S" and the call number of the vehicle. However, the director of general services or the director of transportation may order the issuance of regular registration plates for any exempted vehicle used by peace officers in the enforcement of the law, persons enforcing chapter 124 and other laws relating to controlled substances, persons in the department of justice, the alcoholic beverages division of the department of commerce, and the department of inspections and appeals who are regularly assigned to conduct investigations which

cannot reasonably be conducted with a vehicle displaying "official" state registration plates, and persons in the lottery division of the department of revenue and finance whose regularly assigned duties relating to security or the carrying of lottery tickets cannot reasonably be conducted with a vehicle displaying "official" registration plates. For purposes of sale of exempted vehicles, the exempted governmental body, upon the sale of the exempted vehicle, may issue for in-transit purposes a pasteboard card bearing the words "Vehicle in Transit", the name of the official body from which the vehicle was purchased, together with the date of the purchase plainly marked in at least one-inch letters, and other information required by the department. The in-transit card is valid for use only within forty-eight hours after the purchase date as indicated on the bill of sale which shall be carried by the driver.

Sec. 34. EFFECTIVE DATE. Section 25 of this Act, relating to the second injury fund, being deemed of immediate importance, takes effect upon enactment.

Approved May 28, 1996, except the item which I hereby disapprove and which is designated as Section 13, unnumbered and unlettered paragraph 3 in its entirety. My reason for vetoing this item is delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2416, an Act relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, providing for legislative studies, providing an effective date, and other properly related matters.

House File 2416 is therefore approved on this date with the following exception, which I hereby disapprove.

I am unable to approve the item designated as Section 13, unnumbered and unlettered paragraph 3, in its entirety. This item would require the Department of Management to set staffing targets for agencies in terms of full-time equivalents rather than in terms of head counts. The executive branch should maintain flexibility to use reporting formats that best meet its management needs.

For the above reason, I hereby respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2416 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1212

APPROPRIATIONS - HEALTH AND HUMAN RIGHTS

S.F. 2448

AN ACT relating to and making appropriations to the department for the blind, the Iowa state civil rights commission, the department of elder affairs, the governor's alliance on substance abuse, the Iowa department of public health, the department of human rights, and the commission of veterans affairs, and providing an immediate effective date.

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

Section 1. DEPARTMENT FOR THE BLIND. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,475,737
.....	FTEs	95.00

Sec. 2. CIVIL RIGHTS COMMISSION. There is appropriated from the general fund of the state to the Iowa state civil rights commission for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,141,692
.....	FTEs	36.00

If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds $467,900 during the fiscal year beginning July 1, 1996, and ending June 30, 1997, the Iowa state civil rights commission may exceed the staffing level authorized by this section as necessary to hire additional staff to process or to support the processing of employment and housing complaints.

A first-time violation detected during or as a result of random testing to detect civil rights violations shall not result in assessment of a fine over $500.00. The intent of civil rights testing shall be educational. If this provision is determined to be illegal or unconstitutional by a court of law, or if the provision would in any way jeopardize a federal department of housing and urban development grant to the commission, the provision shall not apply.*

The questionnaire which the Iowa state civil rights commission requires an employer to complete during the course of an investigation, after a complaint against the employer has been filed, shall be revised and shortened.

Sec. 3. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

.....	$	450,918
.....	FTEs	28.00

2. For aging programs and services:

.....	$	3,076,528

*Item veto; see message at end of the Act

All funds appropriated in this subsection shall be received and disbursed by the director of elder affairs for aging programs and services, shall not be used by the department for administrative purposes, not more than $151,654 shall be used for area agencies on aging administrative purposes, and shall be used for citizens of Iowa over 60 years of age for case management for the frail elderly, mental health outreach, Alzheimer's support, retired senior volunteer program, care review committee coordination, employment, adult day care, respite care, chore services, telephone reassurance, information and assistance, and home repair services, including the winterizing of homes, and for the construction of entrance ramps which make residences accessible to the physically handicapped. Funds appropriated in this subsection may be used to supplement federal funds under federal regulations. To receive funds appropriated in this subsection, a local area agency on aging shall match the funds with funds from other sources in accordance with rules adopted by the department. Funds appropriated in 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.

The department shall maintain policies and procedures regarding Alzheimer's support and the retired senior volunteer program.

Sec. 4. GOVERNOR'S ALLIANCE ON SUBSTANCE ABUSE. There is appropriated from the general fund of the state to the governor's alliance on substance abuse for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

.....	$	304,333
.....	FTEs	10.00

2. For the Iowa substance abuse clearinghouse in Cedar Rapids for staff, materials, and operating expenses:

.....	$	32,894

Sec. 5. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. a. PLANNING AND ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,197,396
.....	FTEs	61.15

(1) Of the funds appropriated in this lettered paragraph, $738,182 shall be used for the chronic renal disease program. The types of assistance available to eligible recipients under the program may include insurance premiums, travel reimbursement, and prescription and nonprescription drugs. The program expenditures shall not exceed this allocation. If projected expenditures would exceed the allocation, 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 amount allocated in this paragraph.

(2) Hospitals shall not collect fees for birth certificates in excess of the fees as set out in the administrative rules of the Iowa department of public health.

(3) Of the funds appropriated in this lettered paragraph, $117,027 shall be used to provide regulatory oversight of accountable health plans.

(4) Of the funds appropriated in this lettered paragraph, $46,658 shall be used for the purchase, verification, updating, and storage of health data information.

The department shall compile, correlate, and disseminate data from health care providers, the state medical assistance program, third-party payors, associations, and other appropriate sources in furtherance of the purpose and intent of this appropriation.

The department shall request and receive information from other state agencies similar to that required of third-party payors for the purpose of dissemination of health data. The department may enter into agreements for studies on health-related questions and provide or make data available to health care providers, health care subscribers, third-party payors and the general public. The department may purchase data for the purpose of dissemination of health data information. The department shall assure the confidentiality of the data collected from other state agencies, hospitals, and third-party payors under chapter 22. The compilation of data information prepared for release or dissemination from the data collected shall be a public record. The department shall adopt administrative rules to address a contracting process, define confidential information, set fees to be charged for data, and prescribe the forms upon which the information is to be made available.

b. PROFESSIONAL LICENSURE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	884,900
.....	FTEs	12.00

The director of public health, when estimating expenditure requirements for the boards funded under this paragraph, shall base the budget on 85 percent of the average annual fees generated for the previous two fiscal years. The department shall confer with the boards funded under this paragraph in estimating the boards' annual fee generation and administrative costs. When the department develops each board's annual budget, a board's budget shall not exceed 85 percent of fees collected, based on the average of the previous two fiscal years. The department may expend funds in addition to amounts budgeted, if those additional expenditures are directly the result of unanticipated litigation costs arising from the discharge of the board's regulatory duties. Before the department expends or encumbers an amount in excess of the funds budgeted for a board, the director of the department of management shall approve the expenditure or encumbrance. The amounts necessary to fund the unanticipated litigation in the fiscal year beginning July 1, 1996, shall not exceed 5 percent of the average annual fees generated by the board for the previous two fiscal years.

c. EMERGENCY MEDICAL SERVICES

For salaries, support, maintenance, and emergency medical services training of emergency medical services (EMS) personnel at the state, county, and local levels and for not more than the following full-time equivalent positions:

.....	$	1,022,360
.....	FTEs	12.00

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 EMS funds available under this lettered paragraph only if the reimbursement is not available through any employer or third-party payor.

2. HEALTH PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,167,154
.....	FTEs	76.00

b. Of the funds appropriated in this subsection, $75,000 shall be used for chlamydia testing.

c. Of the funds appropriated in this subsection, $39,547 shall be used for the lead abatement program.

d. The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds appropriated in this subsection.

3. SUBSTANCE ABUSE AND HEALTH PROMOTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 633,306
..... FTEs 47.35

(1) The division shall continue to coordinate with substance abuse treatment and prevention providers regardless of funding source to assure the delivery of substance abuse treatment and prevention programs.

(2) The commission on substance abuse, in conjunction with the division, shall continue to coordinate the delivery of substance abuse services involving prevention, social and medical detoxification, and other treatment by medical and nonmedical providers to uninsured and court-ordered substance abuse patients in all counties of the state.

b. Of the funds appropriated in this subsection, $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 state university of Iowa in accomplishing these duties.

c. For program grants:

..... $ 7,990,159

(1) Of the funds appropriated in this lettered paragraph, $193,500 shall be used for the provision of aftercare services for persons completing substance abuse treatment.

(2) Of the funds appropriated in this lettered paragraph, a minimum of $950,000 shall be used by the Iowa department of public health to continue the integrated substance abuse managed care system.

4. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,415,041
..... FTEs 71.00

(1) Of the funds appropriated in this lettered paragraph, at least $587,865 shall be allocated by the division for the birth defects and genetics counseling program and of these funds, $279,402 is allocated for regional genetic counseling services contracted from the state university of Iowa hospitals and clinics under the control of the state board of regents.

(2) Of the funds appropriated in this lettered paragraph, the following amounts are allocated to the state 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:

(a) Mobile and regional child health specialty clinics:

..... $ 392,931

The regional clinic located in Sioux City shall maintain a social worker component to assist the families of children participating in the clinic program.

Of the funds allocated in this subparagraph, $97,937 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.

(b) Muscular dystrophy and related genetic disease programs:

..... $ 115,613

(c) Statewide perinatal program:

..... $ 61,693

(3) 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.

(4) The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds allocated in this lettered paragraph.

(5) Of the funds appropriated in this lettered paragraph, $1,001,209 shall be used for maternal and child health services.

(6) If during the 1996-1997 fiscal year, the federal government incorporates the special supplemental nutrition program for women, infants, and children into a block grant, the department of human services, Iowa department of public health, or any other state agency which administers the block grant shall require a competitive bid process for infant formula purchased by or for families under the block grant.

(7) The Iowa department of public health shall administer the statewide maternal and child health program, conduct mobile and regional child health specialty clinics, and conduct 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.

(8) The department shall continue efforts to realize the "Healthy Iowans 2000" goal of promoting prevention and health promotion to improve the quality of life of Iowans and to hold down health care costs and shall submit an annual "Healthy Iowans 2000" progress report to the general assembly on January 1 of each fiscal year.

(9) Of the funds appropriated in this lettered paragraph, $165,391 is allocated for the office of rural health to provide technical assistance to rural areas in the area of health care delivery.

(10) Of the funds appropriated in this lettered paragraph, $182,028 shall be used to develop, implement, and maintain rural health provider recruitment and retention efforts.

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":

..... $ 9,675

c. For grants to local boards of health for the public health nursing program:

..... $ 2,511,871

(1) Funds appropriated in this lettered 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 lettered 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.

(2) 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.

(3) In order to receive allocations under this lettered 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.

(4) If by July 30 of the 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 lettered 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 the fiscal year. If the unallocated pool is less than

$50,000, the department may allocate the pool to counties with demonstrated special needs for public health nursing.

(5) The department shall maintain rules governing the expenditure of funds appropriated in this lettered paragraph. The rules shall require each local agency receiving funds to establish and use a sliding fee scale for those persons able to pay for all or a portion of the cost of the care.

(6) 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 home care aide program:

..... $ 8,586,716

Funds appropriated in this lettered paragraph shall be used to provide home care 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 in this lettered paragraph may be used to provide chore services. The funds shall not be used for any other purposes. In providing services to elderly persons, the service provider shall coordinate efforts with the integrated case management for the frail elderly program of the department of elder affairs. As used in this lettered 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) "Home care 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 home care 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 in this lettered paragraph shall be allocated for use in the counties of the state. Fifteen percent of the amount shall be divided so that an equal amount is available for use in each county in the state. The following percentages of the remaining amount shall be allocated to each county according to that county's proportion of residents with the following demographic characteristics: 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 three most recent fiscal years for which data is available.

In order to receive allocations in this lettered paragraph, the county board of supervisors, after consultation with the local boards of health, human services county cluster boards, 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 home care 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 home care aide or chore services 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 home care 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 home care 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 home care 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 home care aide subcontracting agency shall pay the employer's contribution of social security and provide workers' compensation coverage for persons providing direct home care aide service and meet any other applicable legal requirements of an employer-employee relationship.

If by July 30 of the 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 in this lettered paragraph an unallocated pool. The department shall also identify any allocated funds which the counties do not anticipate spending during the fiscal year. If the amount of anticipated excess funds to any county is 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 the fiscal year, reallocate the funds in the unallocated pool among the counties in which the department has concluded contracts under this lettered paragraph. The department shall also review the first 10 months' expenditures for each county in May of the fiscal 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 the fiscal 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 in this lettered paragraph. The rules shall require each local agency receiving funds to establish and use a sliding fee scale for those persons able to pay for all or a portion of the cost of the services and shall require the payments to be applied to the cost of the services. The department shall also 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 home care 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 in-

stitutionalization, the extent to which the program provided or increased the availability of home care 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:

..... $ 585,337

The appropriation in this lettered paragraph shall be distributed 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:

..... $ 411,187

The physician services shall be subject to managed care and selective contracting provisions and shall be used to provide for the medical treatment of children and shall include coverage of diagnostic procedures, prescription drugs, and physician-ordered treatments necessary to treat an acute condition. Services provided under this lettered paragraph shall be reimbursed according to medical assistance reimbursement rates.

g. For primary and preventive health care for children:

..... $ 75,000

Funds appropriated in this lettered paragraph shall be 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 of $4 in advance of each state dollar provided.

(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.

h. For the Iowa healthy family program under section 135.106:

..... $ 952,000

The moneys appropriated in this lettered paragraph shall be granted pursuant to 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 415, except that the grants shall be extended through September 30, 1997. Notwithstanding the provisions of 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 416, the use of mid-level practitioners to improve access to prenatal care shall include obstetrical-gynecological nurse practitioners and family nurse practitioners focusing on maternal and child health. The department is encouraged to expand funding eligibility under the program to private physician and clinic-sponsored programs servicing low-income populations. The administrative entities of the Iowa healthy family program shall work collaboratively to assure continuity of the provision of services from the prenatal to the preschool period to an individual client by having a single resource mother work with that client. The department shall submit an annual report to the general assembly concerning the efficiency of the healthy family program and make any recommendations for improvements. Any funds contracted to agencies under this paragraph which are projected to be unused at the close of the fiscal year shall be allowed to be reallocated within the healthy family program by April 1, 1997.

The Iowa department of public health and the department of human services shall determine if expenses under any portion of the healthy family program would qualify for payment under the medical assistance program and if so, shall apply to the federal government for a medical assistance waiver. The Iowa department of public health and the department of human services shall evaluate the funding change's potential impact upon clients of the healthy family program.

Of the funds appropriated in this lettered paragraph, a minimum of $622,000 shall be used for the healthy opportunities for parents to experience success program. If funds are appropriated by the Seventy-sixth General Assembly, 1996 Session, in excess of $335,000, the excess funds shall be used by the department to expand the program to counties of greatest need.

i. For primary care provider recruitment and retention endeavors:

..... $ 235,000

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 309,768

..... 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:

..... $ 1,036,156

..... FTEs 18.00

7. STATE BOARD OF NURSING EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 981,403

..... FTEs 18.00

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 680,138

..... FTEs 11.00

9. The state board of medical examiners, the state board of pharmacy examiners, the state board of dental examiners, and the state board of nursing examiners 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. The state board of medical examiners, the state board of pharmacy examiners, the state board of dental examiners, and the state board of nursing examiners shall retain their individual executive officers, but are strongly encouraged to share administrative, clerical, and investigative staffs to the greatest extent possible.

11. A local health care provider or nonprofit health care organization seeking grant moneys administered by the Iowa department of public health shall provide documentation that the provider or organization has coordinated its services with other local entities providing similar services.

12. Consolidation of state funding sources for public health nursing, home care aid, and the senior health program into a single contract for each county, as agreed upon by the county board of supervisors and any boards of health within the county, shall be available for implementation beginning July 1, 1996. It is the department's goal to add federal funding for health promotion as federal funds become available. The department shall submit a report to the general assembly on or before January 2, 1997, which shall include an evaluation of the first year of the voluntary demonstration project and a plan to expand statewide a single source

contract for each county beginning July 1, 1997. The department may include other state and federal funding sources with the understanding that local, city, or county funds not be supplanted.

Sec. 6. DEPARTMENT OF HUMAN RIGHTS. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

..... $ 186,522
..... FTEs 6.60

2. COMMUNITY ACTION AGENCIES DIVISION

For the expenses of the community action agencies commission:

..... $ 3,366

3. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 256,167
..... FTEs 7.00

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be disbursed pursuant to the provisions of section 8.32, and shall be dedicated and used by the division for continued and expanded interpretation services.

4. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 97,765
..... FTEs 2.00

5. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 142,442
..... FTEs 3.00

6. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 323,879
..... FTEs 3.00

a. Of the funds appropriated in this subsection, at least $125,775 shall be spent for the displaced homemaker program.

b. Of the funds appropriated in this subsection, at least $42,570 shall be spent for domestic violence and sexual assault-related grants.

6A. STATUS OF WOMEN DIVISION CONTINGENT APPROPRIATION

If the general assembly does not enact a statute creating a department of workforce development with responsibility for the mentoring project for family investment program participants, the following amount for the division of the status of women to implement the mentoring project under section 239.22:

..... $ 72,000
..... FTEs 1.50

7. STATUS OF AFRICAN-AMERICANS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 105,390
..... FTEs 2.00

8. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 378,021
..... FTEs 10.05

a. The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall coordinate their efforts in carrying out their respective duties relative to juvenile justice.

b. Of the funds appropriated in this subsection, at least $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.

9. COMMUNITY GRANT FUND

For the community grant fund established under section 232.190 for the continuation of existing grants for the fiscal year beginning July 1, 1996, and ending June 30, 1997, to be used for the purposes of the community grant fund and for not more than the following full-time equivalent positions:

..... $ 1,600,000
..... FTEs 1.43

10. SHARED STAFF. Except for the persons with disabilities division which shall be administered by the director of the department of human rights, the divisions of the department of human rights shall retain their individual administrators, but shall share staff to the greatest extent possible.

Sec. 7. COMMISSION OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the commission of veterans affairs for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COMMISSION OF VETERANS AFFAIRS ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 289,510
..... FTEs 5.00

The commission of veterans affairs may use the gifts accepted by the chairperson of the commission of veterans affairs, or designee, and other resources available to the commission for use at its Camp Dodge office. The commission shall report annually to the governor and the general assembly on monetary gifts received by the commission for the Camp Dodge office.

2. WAR ORPHANS

For the war orphans educational aid fund established pursuant to chapter 35:

..... $ 4,800

3. IOWA VETERANS HOME

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 38,900,388
..... FTEs 800.82

a. The Iowa veterans home may use the gifts accepted by the chairperson of the commission of veterans affairs and other resources available to the commission for use at the Iowa veterans home.

b. If medical assistance revenues are expanded at the Iowa veterans home, and this expansion results in medical assistance reimbursements which exceed the amount budgeted for

that purpose in the fiscal year beginning July 1, 1996, and ending June 30, 1997, the Iowa veterans home may expend the excess amounts to exceed the number of full-time equivalent positions authorized in this section for the purpose of meeting related certification requirements or to provide additional beds. The expenditure of additional funds received, as outlined in this paragraph, is subject to the approval by the department of management.

*Sec. 8. *COMMUNITY GRANT FUND AND SUBSTANCE ABUSE GRANTS - FISCAL YEAR 1996. There is appropriated from the unobligated and unencumbered balance of the gamblers assistance fund for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amounts to be used for the purposes designated:*

1. COMMUNITY GRANT FUND

To the community grant fund established under section 232.190:

..... *$ 200,000*

2. SUBSTANCE ABUSE GRANTS

To the Iowa department of public health for substance abuse program grants administered by the department:

..... *$ 400,000*

The appropriations made in this section shall be in descending priority order and if the unobligated and unencumbered balance of the fund is insufficient for both appropriations, the appropriation in subsection 2 shall be reduced accordingly.

*Notwithstanding section 8.33, moneys appropriated in this section shall not revert to the gamblers assistance fund but shall remain available to be used for the purpose designated in the fiscal year beginning July 1, 1996.**

Sec. 9. DIRECT PURCHASE INCENTIVE.

1. If a department is able to demonstrate a 10 percent savings resulting from a direct purchase of equipment which is otherwise required to be purchased pursuant to a state contract, the department, after consultation with the department of general services, is authorized to make the direct purchase, notwithstanding section 18.6, subsections 1 through 7, and subsections 9 through 14, and the dollar limitation in subsection 8. To provide an incentive to encourage departments to consider direct purchasing, 50 percent of the savings realized from the direct purchase may be retained by a department, and the remaining 50 percent shall be deposited into the general fund of the state. The department of management shall monitor the savings for a one-year period beginning on July 1, 1996, and submit a report at the conclusion of the one-year period to the health and human rights appropriations subcommittee. Prior to making a purchase under this section, the department shall first determine whether goods or services are available from a targeted small business and preference shall be given to making the purchases from targeted small businesses.

2. The provisions of this section shall apply to purchases made with moneys appropriated in sections 1 through 7 of this Act.

Sec. 10. Section 22.7, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 33. Records of the Iowa department of public health pertaining to participants in the gambling treatment program except as otherwise provided in this chapter.

Sec. 11. Section 99D.7, subsection 21, Code Supplement 1995, is amended to read as follows:

21. To cooperate with the ~~gamblers assistance~~ gambling treatment program administered by the ~~department of human services~~ Iowa department of public health to incorporate information regarding the ~~gamblers assistance~~ gambling treatment program and its toll-free telephone number in printed materials distributed by the commission. The commission may require licensees to have the information available in a conspicuous place as a condition of licensure.

*Item veto; see message at end of the Act

Sec. 12. Section 99E.9, subsection 8, Code Supplement 1995, is amended to read as follows:

8. The Iowa lottery board shall cooperate with the ~~gamblers assistance~~ gambling treatment program administered by the ~~department of human services~~ Iowa department of public health to incorporate information regarding the ~~gamblers assistance~~ gambling treatment program and its toll-free telephone number in printed materials distributed by the board.

Sec. 13. Section 99E.10, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. An amount equal to three-tenths of one percent of the gross lottery revenue shall be deposited in a ~~gamblers assistance~~ gambling treatment fund in the office of the treasurer of state. The director of ~~human services~~ the Iowa department of public health shall administer the fund and shall provide that receipts are allocated on a monthly basis to fund administrative costs and to provide programs which may include, but are not limited to, outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, and education and preventive services.

Sec. 14. Section 99E.10, subsection 1, paragraph a, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Of the moneys remaining in the gambling treatment fund at the close of the fiscal year which otherwise would remain unexpended or unobligated for the purposes designated in this paragraph "a", up to four hundred thousand dollars shall be used by the Iowa department of public health for substance abuse program grants.

Sec. 15. Section 135.1, subsection 4, Code Supplement 1995, is amended to read as follows:

4. "Physician" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, ~~or~~ podiatry, or optometry under the laws of this state; but a person licensed as a physician and surgeon shall be designated as a "physician" or "surgeon", a person licensed as an osteopathic physician and surgeon shall be designated as an "osteopathic physician" or "osteopathic surgeon", a person licensed as an osteopath shall be designated as an "osteopathic physician", a person licensed as a chiropractor shall be designated as a "chiropractor", ~~and~~ a person licensed as a podiatrist shall be designated as a "podiatric physician", and a person licensed as an optometrist shall be designated as an "optometrist". A definition or designation contained in this subsection shall not be interpreted to expand the scope of practice of such licensees.

Sec. 16. Section 232.190, subsection 1, Code 1995, is amended to read as follows:

1. A community grant fund is established in the state treasury under the control of the division of criminal and juvenile justice planning of the department of human rights for the purposes of awarding grants under this section. The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall assist the division in administering grants awarded under this section. The department of human services shall advise the division on programs which meet the criteria established for grant recipients. Not more than ~~one~~ five percent of the moneys appropriated to the fund shall be used for administrative purposes.

Sec. 17. 1993 Iowa Acts, chapter 55, section 1, subsection 3, is amended to read as follows:

3. The project shall be completed on or before June 30, 1997, and existing vital records shall be converted to the electronic system by that date. Moneys appropriated pursuant to this section which remain ~~unexpended~~ unencumbered on June 30, 1997, shall revert to the general fund of the state. The remaining encumbered moneys which remain unexpended on June 30, 1998, shall revert to the general fund of the state. For the fiscal year beginning July 1, 1997, and succeeding fiscal years, the provisions of section 144.46, requiring the vital records fee to be set by rule based on the average administrative costs, shall apply.

Sec. 18. INTERPRETIVE SERVICES STUDY. The legislative council is requested to establish an interim committee to evaluate the access to and quality of interpretive services provided for the deaf and hard-of-hearing population.

Sec. 19. EFFECTIVE DATE. Section 8 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 28, 1996, except the items which I hereby disapprove and which are designated as Section 2, unnumbered and unlettered paragraph 3 in its entirety; 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 Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2448, an Act relating to and making appropriations to the Department for the Blind, the Iowa State Civil Rights Commission, the Department of Elder Affairs, the Governor's Alliance on Substance Abuse, the Iowa Department of Public Health, the Department of Human Rights, the Commission of Veterans Affairs, and providing an immediate effective date.

Senate File 2448 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, unnumbered and unlettered paragraph 3, in its entirety. This item would restrict the Iowa Civil Rights Commission in effectively enforcing Iowa's anti-discrimination laws by reducing the maximum fine that could be assessed for first time violations detected during a random test. Information received from the U.S. Department of Housing and Urban Development indicates this restriction would negatively affect the Commission's ability to contract with and obtain grants from HUD. It could also impact the Commission's continued certification as a "substantially equivalent agency" under the Fair Housing Act.

I am unable to approve the item designated as Section 8, in its entirety. This item would appropriate the balance remaining in the Gamblers Treatment Fund at the end of this fiscal year for other purposes in fiscal year 1997. This is yet another example of a bad budgeting practice in that it would fund ongoing programs from a one-time revenue source. As a result of this action, these funds will remain in the Gamblers Treatment Fund to be used to treat the increasing number of persons with gambling addictions.

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 2448 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1213

APPROPRIATIONS - HUMAN SERVICES

S.F. 2442

AN ACT relating to appropriations for the department of human services and the prevention of disabilities policy council and including other provisions and appropriations involving human services and health care and providing for effective and applicability dates.

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

Section 1. FAMILY INVESTMENT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For assistance under the family investment program under chapter 239:

..... $ 34,787,255

1. The department shall continue the special needs program under the family investment program.

2. The department may adopt administrative rules for the family investment, food stamp, and medical assistance programs to change or delete welfare reform initiatives that threaten the integrity or continuation of the program or that are not cost-effective. Prior to the adoption of rules, the department shall consult with the welfare reform council, members of the public involved in development of the policy established in the 1993 session of the Seventy-fifth General Assembly, and the chairpersons and ranking members of the human resources committees of the senate and the house of representatives.

Sec. 2. EMERGENCY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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 for homeless prevention programs:

..... $ 1,967,500

1. The emergency assistance provided for in this section shall be available beginning October 1 of the fiscal year and shall be provided only if all other publicly funded resources have been exhausted. Specifically, emergency assistance is the program of last resort and shall not supplant assistance provided by the low-income home energy assistance program (LIHEAP), county general relief, and veterans affairs programs. The department shall establish a $500 maximum payment, per family, in a twelve-month period. The emergency assistance includes, but is not limited to, assisting people who face eviction, potential eviction, or foreclosure, utility shutoff or fuel shortage, loss of heating energy supply or equipment, homelessness, utility or rental deposits, or other specified crisis which threatens family or living arrangements. The emergency assistance shall be available to migrant families who would otherwise meet eligibility criteria. The department may contract for the administration and delivery of the program. The program shall be terminated when funds are exhausted.

2. For the fiscal year beginning July 1, 1996, the department shall continue the process for the state to receive refunds of rent deposits for emergency assistance recipients which were paid by persons other than the state. The refunds received by the department under this subsection shall be deposited with the moneys of the appropriation made in this section and used as additional funds for the emergency assistance program. Notwithstanding section 8.33, moneys received by the department under this subsection which remain after the emergency assistance program is terminated and state moneys in the emergency assistance account which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure when the program resumes operation on October 1 in the succeeding fiscal year.

3. Of the funds appropriated in this section, $10,000 is allocated to the community voice mail program to continue the existing program. The funds shall be made available beginning July 1, 1996.

Sec. 3. 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, 1996, and ending June 30, 1997, 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:

..... $ 366,687,988

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. 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 for mental health, mental retardation, and developmental disabilities services under medical assistance which are jointly funded by the state and county, 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 in this section.

3. If a medical assistance recipient is more than 17 years of age and is receiving care which is reimbursed under a federally approved home and community-based services waiver but would otherwise be approved for care in an intermediate care facility for the mentally retarded, the recipient's county of legal settlement shall reimburse the department on a monthly basis for the portion of the recipient's cost of care which is not paid from federal funds.

4. a. The county of legal settlement shall be billed for 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization in accordance with sections 249A.26 and 249A.27, and 100 percent of the nonfederal share of the cost of care for adults which is reimbursed under a federally approved home and community-based waiver that would otherwise be approved for provision in an intermediate care facility for the mentally retarded, provided under the medical assistance program. The state shall have responsibility for the remaining 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization. For persons without a county of legal settlement, the state shall have responsibility for 100 percent of the nonfederal share of the costs of case management provided for adults, day treatment, partial hospitalization, and the home and community-based waiver services. The case management services specified in this subsection shall be billed to a county only if the services are provided outside of a managed care contract.

b. The state shall pay the entire nonfederal share of the costs for case management services provided to persons 17 years of age and younger who are served in a medical assistance home and community-based waiver program for persons with mental retardation.

c. Medical assistance funding for case management services for eligible persons 17 years of age and younger shall also be provided to persons residing in counties with child welfare decategorization projects implemented in accordance with section 232.188, provided these projects have included these persons in their service plan and the decategorization project county is willing to provide the nonfederal share of costs.

d. When paying the necessary and legal expenses of intermediate care facilities for the mentally retarded (ICFMR), the cost payment requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established for ICFMRs by the department and the state or a county of legal settlement is not obligated for any amount in excess of the rates.

5. The department may adopt and implement administrative rules regarding a prepaid mental health services plan for medical assistance patients. The rules shall include but not be limited to service provider standards, service reimbursement, and funding mechanisms. Notwithstanding the provisions of subsection 4, paragraph "a", of this section and section 249A.26, requiring counties to pay all or part of the nonfederal share of certain services provided to persons with disabilities under the medical assistance program, the state shall pay 100 percent of the nonfederal share of any services included in the plan implemented pursuant to this subsection.

6. The department shall utilize not more than $60,000 of the funds appropriated in this section to continue the AIDS/HIV health insurance premium payment program as established in 1992 Iowa Acts, Second Extraordinary Session, Chapter 1001, section 409, subsection 6. Of the funds allocated in this subsection, not more than $5,000 may be expended for administrative purposes.

7. Of the funds appropriated to the Iowa department of health for substance abuse grants, $950,000 for the fiscal year beginning July 1, 1996, shall be transferred to the department of human services for an integrated substance abuse managed care system.

8. The department shall implement a new medical assistance home and community-based waiver for persons with physical disabilities as a means to further develop the personal assistance services program under section 225C.46. The waiver shall not be implemented in a manner which would require additional county or state funding for assistance provided to an individual served under the waiver.

9. The department may expand the drug prior authorization program to include the therapeutic class of gastrointestinal drugs known as proton pump inhibitors. The department shall not expand the requirement of drug prior authorization without prior approval of the general assembly except to require prior authorization of an equivalent of a prescription drug which is subject to prior authorization as of June 30, 1996. The department shall adopt administrative rules to implement this provision.

*10. *The department of human services shall expand the program to administratively pursue reimbursements for pharmacy services to include all pharmacy claims for which a recipient of medical assistance also has third-party coverage.**

11. The department of human services, in consultation with the Iowa department of public health and the department of education, shall develop and implement a proposal to utilize the early and periodic screening, diagnosis, and treatment (EPSDT) funding under medical assistance, to the extent possible, to implement the screening component of the EPSDT program through the school system. The department may enter into contracts to utilize maternal and child health centers, the public health nursing program, or school nurses in implementing this provision.

12. The department shall implement the case study for outcome-based performance standards for programs serving persons with mental retardation or other developmental disabilities proposed pursuant to 1994 Iowa Acts, chapter 1170, section 56. The department shall

*Item veto; see message at end of the Act

adopt rules applicable to the programs included in the case study, request a waiver of applicable federal requirements, and take other actions deemed necessary by the department to implement the case study.

13. The department of human services shall submit a report to the general assembly on or before January 1, 1997, regarding reimbursement for teleconsultive services provided by health care providers to recipients of medical assistance. The report shall include but is not limited to recommendations regarding the feasibility of implementation of a pilot program, including the adoption and utilization of an alternative reimbursement methodology, to determine the effect of teleconsultive services on health care quality, access, and cost.

14. A member of the joint appropriations subcommittee on human services participating during the 1996 legislative interim in a planning process for long-term care provided in nursing facilities and through alternative types of care involving a national foundation held by the department in the state, is entitled to per diem and expenses payable as a joint expense under section 2.12.

Sec. 4. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... $ 6,811,400

1. The department shall continue to contract for drug utilization review under the medical assistance program.

2. The department shall negotiate with the department's contractor for mental health managed care under the medical assistance program to establish performance standards for successful outcomes for persons receiving services under the contract. The performance standards shall be incorporated into the contract or shall be made an addendum to the contract which is in effect as of the effective date of this subsection. The contractor's attainment of these performance standards shall be a factor in the department's decision to extend the contract in effect for managed mental health care or to initiate a new procurement process. Any future contract shall contain sanctions for failure to attain the performance standards. The provisions of section 228.5 as amended in this Act are applicable to the requirements of this subsection.

*3. *Any future contract entered into by the department for mental health managed care or for other services under the medical assistance program shall include a provision which requires the contractor to make public information the amount of profit realized by the contractor and the amount of funds expended by the contractor for administrative purposes under the contract.**

Sec. 5. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state supplementary assistance, funeral assistance, and the mental retardation waiver rent subsidy program:

..... $ 19,190,000

1. 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 income and federal social security benefits are increased due to a recognized increase in the cost of living. The department may adopt emergency rules to implement this subsection.

2. a. If during the fiscal year beginning July 1, 1996, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal pass-along requirement specified in Title XVI of the federal Social Security Act, section 1618, as

*Item veto; see message at end of the Act

codified in 42 U.S.C. § 1382g, the department may take actions including but not limited to increasing the personal needs allowance for residential care facility residents and making programmatic adjustments or upward adjustments of the residential care facility or in-home health-related care reimbursement rates prescribed in this Act to ensure that federal requirements are met. The department may adopt emergency rules to implement the provisions of this subsection.

b. If during the fiscal year beginning July 1, 1996, the department projects that state supplementary assistance expenditures will exceed the amount appropriated, the department may transfer funds appropriated in this Act for medical assistance for the purposes of the state supplementary assistance program. However, funds shall only be transferred from the medical assistance appropriation if the funds transferred are projected to be in excess of the funds necessary for the medical assistance program.

3. The department may use up to $75,000 of the funds appropriated in this section for a rent subsidy program for adult persons to whom all of the following apply:

a. Are receiving assistance under the medical assistance home and community-based services for persons with mental retardation (HCBS/MR) program.

b. Were discharged from an intermediate care facility for the mentally retarded (ICFMR) immediately prior to receiving HCBS/MR services.

The goal of the subsidy program shall be to encourage and assist in enabling persons who currently reside in an ICFMR to move to a community living arrangement. An eligible person may receive assistance in meeting their rental expense and, in the initial two months of eligibility, in purchasing necessary household furnishings and supplies. The program shall be implemented so that it does not meet the federal definition of state supplementary assistance and will not impact the federal pass-along requirement specified in Title XVI of the federal Social Security Act, section 1618, as codified in 42 U.S.C. § 1382g.

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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For protective child day care assistance and state child care assistance:

..... $ 12,547,100

1. Of the funds appropriated in this section, $2,496,286 shall be used for protective child day care assistance.

2. Of the funds appropriated in this section, $8,180,889 shall be used for state child care assistance.

3. For the purposes of this subsection, the term "poverty level" means the poverty level defined by the poverty income guidelines published by the United States department of health and human services. Based upon the availability of the funding provided in subsection 2 the department shall establish waiting lists for state child care assistance in descending order of prioritization as follows:

a. Families with an income at or below 100 percent of the federal poverty level whose members are employed at least 30 hours per week, and parents with a family income at or below 100 percent of the federal poverty level who are under the age of 21 and are participating in an educational program leading to a high school diploma or equivalent.

b. Parents with a family income at or below 100 percent of the federal poverty level who are under the age of 21 and are participating, at a satisfactory level, in an approved training program or in an educational program.

c. Families with an income of more than 100 percent but not more than 110 percent of the federal poverty level whose members are employed at least 30 hours per week. Assistance provided to families pursuant to this paragraph shall be provided in accordance with a sliding fee scale developed by the department. If, pursuant to an evaluation of expenditures for state child care assistance it is determined that sufficient funding is available, the department shall implement the provisions of this paragraph on or before January 2, 1997.

d. Families with an income at or below 155 percent of the federal poverty level with a special needs child as a member of the family.

e. Families with an income at or below 100 percent of the federal poverty level whose members are employed part-time at least 20 hours per week.

The department may adopt emergency rules to implement the provisions of this subsection.

4. a. Migrant seasonal farm worker families whose family income is equal to or less than 100 percent of the United States office of management and budget poverty guidelines are eligible for state child care assistance. The monthly family income shall be determined by calculating the total amount of family income earned during the 12-month period preceding the date of application for the assistance and dividing the total amount by 12.

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 consistent with the requirements of this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated in this section.

5. If the department projects that funding for state child care assistance is reasonably adequate to fund the provisions of subsection 3, paragraphs "a", "b", and "c", the department may transfer not more than $200,000 of the funding appropriated in this section to the appropriation in this Act for child and family services to provide additional funding for family-centered services.

6. Of the funds appropriated in this section, $636,641 is allocated for the statewide program for child day care resource and referral services under section 237A.26.

7. The department may use any of the funds appropriated in this section as a match to obtain federal funds for use in expanding child day care assistance and related programs.

8. Of the funds appropriated in this section, $1,178,284 is allocated for transitional child care assistance.

9. During the 1996-1997 fiscal year, the department shall utilize the moneys deposited in the child day care credit fund created in section 237A.28 for state child care assistance, in addition to the moneys allocated for that purpose in this section.

*10. *Of the funds appropriated in this section, the department shall expend not more than $20,000 to develop a system in cooperation with child day care resource and referral services under section 237A.26, in which volunteer evaluation teams are utilized to review and inspect registered family day care homes on behalf of the department. The department shall also review requirements for payment of publicly funded child day care, including but not limited to the effects on providers and the state budget of paying for child day care on a daily basis, block-of-hours basis, or hourly basis. The department shall review the policy implications of encouraging family day care home registration by providing an enhanced reimbursement for family day care homes that are registered. In addition, the department shall develop a proposal for a disproportionate share reimbursement adjustment for the child day care providers for which 75 percent or more of the children provided care receive public funding for the cost of their care. The department shall submit a report to the general assembly on or before January 15, 1997, which includes recommendations concerning the issues required by this subsection.**

11. Of the funds appropriated in this section, $35,000 is allocated for use by the united Mexican-American center in Des Moines for the center's child day care program.

*12. *A family who was eligible for and received state child care assistance during the fiscal year beginning July 1, 1995, shall continue to receive the assistance in the succeeding fiscal year for as long as the family continues to meet the eligibility requirements in effect for the fiscal year beginning July 1, 1995.*

*13. *Notwithstanding section 8.33, moneys appropriated to the department of human services for state child care assistance in 1996 Iowa Acts, House File 2114, section 2, which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure in the succeeding fiscal year.**

*Item veto; see message at end of the Act

Sec. 7. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the federal-state job opportunities and basic skills (JOBS) program, food stamp employment and training program, family development and self-sufficiency grants, entrepreneurial training, and implementing family investment agreements, in accordance with this section:

..... $ 12,601,592

1. Of the funds appropriated in this section, $11,692,292 is allocated for the JOBS program. For family investment agreements developed in the fiscal year beginning July 1, 1996, the maximum time period for postsecondary education is limited to two years.

2. The department shall continue to contract for services in developing, delivering, and monitoring an entrepreneurial training waiver program to provide technical assistance in self-employment training to families which receive assistance under the family investment program, contingent upon federal approval of waiver renewal requests.

3. Of the funds appropriated in this section, $129,985 is allocated for the food stamp employment and training program.

4. Of the funds appropriated in this section, $779,315 is allocated to the family development and self-sufficiency grant program as provided under section 217.12.

a. Not more than 5 percent of the funds allocated in this subsection shall be used for the administration of the grant program.

b. Federal funding matched by state, county, or other funding which is not appropriated in this section shall be deposited in the department's JOBS account. If the match funding is generated by a family development and self-sufficiency grantee, the federal funding received shall be used to expand the family development and self-sufficiency grant program. If the match funding is generated by another source, the federal funding received shall be used to expand the grant program or the JOBS program. The department may adopt rules to implement the provisions of this paragraph.

c. Based upon the annual evaluation report concerning each grantee funded by this allocation, the family development and self-sufficiency council may use funds allocated to renew grants.

Sec. 8. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child support recovery, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 6,517,000
..... FTEs 226.22

1. The director of human services, within the limitations of the funds appropriated in this section, or funds transferred from the family investment program appropriation for this purpose, shall establish new positions and add employees to the child support recovery unit if the director determines that both the current and additional employees together can reasonably be expected to maintain or increase net state revenue at or beyond the budgeted level. If the director adds employees, the department shall demonstrate the cost-effectiveness of the current and additional employees by reporting to the joint appropriations subcommittee on human services the ratio of the total amount of administrative costs for child support recoveries to the total amount of the child support recovered.

2. Nonpublic assistance application fees and federal tax refund offsets received by the child support recovery unit are appropriated and shall be used for the purposes of the child support recovery program. The director of human services may add positions within the

limitations of the amount appropriated for salaries and support for the positions. The director shall report any positions added pursuant to this subsection to the chairpersons and ranking members of the joint appropriations subcommittee on human services and the legislative fiscal bureau.

3. The director of human services, in consultation with the department of management and the legislative fiscal committee, is authorized to receive and deposit state child support incentive earnings in the manner specified under applicable federal requirements.

4. The director of human services may establish new positions and add state employees to the child support recovery unit if the director determines the employees are necessary to replace county-funded positions eliminated due to termination, reduction, or nonrenewal of a chapter 28E contract. However, the director must also determine that the resulting increase in the state share of child support recovery incentives exceeds the cost of the positions, the positions are necessary to ensure continued federal funding of the program, or the new positions can reasonably be expected to recover at least twice the amount of money necessary to pay the salaries and support for the new positions.

5. The child support recovery unit shall continue to work with the judicial department to determine the feasibility of a pilot project utilizing a court-appointed referee for judicial determinations on child support matters. The extent and location of any pilot project shall be jointly developed by the judicial department and the child support recovery unit.

6. The department shall expend up to $50,000, including federal financial participation, for the fiscal year beginning July 1, 1996, for a child support public awareness campaign. The department shall cooperate with the office of the attorney general in continuation of the campaign. The public awareness campaign shall emphasize, through a variety of media activities and through continuation of the publication of names of persons who are delinquent in payment of child support obligations, the importance of maximum involvement of both parents in the lives of their children as well as the importance of payment of child support obligations.

7. The department shall continue the pilot program option to provide and supervise a community service pilot project for absent parents who are ordered by the court to perform community service for failure to pay child support pursuant to section 598.23A.

8. The director of human services may enter a contract with private collection agencies to collect support payments for cases which have been identified by the department as difficult collection cases if the department determines that this form of collection is more cost effective than departmental collection methods. The director may use a portion of the state share of funds collected through this means to pay the costs of any contracts authorized under this subsection.

9. The department shall employ on or before July 2, 1996, at least 1.00 FTE to respond to telephone inquiries during all weekly business hours.

10. The department shall develop guidelines to be used in lieu of the child support guidelines prescribed under section 598.21, subsection 4, for establishing a support obligation and the amount of the support debt accrued and accruing pursuant to section 234.39 for the costs of foster care services. The proposed guidelines shall reflect the public purpose of establishing a support obligation without causing a serious disruption of the family of the obligor. The department shall submit the proposed guidelines to the general assembly on or before January 15, 1997.

Sec. 9. 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, 1996, and ending June 30, 1997, 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, and miscellaneous purposes and for not more than the following full-time equivalent positions:

For the state juvenile institutions:

.....	$	13,769,809
.....	FTEs	320.77

1. The following amounts of the funds appropriated and full-time equivalent positions authorized in this section are allocated for the Iowa juvenile home at Toledo:

..... $ 5,130,863

..... FTEs 118.54

2. The following amounts of the funds appropriated and full-time equivalent positions authorized in this section are allocated for the state training school at Eldora:

..... $ 8,638,946

..... FTEs 202.23

3. During the fiscal year beginning July 1, 1996, the population levels at the state juvenile institutions shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21.

4. Of the funds appropriated in this section, $10,000 shall be used by the state training school and $8,000 by the Iowa juvenile home for grants for adolescent pregnancy prevention activities at the institutions in the fiscal year beginning July 1, 1996.

5. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

Sec. 10. CHILD AND FAMILY SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... $ 85,460,607

1. The department may transfer moneys appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under medical assistance or the family investment program which are provided to children who would otherwise receive services paid under the appropriation in this section. The department may transfer funds appropriated in this section to the appropriations in this Act for general administration and for field operations for resources necessary to implement and operate the services funded in this section.

2. a. Of the funds appropriated in this section, up to $24,601,280 is allocated as the statewide expenditure target under section 232.143 for group foster care maintenance and services.

b. The department shall report quarterly to the legislative fiscal bureau concerning the status of each region's efforts to contain expenditures for group foster care placements in accordance with the regional plan established pursuant to section 232.143.

c. The department shall not certify any additional enhanced residential treatment beds, unless the director of human services approves the beds as necessary, based on the type of children to be served and the location of the enhanced residential treatment beds.

d. (1) Of the funds appropriated in this section, not more than $6,538,215 is allocated as the state match funding for psychiatric medical institutions for children.

(2) The department may transfer all or a portion of the funds appropriated in this section for psychiatric medical institutions for children (PMICs) to the appropriation in this Act for medical assistance and may amend the managed mental health care contract to include PMICs.

e. Of the funds allocated in this subsection, not more than $1,077,995 is allocated as the state match funding for 50 highly structured juvenile program beds.

3. The department shall establish a goal that not more than 15 percent of the children placed in foster care funded under the federal Social Security Act, Title IV-E, may be placed in foster care for a period of more than 24 months.

4. In accordance with the provisions of section 232.188, the department shall continue the program to decategorize child welfare services in additional counties or clusters of counties.

5. Of the funds appropriated in this section, up to $96,512 is allocated for continued foster care services to a child who is 18 years of age or older in accordance with the provisions of

section 234.35, subsection 3, paragraph "c". However, if funding in this appropriation would remain unobligated at the end of the fiscal year, the allocation in this subsection may be exceeded to the extent necessary to provide the continued foster care services. The department shall distribute the moneys allocated in this subsection to the department's regions based on each region's proportion of the total number of children placed in foster care on March 31 preceding the beginning of the fiscal year, who, during the fiscal year would no longer be eligible for foster care due to age.

6. Notwithstanding section 232.142, subsection 3, the financial aid paid by the state for the establishment, improvements, operation, and maintenance of county or multicounty juvenile detention homes in the fiscal year beginning July 1, 1996, shall be limited to $872,500. Funds allocated in this subsection shall be prorated among eligible detention homes.

7. The amount of the appropriation made in this section available for foster care is based upon expansion of the number of children in foster care who are eligible for federal supplemental security income (SSI). The department may use up to $300,000 of those funds to enter into a performance-based contract to secure SSI benefits for children placed in foster care. The contract shall include provisions for training of department of human services and juvenile court staff, completion of applications, tracking of application results, and representation during the appeals process whenever an appeal is necessary to secure SSI benefits. Notwithstanding section 217.30 and section 232.2, subsection 11, and any other provision of law to the contrary, the director or the director's designee on behalf of a child in foster care may release medical, mental health, substance abuse, or any other information necessary only to determine the child's eligibility for SSI benefits, and may sign releases for the information. In any release of information made pursuant to this subsection, confidentiality shall be maintained to the maximum extent possible.

8. A portion of the funds appropriated in this section may be used for emergency family assistance to provide other resources required for a family participating in a family preservation or reunification project to stay together or to be reunified.

9. Notwithstanding section 234.35, subsection 1, for the fiscal year beginning July 1, 1996, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to $3,223,732. The department shall develop a formula in consultation with the shelter care committee created by the department to allocate shelter care funds to the department's regions. The formula shall be based on the region's proportion of the state population of children and historical usage. The department may adopt emergency rules to implement the provisions of this subsection.

10. Of the funds appropriated in this section, not more than $527,137 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. The department may transfer funds as necessary from the appropriations in this Act for field operations and general administration to implement this subsection. Moneys allocated in accordance with this subsection shall be considered encumbered for the purposes of section 8.33.

11. Of the funds appropriated in this section, up to $619,433 may be used as determined by the department for any of the following purposes:

a. For general administration of the department to improve staff training efforts.

b. For oversight of termination of parental rights and permanency planning efforts on a statewide basis.

c. For personnel, assigned by the attorney general, to provide additional services relating to termination of parental rights and child in need of assistance cases.

d. For specialized permanency planning field operations staff.

12. The department may adopt administrative rules following consultation with child welfare services providers to implement outcome-based child welfare services pilot projects. The rules may include, but are not limited to, the development of program descriptions, provider licensing and certification standards, reimbursement and payment amounts, contract requirements, assessment and service necessity requirements, eligibility criteria, claims submission procedures, and accountability standards.

13. Of the funds appropriated in this section, up to $125,340 may be used to develop, in cooperation with providers of children and family services, a performance-based monitoring program to evaluate and improve outcomes for children and families. The department may adopt administrative rules to implement this subsection.

14. The department may develop, within the funds available, a pilot kinship care project to enhance family involvement in the development of the permanency plan required under chapter 232 for children who are removed from their homes. The project components may include family involvement before and after removal of the child and shall stress safety for the child.

15. Within the funds appropriated in this section, the department may develop a subsidized guardianship program to provide financial assistance to guardians of children who have a permanency order under section 232.104, subsection 2, paragraph "d", subparagraph (1), in cases in which all of the following conditions exist:

a. The option of reunification has been eliminated and termination of parental rights is not appropriate.

b. The child has lived with the potential guardian for at least six months.

c. The child is either 14 years of age or older or, if under 14 years of age, is part of a sibling group and cannot be made available for adoption.

d. The placement does not require departmental supervision.

The financial assistance provided shall be in the same amount as provided for family foster care. For purposes of medical assistance and child support recovery, these payments shall be considered foster care payments.

16. The department shall continue to make adoption presubsidy and adoption subsidy payments to adoptive parents at the beginning of the month for the current month.

17. If Title XIX of the federal Social Security Act is repealed prior to January 17, 1997, and the state is otherwise authorized to establish requirements for providing health and rehabilitative services to persons who would be eligible for medical assistance under chapter 249A, the department shall eliminate the clinical assessment and consultation teams operating as part of the medical assistance children's rehabilitative services initiative. The provisions of this subsection shall apply through January 16, 1997.

18. Federal funds received by the state during the fiscal years beginning July 1, 1995, and July 1, 1996, as the result of the expenditure of state funds appropriated during a previous state fiscal year for a service or activity funded under this section shall be used as additional funding for services provided under this section. Moneys received by the department in accordance with the provisions of this section shall remain available for the purposes designated until June 30, 1998.

19. The department may adopt emergency rules to revise administrative rules relating to rehabilitative treatment services under the child welfare program as necessary to comply with federal requirements to maintain nonstate funding.

20. The department in cooperation with the department of education shall collect data to determine the number of children for whom sheltered workshops and supported employment will be required during the period beginning July 1, 1997, through June 30, 2002. The department shall report the findings of the study to the general assembly by January 2, 1997.

21. Of the funds appropriated in this section, up to $150,000 shall be transferred to the Iowa healthy kids trust fund for use by the division of insurance of the department of commerce for planning, administration, and implementation of the Iowa healthy kids program as established in chapter 514I as enacted in this Act.

Sec. 11. COMMUNITY-BASED PROGRAMS – ADOLESCENT PREGNANCY PREVENTION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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 family planning services are funded, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 2,635,146
..... FTEs 1.00

1. Of the funds appropriated in this section, $736,146 shall be used for adolescent pregnancy prevention grants, including not more than $156,048 for programs to prevent pregnancies during the adolescent years and to provide support services for pregnant or parenting adolescents. It is the intent of the general assembly that by July 1, 1998, grants awarded under this subsection be required to meet the criteria under subsection 2 including the provision of community-wide services within the proximity of the community or region.

2. Of the funds appropriated in this section, $298,000 shall be used for grants to community or regional groups which demonstrate broad-based representation from community representatives including but not limited to schools, churches, human service-related organizations, and businesses. Priority in the awarding of grants shall be given to groups which provide services to both urban and rural areas within the proximity of the community or region and which provide age-appropriate programs adapted for both male and female youth at the elementary, middle, and high school levels. A program shall focus on the prevention of initial pregnancies during the adolescent years by emphasizing sexual abstinence as the only completely safe and effective means of avoiding pregnancy and sexually transmitted diseases and by providing information regarding the comparative failure rates of contraceptives, and by emphasizing responsible decision making in relationships, managing of peer and social pressures, development of self-esteem, the costs and responsibilities of parenting, and information regarding the alternative of adoption for placement of a child. The program shall also include an evaluation and assessment component which includes evaluation of and recommendations for improvement of the program by the youth and parents involved. Evaluation and assessment reports shall be provided to the department of human services, at a time determined by the department in the grant award. Community or regional groups interested in applying for a grant under this subsection may be issued a planning grant or may utilize grant moneys for the costs of technical assistance to analyze community needs, match service providers to needs, negotiate service provision strategies, or other assistance to focus grant services provided under this subsection. The technical assistance may be provided by organizations affiliated with institutions under the authority of the state board of regents or other organizations experienced in providing technical assistance concerning similar services.

3. The department of human services, in cooperation with the Iowa department of public health, shall determine the criteria to be used in measuring the results of all pregnancy prevention programs for which funds are allocated in this section. The criteria to be used shall be made available to the interim committee established in subsection 4.

4. The legislative council is requested to established* a legislative interim committee during the 1996 interim of the general assembly to evaluate the effectiveness of current and proposed adolescent pregnancy prevention programs.

5. Of the funds appropriated in this section, $846,014 shall be used by the department for child abuse prevention grants. ***Of the funds allocated in this subsection, $115,000 shall be transferred to the Iowa department of public health for the Iowa healthy family program under section 135.106, to be expended in accordance with the provisions relating to this program in 1996 Iowa Acts, Senate File 2448.***

Sec. 12. COURT-ORDERED SERVICES PROVIDED TO JUVENILES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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*According to enrolled Act
**Item veto; see message at end of the Act

Payment of the expenses of court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141, subsection 4:

..... $ 3,090,000

1. Notwithstanding section 232.141 or any other provision of law, the funds appropriated in this section shall be allocated to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination on the allocations on or before June 15.

2. a. Each judicial district shall continue the planning group for the court-ordered services for juveniles provided in that district which was established pursuant to 1991 Iowa Acts, chapter 267, section 119. A planning group shall continue to perform its duties as specified in that law. Reimbursement rates for providers of court-ordered evaluation and treatment services paid under section 232.141, subsection 4, shall be negotiated with providers by each judicial district's planning group.

b. Each district planning group shall submit an annual report in January to the state court administrator and the department of human services. The report shall cover the preceding fiscal year and shall include a preliminary report on the current fiscal year. The administrator and the department shall compile these reports and submit the reports to the chairpersons and ranking members of the joint appropriations subcommittee on human services and the legislative fiscal bureau.

3. The department of human services shall develop policies and procedures to ensure that the funds appropriated in this section are spent only after all other reasonable actions have been taken to utilize other funding sources and community-based services. The policies and procedures shall be designed to achieve the following objectives relating to services provided under chapter 232:

a. Maximize the utilization of funds which may be available from the medical assistance program including usage of the early and periodic screening, diagnosis, and treatment (EPSDT) program.

b. Recover payments from any third-party insurance carrier which is liable for coverage of the services, including health insurance coverage.

c. Pursue development of agreements with regularly utilized out-of-state service providers which are intended to reduce per diem costs paid to those providers.

4. The department of human services, in consultation with the state court administrator and the judicial district planning groups, shall compile a monthly report describing spending in the districts for court-ordered services for juveniles, including the utilization of the medical assistance program. The reports shall be submitted on or before the twentieth day of each month to the chairpersons and ranking members of the joint appropriations subcommittee on human services and the legislative fiscal bureau.

5. Notwithstanding chapter 232 or any other provision of law, a district or juvenile court in a department of human services district shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient court-ordered services funds available in the district allocation to pay for the service. The chief juvenile court officer shall work with the judicial district planning group to encourage use of the funds appropriated in this section such that there are sufficient funds to pay for all court-related services during the entire year. The eight chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the allocations and shall cooperatively request the state court administrator to transfer funds between the districts' allocations as prudent.

6. Notwithstanding any provision of law to the contrary, a district or juvenile court shall not order a county to pay for any service provided to a juvenile pursuant to an order entered under chapter 232 which is a charge upon the state under section 232.141, subsection 4.

7. Of the funds appropriated in this section, not more than $100,000 may be used by the judicial department for administration of the requirements under this section and for travel associated with court-ordered placements which are a charge upon the state pursuant to section 232.141, subsection 4.

8. Of the funds appropriated in this section, not more than $400,000 may be transferred to the appropriation in this Act for child and family services and used to provide school-based supervision of children adjudicated under chapter 232.

Sec. 13. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the state mental health institutes for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 41,537,333
..... FTEs 927.16

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State mental health institute at Cherokee:

..... $ 13,581,308
..... FTEs 306.04

b. State mental health institute at Clarinda:

..... $ 6,172,607
..... FTEs 136.82

c. State mental health institute at Independence:

..... $ 16,946,094
..... FTEs 401.82

d. State mental health institute at Mount Pleasant:

..... $ 4,837,324
..... FTEs 82.48

2. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

3. As part of the discharge planning process at the state mental health institutes, the department shall provide assistance in obtaining eligibility for federal supplemental security income (SSI) to those individuals whose care at a state mental health institute is the financial responsibility of the state.

Sec. 14. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the state hospital-schools, for salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 62,029,824
..... FTEs 1,516.00

1. The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

a. State hospital-school at Glenwood:

..... $ 35,070,700
..... FTEs 872.50

b. State hospital-school at Woodward:

..... $ 26,959,124
..... FTEs 643.50

2. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

Sec. 15. MENTAL ILLNESS 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental illness special services:

..... $ 121,220

1. The department and the Iowa finance authority shall develop methods to implement the financing for existing community-based facilities and to implement financing for the development of affordable community-based housing facilities. The department shall assure that clients are referred to the housing as it is developed.

2. The funds appropriated in this section are to provide funds for construction and start-up costs to develop community living arrangements to provide for persons with mental illness who are homeless. These funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.

Sec. 16. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used by the division of children and family services for the purpose designated:

For the family support subsidy program:

..... $ 1,344,000

The division of children and family services shall utilize not more than $200,000 of the funds appropriated in this section to implement a pilot project of the children-at-home component under the comprehensive family support program in at least one rural and one urban county. Not more than $50,000 of the funds allocated in this paragraph shall be used for administrative costs.

Sec. 17. 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, 1996, and ending June 30, 1997, 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:

..... $ 53,212

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. 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 the special needs grants with the family support subsidy program and an annual report concerning the characteristics of the grantees shall be provided to the legislative fiscal bureau.

Sec. 18. MI/MR/DD STATE CASES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purchase of local services for persons with mental illness, mental retardation, and developmental disabilities where the client has no established county of legal settlement:

..... $ 5,454,000

If a county has a county management plan which is approved by the director of human services pursuant to section 331.439, the services paid for under this section are exempt from the department's purchase of service system requirements. The department shall adopt rules to implement the provisions of this paragraph.

Sec. 19. MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES – COMMUNITY SERVICES FUND. There is appropriated from the general fund of the state to the mental health and developmental disabilities community services fund created in section 225C.7 for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental health and developmental disabilities community services in accordance with this Act:

..... $ 16,230,000

1. Of the funds appropriated in this section, $15,951,138 shall be allocated to counties for funding of community-based mental health and developmental disabilities services. The moneys shall be allocated to a county as follows:

a. Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

b. Fifty percent based upon the county's proportion of the state's general population.

2. a. A county shall utilize the funding the county receives pursuant to subsection 1 for services provided to persons with a disability, as defined in section 225C.2. However, no more than 50 percent of the funding shall be used for services provided to any one of the service populations.

b. A county shall use at least 50 percent of the funding the county receives under subsection 1 for contemporary services provided to persons with a disability, as described in rules adopted by the department.

3. Of the funds appropriated in this section, $30,000 shall be used to support the Iowa compass program providing computerized information and referral services for Iowans with disabilities and their families.

4. The department shall submit an annual report concerning each population served and each service funded in this section to the chairpersons and ranking members of the joint appropriations subcommittee on human services and the legislative fiscal bureau.

5. Of the funds appropriated in this section, not more than $248,862 shall be provided to those counties having supplemental per diem contracts in effect on June 30, 1994, which were originally initiated under 1993 Iowa Acts, chapter 172, section 16, subsection 2. The amount provided to each county shall be equal to the amount the county would be eligible to receive under the supplemental per diem contracts in effect on June 30, 1994, if the contracts were continued in effect for the entire fiscal year beginning July 1, 1996.

6. a. Funding from the federal social services block grant in the amount of $13,038,763 is allocated for distribution to counties for local purchase of services for persons with mental illness or mental retardation or other developmental disability.

b. The funds allocated in this subsection shall be expended by counties in accordance with eligibility guidelines established in the department's rules outlining general provisions for service administration. Services eligible for payment with funds allocated in this subsection are limited to any of the following which are provided in accordance with the department's administrative rules for the services: adult support, adult day care, administrative support for volunteers, community supervised apartment living arrangements, residential services for adults, sheltered work, supported employment, supported work training, transportation, and work activity.

c. In purchasing services with funds allocated in this subsection, a county shall designate a person to provide for eligibility determination and development of a case plan for individuals for whom the services are purchased. The designated person shall be a medical assistance case manager serving the person's county of residence. If an individual does not have a case manager, the individual's eligibility shall be determined by a social services caseworker of the department serving the individual's county of residence. The case plan shall be developed in accordance with the department's rules outlining general provisions for service administration.

d. Services purchased with funds allocated in this subsection must be the result of a referral by the person who identified the services in developing the individual's case plan.

e. Services purchased with funds allocated in this subsection must be under a purchase of service contract established in accordance with the department's administrative rules for purchase of service.

f. The funds provided by this subsection shall be allocated to each county as follows:

(1) Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

(2) Fifty percent based upon the amount provided to the county for local purchase of services in the preceding fiscal year.

g. Each county shall submit to the department a plan for funding of the services eligible for payment under this subsection. The plan may provide for allocation of the funds for one or more of the eligible services. The plan shall identify the funding amount the county allocates for each service and the time period for which the funding will be available. Only those services which have funding allocated in the plan are eligible for payment with funds provided in this subsection.

h. A county shall provide advance notice to the individual receiving services, the service provider, and the person responsible for developing the case plan of the date the county determines that funding will no longer be available for a service.

i. The moneys provided under this subsection do not establish an entitlement to the services funded under this subsection.

7. If a county has a county management plan which is approved by the director of human services pursuant to section 331.439, the county shall be considered to have met the requirements of subsection 2, and subsection 6, paragraphs "b", "c", "d", "e", and "g". The department shall adopt rules to implement the provisions of this subsection.

Sec. 20. PERSONAL ASSISTANCE – FAMILY SUPPORT. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount or so much thereof as is necessary, to be used for the purpose designated:

For continuation of a pilot project for the personal assistance services program in accordance with this section:

..... $ 364,000

The funds appropriated in this section shall be used by the division of children and family services to continue the pilot project for the personal assistance services program under section 225C.46 in an urban and a rural area. A portion of the funds may be used for costs to develop a federal home and community-based waiver under the medical assistance program for persons with physical disabilities or other expenditures necessary to develop the personal assistance program in the most appropriate and cost-effective manner. However, not more than $50,000 shall be used for administrative costs. The pilot project and the waiver shall not be implemented in a manner that would require additional county or state costs for assistance provided to an individual served under the pilot project or the waiver.

Sec. 21. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For field operations, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 38,483,998
..... FTEs 2,019.00

Sec. 22. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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For general administration, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 11,917,316

..... FTEs 401.00

1. Of the funds appropriated in this section, $57,090 is allocated for the prevention of disabilities policy council established in section 225B.3.

2. *a. *Except as provided under this subsection and under the appropriation in this Act to the legislative council, the department shall not implement the options for service system modification developed by the department's modification teams in response to proposed federal action and shall not implement other actions in response to enacted federal changes affecting the programs administered by the department unless the department is implementing a policy or action authorized in law by the Seventy-sixth General Assembly, 1996 Session, or by the Seventy-seventh General Assembly.**

b. The department may make changes to the requirements for periodic reporting by participants under the family investment program, food stamp program, or medical assistance program if the changes would result in a reduction in paperwork for the participants and for department staff. If a federal waiver is necessary to implement a change, the department may submit the waiver request to the United States departments of health and human services and agriculture, as applicable. If the department elects to submit a waiver request or to adopt rules to implement a change under this paragraph, the department shall first consult with a group similar to the work group that considered the state human investment policy proposal or with a successor interagency task force which makes recommendations concerning the family investment program, and shall share the proposals with the chairpersons and ranking members of the committees on human resources of the senate and house of representatives.

c. If implementation of the request would result in increased federal funding and would permit greater flexibility in service funding, the department may submit a waiver request to the United States department of health and human services for Title IV-E funding to be provided to the state in a fixed amount. Prior to submission of the request, the department shall consult with representatives of the juvenile court and service providers.

Sec. 23. DEPARTMENT OF HUMAN SERVICES RESTRUCTURING TASK FORCE ON THE FUTURE OF HUMAN SERVICES. **There is appropriated from the general fund of the state to the legislative council for the fiscal period beginning July 1, 1996, and ending June 30, 1998, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For expenses associated with the activities of the task force for assessing the structure and function of the department of human services and human services programs in accordance with this section:

..... $ *75,000**

1. The legislative council shall establish a task force to develop a comprehensive proposal for changing the role and function of the department of human services and its programs. The purpose of the changes is to improve services to Iowans through the creation of new federal, state, and local partnerships. The task force shall make recommendations regarding restructuring the department of human services in order to achieve better human services results, to improve the quality of service delivery, and to increase the quality of the department's interaction with the public. The task force may also assess program duplication and linkages with other federal, state, or local programs or funding streams.

2. The task force shall be composed of not more than 21 members appointed by the legislative council and shall include not more than five individuals recommended by the governor and legislators who are members of the joint appropriations subcommittee on human services and other knowledgeable legislators designated by the legislative council. The task force may use moneys appropriated in this section for technical assistance. The task force shall consult with service consumers, experts who are representative of organizations such as

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nonprofit service organizations, health insurers, and human services-oriented community organizations, representatives of local governments, representatives of state agencies, federal officials with expertise or responsibilities regarding human services in Iowa, and others, as determined by the task force. An interim report shall be completed prior to the convening of the Seventy-seventh General Assembly.

The task force shall provide for public input concerning the four modification proposals developed by the department in response to proposed federal actions submitted to the joint appropriations subcommittee on human services in February 1996.

The task force may establish work groups to assist in the task force's consideration of the modification proposals which may include the following:

a. A review of the child welfare modification proposal which may include input from representatives of the juvenile court, service providers, families receiving services, the attorney general, representatives of local governments, representatives of state agencies, and other citizens and officials.

b. A review of the mental health and developmental disabilities proposal which shall incorporate issues associated with implementation of the funding reform enacted in 1995 Iowa Acts, chapter 206; usage of service providers such as intermediate care facilities for the mentally retarded, state institutions, and other services for persons with disabilities; distribution of services throughout the state; and other issues. In addition, the review shall consider a proposal to replace the single contract for managed care under medical assistance with not more than four regional plans utilizing collaborations between community mental health centers as umbrella agencies.

c. A review of the family investment program proposal which may include input from the work group which considered the state human investment policy proposal or a successor interagency task force which makes recommendations to the department concerning the family investment program. Consideration of issues associated with the proposal may include review of the emergency assistance program, the family development and self-sufficiency (FaDSS) program, and child day care programs, and an assessment of the feasibility of transferring all or part of the functions of the child support recovery unit to other agencies of state government.

d. A review of the medical assistance proposal which may include input from representatives of the medical assistance advisory council, the long-term care resident's advocate, and consumer groups such as the Iowa affiliate of the American association of retired persons, Iowa citizens' action network, the governor's DD council which was formerly referred to as the governor's planning council for developmental disabilities, and representatives of maternal and child health centers.

3. If federal law requires the state to make changes in the programs and services directed to the populations addressed by the modification proposals and authorizes the changes to be made without state legislation, the department shall adopt rules to implement the changes. The rules shall be submitted to the task force for review and recommendation prior to their submission to the administrative rules review committee.

Sec. 24. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:

..... $ 98,900

Sec. 25. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. The department of human services may allocate increases among items and procedures for durable medical products and supplies as deemed appropriate in cooperation with durable medical equipment and supply dealers, audiologists, and hearing aid dealers.

b. For the fiscal year beginning July 1, 1996, skilled nursing facilities shall remain at the rates in effect on June 30, 1996.

c. The dispensing fee for pharmacists shall remain at the rate in effect on June 30, 1996. The reimbursement policy for drug product costs shall be in accordance with federal requirements.

d. Reimbursement rates for inpatient and outpatient hospital services shall remain at the rates in effect on June 30, 1996. The department shall continue the outpatient hospital reimbursement system based upon ambulatory patient groups implemented pursuant to 1994 Iowa Acts, chapter 1186, section 25, subsection 1, paragraph "f". Reimbursements made between July 1, 1996, and June 30, 1997, under the outpatient hospital reimbursement system implemented pursuant to 1994 Iowa Acts, chapter 1186, section 25, subsection 1, paragraph "f", shall be retrospectively adjusted so that the reimbursement made is within a ten percent deviation of the lower of the cost or the charges for the services provided during the fiscal year ending June 30, 1996. In addition, the department shall continue the revised medical assistance payment policy implemented pursuant to that paragraph to provide reimbursement for costs of screening and treatment provided in the hospital emergency room if made pursuant to the prospective payment methodology developed by the department for the payment of outpatient services provided under the medical assistance program.

e. Reimbursement rates for rural health clinics shall be increased in accordance with increases under the federal Medicare program.

f. Home health agencies certified for the federal Medicare program, hospice services, and acute care mental hospitals shall be reimbursed for their current federal Medicare audited costs.

g. The basis for establishing the maximum medical assistance reimbursement rate for nursing facilities shall be the 70th percentile of facility costs as calculated from the June 30, 1996, unaudited compilation of cost and statistical data. However, to the extent funds are available within the amount projected for reimbursement of nursing facilities within the appropriation for medical assistance in this Act, and within the appropriation for medical assistance as a whole, the department shall adjust the maximum medical assistance reimbursement for nursing facilities to the 70th percentile, as calculated on December 31, 1996, unaudited compilation of cost and statistical data and the adjustment shall take effect January 1, 1997.

h. The department may modify the reimbursement methodology for skilled nursing facilities which participated in the medical assistance program on or before May 31, 1993, and which met the departmental disproportionate share payment provisions as of May 31, 1993, if it is possible to demonstrate that the modification would result in a cost savings to the medical assistance program.

i. The department may revise the fee schedule used for physician reimbursement.

j. Federally qualified health centers shall be reimbursed at 100 percent of reasonable costs as determined by the department in accordance with federal requirements.

k. The department may allocate increases among items and procedures for dental procedures as deemed appropriate in cooperation with dentists.

2. For the fiscal year beginning July 1, 1996, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall be $21.54 per day. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall be $15.41 per day. For the fiscal year beginning July 1, 1996, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall be $414.11 per month.

3. Unless otherwise directed in this section, when the department's reimbursement methodology for any provider reimbursed in accordance with this section includes an inflation factor, this factor shall not exceed the amount by which the consumer price index for all urban consumers increased during the calendar year ending December 31, 1995.

4. Notwithstanding section 234.38, in the fiscal year beginning July 1, 1996, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be $12.34, the rate for children ages 6 through 11 years shall be $13.06, the rate for children ages 12 through 15 years shall be $14.23, and the rate for children ages 16 and older shall be $15.12.

5. For the fiscal year beginning July 1, 1996, the maximum reimbursement rates for social service providers shall be the same as the rates in effect on June 30, 1996, except under any of the following circumstances:

a. If a new service was added after June 30, 1996, the initial reimbursement rate for the service shall be based upon actual and allowable costs.

b. If a social service provider loses a source of income used to determine the reimbursement rate for the provider, the provider's reimbursement rate may be adjusted to reflect the loss of income, provided that the lost income was used to support actual and allowable costs of a service purchased under a purchase of service contract.

c. The department revises the reimbursement rates as part of the changes in the mental health and developmental disabilities services system initiated pursuant to 1995 Iowa Acts, chapter 206 (Senate File 69), and associated legislation.

d. The reimbursement rate revision is necessary to implement the change required by the appropriation in this Act for an increase in the reimbursement for residential care facilities.

6. The group foster care reimbursement rates paid for placement of children out-of-state shall be calculated according to the same rate-setting principles as those used for in-state providers unless the director determines that appropriate care cannot be provided within the state. The payment of the daily rate shall be based on the number of days in the calendar month in which service is provided.

7. For the fiscal year beginning July 1, 1996, the combined service and maintenance components of the reimbursement rate paid to a shelter care provider shall be based on the cost report submitted to the department. The maximum reimbursement rate shall be $76.61 per day. If the department would reimburse the provider at less than the maximum rate but the provider's cost report justifies a rate of at least $76.61, the department shall readjust the provider's reimbursement rate to the maximum reimbursement rate. In January 1997, the department shall review the usage of shelter care and the funding allocated for shelter care, if the usage is less than anticipated and the existing contracts for provision of shelter care do not obligate the total amount of the funds allocated, the department may utilize moneys in the allocation, which would otherwise be unexpended, for wrap-around services or support to enable group foster care placement to be prevented or the length of stay reduced.

8. The department, through the drug utilization review commission, shall propose a pilot project for an alternative payment system, recommended in the study completed by the drug utilization review commission, for compensation of pharmacists for pharmaceutical care services under medical assistance at no cost to the state. The department shall submit the proposal to the members of the joint appropriations subcommittee on human services on or before November 30, 1996.

9. For the fiscal year beginning July 1, 1996, the department shall calculate reimbursement rates for intermediate care facilities for the mentally retarded at the 80th percentile. The department shall address any other proposals for containment of intermediate care facilities for the mentally retarded costs with the work group for restructuring of the department of human services created pursuant to this Act.

10. The department of human services shall adopt rules applicable to agencies providing services under the department's rehabilitative treatment program for children and their families to eliminate reimbursement rate limits on service components which are within a category of cost which itself has a reimbursement rate limit. The change required by this subsection shall be implemented in a manner which is cost neutral.

*11. *The department shall negotiate with providers of services under the department's medical assistance rehabilitative treatment program for children and families, to revise the*

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*department's rules providing reimbursement rates under the program, including a review of cost principles. The goals for the revision are to simplify the reimbursement process, reduce paperwork for providers, and provide full payment for necessary services provided under contract with the department. Prior to adoption of the rules and no later than October 1, 1996, the department shall provide a description of the agreement to the chairpersons and ranking members of the joint appropriations subcommittee on human services. The provisions of this subsection shall be separate from the provisions of subsection 10.**

12. The department of human services, in consultation with representatives of nursing facilities, consumers, legislators, a representative of the department of management or the governor's designee, and other interested entities, shall do all of the following with the goals of improving the quality of care and improving the recruitment and retention of qualified direct health care providers in nursing facilities:

a. Establish definitions for the direct health care, administrative, room and board, and property cost categories for reimbursement of nursing facilities under the medical assistance program.

b. Analyze and make recommendations for the distribution of costs among the cost categories which may include elimination or replacement of the cost categories.

c. Analyze and make recommendations to eliminate reimbursement rate limits on components which are within a category of cost which itself has a reimbursement rate limit.

d. Conduct a cost-benefit analysis of incentive payments, evaluate their impact on quality of care and patient well-being, and make recommendations based upon the analysis and evaluation.

e. Analyze and make recommendations for clarification and simplification of the cost report format, which may include standardization with the county charts of accounts.

f. Analyze and make recommendations regarding the use of a reimbursement allowance for those nursing facilities serving a disproportionate share of medical assistance patients.

g. Analyze and make recommendations regarding effective ways to mediate disputes between a nursing facility and the department of inspections and appeals concerning significant violations, prior to a formal appeal.

h. Submit a report of the definitions, analysis, and recommendations to the general assembly on or before December 16, 1996.

13. The department may adopt emergency rules to implement the provisions of this section.

Sec. 26. RESIDENTIAL SERVICES - PURCHASE OF SERVICES - REIMBURSEMENT RATE INCREASE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For an increase in the purchase of service reimbursement rate for adult residential services provided to persons residing in any category of licensed residential care facility. Beginning July 1, 1996, provider service rates for adult residential services shall be increased up to the amount of actual and allowable costs plus inflation, based upon the cost reports on which rates have been established as of April 1, 1996. However, a provider service rate shall not be increased by more than $4.36 per day. If a provider service rate in effect prior to July 1, 1996, is greater than the actual and allowable costs plus inflation, based upon the cost report, or if the difference between the provider service rate and the actual and allowable costs is less than $.44 per day, the provider service rate shall be increased by $.44 per day:

..... $ 1,300,000

1. Funding appropriated in this section shall be allocated to counties in accordance with the distribution guidelines for local purchase of services in accordance with the appropriation in this Act for the mental health and developmental disabilities community services fund. Use of the funding is restricted to reimbursement of a licensed residential care facility provider of adult residential services which had a purchase of service contract for those services in effect

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on June 30, 1996, and for which the rate negotiated for fiscal year 1996-1997 is greater than the rate paid in fiscal year 1995-1996.

2. Of the moneys appropriated in this section, $130,000 shall be transferred to the appropriation in this Act for MI/MR/DD state cases and shall be used for payment of the increased reimbursement rate to residential care facilities providing services through local purchase of services for persons under the state cases program, and in accordance with the guidelines in this Act for local purchase of services.

Sec. 27. APPROPRIATIONS REDUCTIONS. The following appropriations in this Act for the fiscal year beginning July 1, 1996, and ending June 30, 1997, are reduced by a total of $1,560,000: child support recovery, juvenile institutions, community-based programs, mental health institutes, state hospital-schools, field operations, and general administration. The department shall use the following guidelines in achieving these reductions:

1. As the highest priority, avoid disruptions of direct client services.
2. To the extent possible, use attrition to reduce the number of positions filled.
3. To the extent possible, not disproportionately affect a single job classification.
4. Not include in the reduction, the elimination of the 3.00 FTEs for managed care specialists in the medical services division.
5. Consider reductions in administration, overhead, and program duplication.

The department shall submit the department's plan for accomplishing the reductions to the chairpersons and ranking members of the joint appropriations subcommittee on human services, the department of management, and the legislative fiscal bureau on or before June 15, 1996.

Sec. 28. STATE INSTITUTIONS - CLOSINGS, REDUCTIONS, AND BILLING PRACTICES.

1. If a state institution administered by the department of human services 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 Iowa department of economic development to develop new jobs in the area in which the state institution is located. In addition, the department may take other actions to utilize any closed unit or other facilities and services of an institution, including but not limited to assisting public or private organizations in utilizing the services and facilities. The actions may also include assisting an organization with remodeling and lease costs by forgiving future rental or lease payments to the extent necessary for a period not to exceed five years. The department of human services and the department of economic development shall submit a joint report to the chairpersons and ranking members of the joint appropriations subcommittee on human services on or before January 2, 1997, regarding any efforts made pursuant to this subsection.

2. For purposes of this section, "state institution" means a state mental health institute, a state hospital-school, the state training school, and the Iowa juvenile home under the authority of the department of human services listed in section 218.1. If excess capacity exists at a state institution beyond the capacity required for placements at the institution under law, the department of human services may enter into a contract with a managed care provider or an organized delivery system for health care, to provide services during the fiscal year beginning July 1, 1996, at the institution for the plan or system.

3. The department shall work with administrators of state institutions and the department of management and the legislative fiscal bureau in reviewing revenues and expenditures attributable to state institutions, applicable fiscal procedures, and other information as necessary to develop a proposal to revise the manner of making appropriations to these state institutions and of accounting for reimbursements and expenditures so that in future fiscal years the amounts appropriated reflect the net amount of state funds needed. The proposal shall be submitted to the general assembly on or before December 16, 1996. **If deemed feasible by those performing the review, the department of human services and the department of management shall incorporate the proposed revisions in the budget documents for the fiscal year beginning July 1, 1997.**

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4. The superintendents of the state hospital-schools shall work with the department's administrative staff in studying the manner in which services and costs are combined for purposes of billing for medical assistance reimbursement at the state hospital-schools. Following the study, the superintendents shall submit a report which may include a proposal for revising the state hospital-schools' manner of billing for medical assistance reimbursement to be more comparable to other intermediate care facilities for the mentally retarded. The report shall be submitted to the general assembly on or before December 16, 1996.

5. The superintendent of the state hospital-schools shall work with the department's administrative staff in developing methodologies to bill services, consultation, and other assistance provided by the state hospital-schools in support of community-based services. The department may implement the methodologies in the fiscal year beginning July 1, 1996.

*6. *In addition to existing planning efforts for community-based alternatives to placements at a state hospital-school, if the department's budget planning for fiscal year 1997-1998 includes a proposal for reduction of capacity at a state hospital-school or mental health institute, the department shall work with counties, service providers, advocates, and the department's contractor for managed mental health care under medical assistance, in developing a plan for community-based placements in place of the capacity proposed to be reduced. The plan shall be submitted for review to the task force on the future of human services created in this Act and to the state-county management committee. It is the intent of the general assembly that any authorization for any reduction of capacity at a state hospital-school or state mental health institute in fiscal year 1997-1998 is contingent upon development of sufficient community-based placements to replace the reduced capacity.**

7. To the extent possible, the department shall consult with the applicable workgroups of the task force on the future of the department of human services created in this Act concerning the activities required of the department pursuant to this section.

**Sec. 29. STANDARDS FOR CASELOADS. The department of human services shall develop a plan for meeting national standards on caseloads for the department's social workers.*

*The department shall submit the planning provisions required by this section to the members of the joint appropriations subcommittee on human services of the senate and house of representatives on or before January 8, 1997.**

Sec. 30. REPORTS. Any reports or information required to be compiled and submitted under this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on human services, the legislative fiscal bureau, the legislative service bureau, and to the caucus staffs on or before the dates specified for submission of the reports or information.

Sec. 31. REPORTS BY PROVIDERS OF FOSTER CARE SERVICES – REVIEW – PROCESS SIMPLIFICATION. The department of human services shall consult with providers of rehabilitation treatment services relating to the medical assistance child services initiative in reviewing provider requirements relating to financial and statistical accountability reporting and the process for submission of the reports relating to these requirements. Following this review, and no later than January 1, 1997, the department of human services shall implement a process which provides, at a minimum, for a simplified means of documenting compliance with provider accountability requirements which shall, at a minimum, include consolidation of the reports required and which may provide a means for submission of the reports in an electronic format.

Sec. 32. Section 135H.6, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. The department of human services may give approval to conversion of beds specializing in substance abuse treatment previously approved under subsection

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5, paragraph "b", to beds which are not specialized as referenced in subsection 5, paragraph "a". Beds converted under this subsection shall be in addition to the number of beds authorized under subsection 5, paragraph "a". However, the total number of beds approved under subsection 5 shall not exceed four hundred thirty. Conversion of beds under this subsection shall not require a revision of the certificate of need issued for the psychiatric institution making the conversion.

NEW SUBSECTION. 7. A psychiatric institution licensed prior to January 1, 1996, may exceed the number of beds authorized under subsections 5 and 5A if the excess beds are used to provide services funded from a source other than the medical assistance program under chapter 249A. Notwithstanding subsections 4, 5, and 5A, the provision of services using such excess beds does not require a certificate of need or a review by the department of human services.

Sec. 33. Section 228.5, subsection 1, Code 1995, is amended to read as follows:

1. An individual or an individual's legal representative shall be informed that mental health information relating to the individual may be disclosed to employees or agents of or for the same mental health facility or to other providers of professional services or their employees or agents if and to the extent necessary to facilitate the provision of administrative and professional services to the individual.

Sec. 34. Section 228.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Mental health information relating to an individual may be disclosed to other providers of professional services or their employees or agents if and to the extent necessary to facilitate the provision of administrative and professional services to the individual.

Sec. 35. Section 232.143, Code Supplement 1995, is amended to read as follows:

232.143 REGIONAL GROUP FOSTER CARE ~~TARGET~~ BUDGET TARGETS.

1. A statewide expenditure target ~~for the average number of~~ for children in group foster care placements ~~on any day of~~ in a fiscal year, which placements are a charge upon or are paid for by the state, shall be established annually in an appropriation bill by the general assembly. The department and the judicial department shall jointly develop a formula for allocating a portion of the statewide expenditure target established by the general assembly to each of the department's regions. The formula shall be based upon the region's proportion of the state population of children and of the statewide ~~number of children placed in~~ usage of group foster care in the previous five completed fiscal years and other indicators of need. The ~~number~~ expenditure amount determined in accordance with the formula shall be the group foster care ~~placement~~ budget target for that region. A region may exceed its budget target for group foster care by not more than five percent in a fiscal year, provided the overall funding allocated by the department for all child welfare services in the region is not exceeded.

2. For each of the department's regions, representatives appointed by the department and the juvenile court shall establish a plan for containing the ~~number of~~ expenditures for children placed in group foster care ordered by the court within the budget target allocated to that region pursuant to subsection 1. The plan shall include monthly targets and strategies for developing alternatives to group foster care placements in order to contain expenditures for child welfare services ~~provided to children~~ within the amount appropriated by the general assembly for that purpose. Each regional plan shall be established in advance of the fiscal year to which the regional plan applies. To the extent possible, the department and the juvenile court shall coordinate the planning required under this subsection with planning for services paid under section 232.141, subsection 4. The department's regional administrator shall communicate regularly, as specified in the regional plan, with the juvenile courts within that region concerning the current status of the regional plan's implementation.

*3. *State payment for group foster care placements shall be limited to those placements which are in accordance with the regional plans developed pursuant to subsection 2. If a*

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*proposed group foster care placement in a region would meet the region's plan requirements except that the placement would cause a monthly or overall budget target to be exceeded and the child is eligible for an alternative service which is costlier and more restrictive than the proposed placement, the director of human services, after consultation with appropriate juvenile court officials, may allow an exception to policy and authorize the placement. At the close of the fiscal year, moneys for specific placements authorized by the director under this subsection shall be transferred from the state appropriation for the alternative placement to the appropriation for group foster care placements, as necessary to prevent a deficit in the appropriation for group foster care.**

Sec. 36. Section 234.39, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

It is the intent of this chapter that an individual receiving foster care services and the individual's parents or guardians, shall have primary responsibility for paying the cost of the care and services. The support obligation established and adopted under this section shall be consistent with the limitations on legal liability established under sections 222.78 and 230.15, and by any other statute limiting legal responsibility for support which may be imposed on a person for the cost of care and services provided by the department. The department shall notify an individual's parents or guardians at the time of the placement of an individual in foster care, of the responsibility for paying the cost of care and services. Support obligations shall be established as follows:

Sec. 37. Section 234.39, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The support debt for the costs of services, for which a support obligation is established pursuant to this section, which accrues prior to the establishment of the support debt, shall be collected, at a maximum, in the amount which is the amount of accrued support debt for the three months preceding the earlier of the following:

a. The provision by the child support recovery unit of the initial notice to the parent or guardian of the amount of the support obligation.

b. The date that the written request for a court hearing is received by the child support recovery unit as provided in section 252C.3 or 252F.3.

**Sec. 38. NEW SECTION. 239.23 FAMILY INVESTMENT PROGRAM HOST HOMES.*

1. As used in this section, unless the context otherwise requires:

a. "Host home" means a host home authorized in accordance with the provisions of this section and licensed by the department to provide a living arrangement and related services to minor parents and pregnant minors or an alternative adult supervised placement approved by the department.

b. "Minor parent" means a recipient of or applicant for assistance who is less than eighteen years of age and has never been married.

2. The department shall perform a home assessment of a minor parent who applies for assistance to assess the minor parent's living arrangement prior to the granting of assistance. If a minor parent is receiving assistance at the time the provisions of this section are implemented, the department shall perform a home assessment as a condition of continued assistance.

3. If the department determines, based upon the home assessment, that the minor parent is living in an environment which is conducive to the positive upbringing of the minor parent's child, the department may allow the minor parent to continue living in the home with the parent or the legal guardian of the minor parent or in another current living arrangement which is approved by the department.

4. If the department determines, based upon the home assessment, that good cause exists for the minor parent to not live with their parent or legal guardian or in the other current living arrangement because the home environment is not conducive to the minor parent's physical,

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emotional, or mental well-being, the department shall require the minor parent to relocate to a host home, as a condition of assistance under this chapter. If the minor parent does not live in a host home and the department determines the resulting level of risk to the minor parent warrants the filing of a child in need of assistance petition, the department shall file the petition.

5. If the department determines, based upon the home assessment, that remaining in the current living arrangement is not in the best interest of the minor parent or a child of the minor parent and the minor parent is placed in a host home, the parent or legal guardian shall be referred to the department's child support recovery unit to establish a child support obligation in accordance with the child support guidelines prescribed pursuant to section 598.21, subsection 4, not to exceed the cost of the host home placement. However, if a child in need of assistance petition is filed and the child is placed in a foster care setting, the child support obligation shall be determined as provided in section 234.39.

6. a. The department shall issue a request for proposals for grants for nonprofit organizations to establish host homes to provide adult supervision to minor parents and pregnant minors presumed to be eligible for assistance. A proposal shall demonstrate the organization's ability to provide supervision, services, and other support to enable a minor parent or pregnant minor to develop self-sufficiency.

b. Funding for a host home shall be obtained through assignment of the minor parent's assistance under this chapter, as permitted under federal law or waiver, through child support recovered from the parent or legal guardian of the minor parent, and through appropriations made for the purposes of reimbursing host homes.

c. The department shall adopt rules for licensing of host homes which are distinct from foster care licensure requirements.

d. Host home services shall include but are not limited to training in family development, parenting and self-sufficiency skills, and assistance in completing an education.

e. A host home shall not be considered to be a group foster care facility or to be another licensed facility which provides care for children. The placement of a minor parent or pregnant minor and the children of a minor parent shall not be considered a placement which is subject to the statewide target for the number of group foster care placements under section 232.143 and associated provisions.

*7. This section shall not be implemented prior to July 1, 1997, and implementation is contingent upon federal approval of a waiver authorizing the implementation.**

Sec. 39. Section 252B.4, Code 1995, is amended to read as follows:

252B.4 NONASSISTANCE CASES.

The child support and paternity determination services established by the department pursuant to this chapter and other appropriate services provided by law including but not limited to the provisions of chapters 239, 252A, 252C, 252D, 252E, 252F, 598, and 600B shall be made available by the unit to an individual not otherwise eligible as a public assistance recipient upon application by the individual for the services. The application shall be filed with the department.

1. The director shall require an application fee of five dollars.

2. The director may ~~require an additional~~ collect a fee to cover the costs incurred by the department ~~in providing the support collection and paternity determination services~~ for service of process, genetic testing and court costs if the entity providing the service charges a fee for the services.

~~a. The director shall, by rule, establish and inform all applicants for support enforcement and paternity determination services of the fee schedule.~~

~~b. The additional fee for services may be deducted from the amount of the support money recovered by the department or may be collected from the recipient of the services following recovery of support money by the department.~~

3. When the unit intercepts a federal tax refund of an obligor for payment of delinquent support and the funds are due to a recipient of services who is not otherwise eligible for public

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assistance, the unit shall deduct a twenty-five dollar fee from the funds before forwarding the balance to the recipient.

a. The unit shall inform the recipient of the fee under this subsection prior to assessment.

b. The fee shall be assessed only to individuals who receive support from the federal tax refund offset program. If the tax refund due the recipient is less than fifty dollars, the fee shall not be assessed.

~~4. The department may adopt rules to establish fees which provide for recovery of administrative costs of the program in addition to other fees identified.~~

~~5.~~ 4. Fees collected pursuant to this section shall be retained by the department for use by the unit. The director or a designee shall keep an accurate record of funds so retained.

~~6.~~ 5. An application fee paid by a recipient of services pursuant to subsection 1 may be recovered by the unit from the person responsible for payment of support and if recovered, shall be used to reimburse the recipient of services.

a. The fee shall be an automatic judgment against the person responsible to pay support.

b. This subsection shall serve as constructive notice that the fee is a debt due and owing, is an automatic judgment against the person responsible for support, and is assessed as the fee is paid by a recipient of services. The fee may be collected in addition to any support payments or support judgment ordered, and no further notice or hearing is required prior to collecting the fee.

c. Notwithstanding any provision to the contrary, the unit may collect the fee through any legal means by which support payments may be collected, including but not limited to income withholding under chapter 252D or income tax refund offsets, unless prohibited under federal law.

d. The unit is not required to file these judgments with the clerk of the district court, but shall maintain an accurate accounting of the fee assessed, the amount of the fee, and the recovery of the fee.

e. Support payments collected shall not be applied to the recovery of the fee until all other support obligations under the support order being enforced, which have accrued through the end of the current calendar month, have been paid or satisfied in full.

f. This subsection applies to fees that become due on or after July 1, 1992.

**Sec. 40. Section 426B.2, subsection 5, Code Supplement 1995, is amended to read as follows:*

*5. The department of human services shall notify the director of revenue and finance of the amounts due a county in accordance with the provisions of this section. The director of revenue and finance shall draw warrants on the property tax relief fund, payable to the county treasurer in the amount due to a county in accordance with subsections 1 and 3 and ~~mail~~ distribute the warrants to the county auditors ~~in September~~ on July 1 and ~~March~~ January 1 of each year. Warrants for the state payment in accordance with subsection 2 shall be ~~mailed~~ distributed in January of each year.**

Sec. 41. NEW SECTION. 514I.1 IOWA HEALTHY KIDS PROGRAM – LEGISLATIVE INTENT.

1. The general assembly finds that increased access to health care services could improve children's health and reduce the incidence and costs of childhood illness and disabilities among children in this state. Many children do not have health care services available or funded, and for those who do, lack of access is a restriction to obtaining such services. It is the intent of the general assembly that a program be implemented to provide health care services and comprehensive health benefits or insurance coverage to children. A goal for the program is to cooperate with any existing programs with similar purposes funded by either the public or private sector.

2. For the purposes of this chapter, unless the context otherwise requires:

a. "Advisory council" means the advisory council created by the division under section 514I.4.

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b. "Division" means the insurance division of the department of commerce.

c. "Program" means the program developed by the division in accordance with section 514I.3.

Sec. 42. NEW SECTION. 514I.2 IOWA HEALTHY KIDS PROGRAM AUTHORIZATION.

1. The general assembly authorizes the division to implement the Iowa healthy kids program. The division shall have all powers necessary to carry out the purposes of this chapter, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any person and to receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of the program.

2. The program shall operate initially on a pilot project basis to include urban and rural areas. Expansion beyond the initial pilot project is subject to authorization by law.

3. Implementation of the program shall be limited to the extent of the funding appropriated for the purposes of the program.

Sec. 43. NEW SECTION. 514I.3 IOWA HEALTHY KIDS PROGRAM OBJECTIVES.

The division shall develop a program to attain all of the following objectives:

1. Organize groupings of children for provision of comprehensive health benefits or insurance coverage.

2. Arrange for the collection of any payment or premium, in an amount to be determined by the division. The payment or premium shall be collected from a family of a participating child or other person to provide for payment for health care services or premiums for comprehensive health benefits or insurance coverage and for the actual or estimated administrative expenses incurred during the period for which the payments are made. The amount of payment or premium charged shall be based on the ability of the family of a child to pay. The division shall provide for adjustment of the amount charged to reflect contributions, public subsidy, or other means used to defray the amount charged.

3. Establish administrative and accounting procedures for the operation of the program.

4. Establish, in consultation with appropriate professional organizations, standards for health care services, providers, and comprehensive health benefits or insurance coverage appropriate for children and their family members.

5. Establish eligibility criteria which children and their family members must meet in order to participate in the program.

6. Establish participation criteria for the program and, if appropriate, contract with an authorized insurer, health maintenance organization, or insurance or benefits administrator to provide administrative services to the program.

7. Contract with authorized insurers, benefits providers, or any provider of health care services meeting standards established by the division, for the provision of comprehensive health benefits or insurance coverage and health care services to participants.

8. Develop and implement a plan to publicize the program, eligibility requirements of the program, and procedures for enrollment in the program and to maintain public awareness of the program.

9. Provide for administration of the program.

10. As appropriate, enter into contracts with local school boards or other agencies to provide on-site information, enrollment, and other services necessary to the operation of the program.

11. Provide an interim report on or before March 1, 1997, to the governor and general assembly, on the development of the program to date and an annual report thereafter until the program is terminated or extended statewide.

Sec. 44. NEW SECTION. 514I.4 ADVISORY COUNCIL.

1. The division may create an advisory council to assist the division in implementing the program. The advisory council membership may include, but is not limited to, the following:

a. A school administrator.
b. A member of a school board.
c. An employee of the state or local government in public health services.
d. A pediatrician who is a member of the American academy of pediatrics, Iowa chapter.
e. The director of human services or the director's designee.
f. A member of the association of Iowa hospitals and health systems.
g. A representative of authorized health care insurers or health maintenance organizations.
h. A representative of a university center for health issues.
i. A family practice physician who is a member of the Iowa academy of family physicians.
j. A school nurse who is a member of the Iowa nurses association.
k. The director of public health or the director's designee.
l. A citizen who is knowledgeable concerning health care and children's issues.
m. A citizen who is a parent with children at home who is active in a school-parent organization.

2. Advisory council members are entitled to receive, from funds of the division, reimbursement for actual and necessary expenses incurred in the performance of their official duties.

Sec. 45. NEW SECTION. 514I.5 LICENSING NOT REQUIRED - FISCAL OPERATION.

1. Health benefits or insurance coverage obtained under the program is secondary to any other available private or public health benefits or insurance coverage held by the participant child. The division may establish procedures for coordinating benefits under this program with benefits under other public and private coverage.

2. The program shall not be deemed to be insurance. However, the insurance division may require that any marketing representative utilized and compensated by the program be appointed as a representative of the insurers or health benefits services providers with which the program contracts.

Sec. 46. NEW SECTION. 514I.6 THE IOWA HEALTHY KIDS TRUST FUND.

1. An Iowa healthy kids trust fund is created in the state treasury under the authority of the commissioner of insurance, to which all appropriations shall be deposited and used to carry out the purposes of this chapter. Other revenues of the program such as grants, contributions, matching funds, and participant payments shall not be considered revenue of the state, but rather shall be funds of the program. However, the division may designate portions of grants, contributions, matching funds, and participant payments as funds of the state and deposit those funds in the trust fund.

2. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

Sec. 47. NEW SECTION. 514I.7 ACCESS TO RECORDS - CONFIDENTIALITY - PENALTIES.

1. Notwithstanding any other law to the contrary, the program shall have access to the medical records of a child who is participating or applying to participate in the program upon receipt of permission from a parent or guardian of the child, including but not limited to the medical records maintained by the state or a political subdivision of the state. Notwithstanding chapter 22, any identifying information, including medical records and family financial information, obtained by the program pursuant to this subsection is confidential. Except as provided in section 252B.9, chapter 252E, or any federal law or regulation to the contrary, the program, the program's employees, and agents of the program shall not release, without the written consent of the participant or the parent or guardian of the participant, to any state or federal agency, to any private business or person, or to any other entity, any confidential information received pursuant to this subsection.

2. A violation of the provisions of subsection 1 is a serious misdemeanor.

Sec. 48. FEDERAL WAIVERS.

1. The department of human services shall submit a waiver request or requests to the United States department of health and human services as necessary to implement the changes in the family investment program and host home provisions under section 239.23 as enacted by this Act.* In addition, the department may submit additional waiver requests to the United States department of health and human services to make changes to the medical assistance program under chapter 249A, as necessary to revise the program in accordance with any waiver provision implemented pursuant to section 239.23.

2. The waiver request or requests submitted by the department of human services to the United States department of health and human services shall be to apply the provisions of section 239.23 statewide. If federal waiver approval of the provisions is granted, the department of human services shall implement the provisions in accordance with the federal approval. If an approved waiver is in conflict with a provision of state law, the waiver provision shall apply and the department shall propose an amendment to resolve the conflict. The proposed amendment shall be submitted in accordance with the provisions of section 2.16 to the Seventy-seventh General Assembly.

3. The department of human services shall adopt administrative rules pursuant to chapter 17A to implement the provisions of an approved waiver. If necessary to conform with federal waiver terms and conditions or to efficiently administer the provisions, the rules may apply additional policies and procedures which are consistent with the provisions of the approved waiver.

4. The effective date of a waiver requested under this section which is granted by the federal government shall be established by rule but shall not be earlier than July 1, 1997. If federal law is enacted to permit the state to implement a provision of section 239.23 without a federal waiver, the department shall proceed to implement the provisions within the time frame specified in this subsection.

Sec. 49. EMERGENCY RULES. If specifically authorized by a provision of this Act, the department of human services or the mental health and mental retardation commission may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions and the rules shall become effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 50. EFFECTIVE DATE. The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 4, subsection 2, relating to the mental health managed care program.

2. Section 6, subsection 13, relating to moneys appropriated in 1996 Iowa Acts, House File 2114.

3. Section 10, subsection 18, relating to expenditure of federal funds for child and family services.

4. Section 27, relating to appropriations reductions.

Approved May 29, 1996, except the items which I hereby disapprove and which are designated as Section 3, subsection 10 in its entirety; Section 4, subsection 3 in its entirety; Section 6, subsection 10 in its entirety; Section 6, subsections 12 and 13 in their entirety; that portion of Section 11, subsection 5 which is herein bracketed in ink and initialed by me; that portion of Section 20, unnumbered and unlettered paragraph 2 which is herein bracketed in ink and

*Section 38 of this Act item vetoed by the Governor

initialed by me; Section 22, subsection 2, paragraph a in its entirety; that portion of Section 23 which is herein bracketed in ink and initialed by me; Section 25, subsection 11 in its entirety; that portion of Section 28, subsection 3 which is herein bracketed in ink and initialed by me; Section 28, subsection 6 in its entirety; Section 29 in its entirety; Section 31 in its entirety; that portion of Section 35 which is herein bracketed in ink and initialed by me; Section 38 in its entirety; and Section 40 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 Mr. Secretary:

I hereby transmit Senate File 2442, an Act relating to appropriations for the department of human services and the prevention of disabilities policy council and including other provisions and appropriations involving human services and health care and providing for effective and applicability dates.

Senate File 2442 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 3, subsection 10, in its entirety. This item would require the Department of Human Services to expand its "pay and chase" policies relating to third-party reimbursements for pharmacy services to include all pharmacy claims involving third-party payors. The projected first year cost for this item is $345,000 which is not included in any appropriations made to the department for the next fiscal year.

I am unable to approve the item designated as Section 4, subsection 3, in its entirety. This item directs the Department of Human Services to include specific terms and conditions in all future contracts negotiated under the Medicaid program. It is appropriate for the legislature to expect the department to negotiate contracts which provide the needed services at the best price for Iowa taxpayers, and to hold the department accountable for the quality and costs of those services. However, to assure that the goals of quality and cost-effectiveness are accomplished, the department must retain the flexibility necessary to negotiate the specific details of the contracts.

I am unable to approve the item designated as Section 6, subsection 10, in its entirety. This item appropriates $20,000 to the Department of Human Services to study child care issues, including the development of "volunteer evaluation teams" to inspect registered family day care homes. The department has adequate resources to review the state's policies relating to child care, including the most appropriate system to evaluate the quality of care provided by registered family day care homes. As a result of this action, this $20,000 will remain unspent and will revert to the general fund at the end of the fiscal year that begins on July 1, 1996 and ends on June 30, 1997.

I am unable to approve the item designated as Section 6, subsection 12, in its entirety. This item would create an entitlement for certain persons to receive child care assistance. Establishing child care services as an entitlement for certain persons is inconsistent with long-standing state policy and would treat some persons differently than others in the receipt of child care services.

I am unable to approve the item designated as Section 6, subsection 13, in its entirety. This item would roll forward and reappropriate unspent fiscal year 1996 child care dollars to be used in fiscal year 1997. Additional funding in the amount of $4.6 million is provided for child care in this bill, an amount that doubles current state spending for child care assistance. With this increase, over $36.2 million will be available in fiscal year 1997 to address the child care needs of low-income Iowans.

I am unable to approve the designated portion of Section 11, subsection 5. This item would provide an additional $115,000 for the Healthy Families program. I included in my budget recommendations an increase of $285,000 for the Healthy Families program, making a total of $952,000 available for the program in fiscal year 1997. The additional funding recommended in my budget is included in House File 2448, which I have already approved. As a result of this action, this $115, 000 will remain unspent and will revert to the general fund at the end of the fiscal year that begins July 1, 1996 and ends on June 30, 1997.

I am unable to approve the designated portion of Section 20, unnumbered and unlettered paragraph 2. This item would assign responsibilities to one division within the Department of Human Services under the authority granted to another in the Iowa Code. A veto of this provision will avoid possible confusion and problems in implementing the pilot program funded in this section.

I am unable to approve the item designated as Section 22, subsection 2, paragraph a, in its entirety. This item would prohibit the Department of Human Services from taking action in response to federal legislation affecting the operation and funding of its programs without specific authority from the legislature to do so. This provision would make it nearly impossible for the department to respond to unanticipated action by Congress at times when the legislature is not in session.

I am unable to approve the designated portion of Section 23. This item would appropriate $75,000 to the legislative council to study the structure and functions of the Department of Human Services. While a legislative review of the department's organization and responsibilities is appropriate, an appropriation to support the effort is unnecessary.

I am unable to approve the item designated as Section 25, subsection 11, in its entirety. This item would require the Department of Human Services to negotiate with certain service providers revisions to the department's rules relating to reimbursement for their services. While the goals of simplifying the reimbursement process and reducing paperwork for providers are laudable and should be accomplished, the third goal of increasing the reimbursement rate by departmental rule without providing an accompanying appropriation is fiscally irresponsible and can not be approved.

I am unable to approve the designated portion of Section 28, subsection 3. This item would require the Department of Human Services and the Department of Management to include specific recommendations in their fiscal year 1998 budgets. This requirement exceeds the authority of the legislature in the budgeting process and for that reason can not be approved.

I am unable to approve Section 28, subsection 6, in its entirety. This item would impose certain procedural requirements on the Department of Human Services in its planning for the state hospital-schools and mental health institutes. The state's practice is to make adjustments at the institutions only after appropriate placements in the community have been found for the residents. Therefore, the procedure provided in this subsection is unnecessary.

I am unable to approve the item designated as Section 29, in its entirety. This item would direct the Department of Human Services to develop a plan for meeting national standards for social worker caseloads. Social workers' duties vary from state to state and the differences are often related to the technology available to workers in performing their tasks. New technologies are being implemented on a continuous basis to make it possible for Iowa workers to work more efficiently and effectively. Also, services that may be included as part of a social worker's duties in other states are contracted out in Iowa. Given these variances, national standards can not be directly applied to Iowa's experience.

I am unable to approve the item designated as Section 31, in its entirety. This item would require the Department of Human Services to consult with rehabilitation treatment providers in a review of the requirements and process relating to financial and statistical accountability reporting. While I support efforts to simplify and streamline the reporting requirements and process, the time frame for implementation provided in this section is unrealistic and can not be approved.

I am unable to approve the designated portion of Section 35. This item would allow an exception to be granted for group foster care placement when the budget targets would be exceeded if alternative services would be more costly and more restrictive than the proposed placement. While I support the goal of providing appropriate services at the lowest cost for Iowa taxpayers, I am not convinced that the policy change proposed here can be accomplished without creating a deficit situation in the department's budget.

I am unable to approve the item designated as Section 38, in its entirety. This item would create a new program to begin July 1, 1997, having an estimated ongoing cost in excess of $1.75 million. This proposal requires more review by the legislature, with special consideration given to the potential cost of the program, before it can be approved.

I am unable to approve the item designated as Section 40, in its entirety. This item would change the dates mental health property tax relief payments are due, which will result in a cost to the state of $1 million in lost interest income.

For the above reasons, I 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 2442 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1214

APPROPRIATIONS - AGRICULTURE AND NATURAL RESOURCES

S.F. 2446

AN ACT relating to agriculture and natural resources, by providing for appropriations, providing related statutory changes, and providing effective dates.

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

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1. GENERAL APPROPRIATION. 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, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE DIVISION

a. For salaries, support, maintenance, the support of the state 4-H foundation, support of the statistics bureau, and miscellaneous purposes, and for the salaries and support of not more than the following full-time equivalent positions:

..... $ 1,836,111

..... FTEs 43.45

(1) Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", $322,406 and 7.00 FTEs shall be used to support horticulture.

(2) Of the amount appropriated in this paragraph "a", $50,000 shall be allocated to the state 4-H foundation to foster the development of Iowa's youth and to encourage them to study the subject of agriculture.

(3) Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", $130,519 and 4.00 FTEs shall be allocated to the statistics bureau to provide county-by-county information on land in farms, production by crop, acres by crop, and county prices by crop. This information shall be made available to the department of revenue and finance for use in the productivity formula for valuing and equalizing the values of agricultural land.

(4) Of the amount appropriated in this paragraph "a", not more than $5,000 shall be allocated to the Iowa limousin cattle junior association in connection with the 1996 national junior limousin cattle show.

(5) Of the amount appropriated in this paragraph "a", $500 shall be allocated as state aid to support the north Iowa poultry expo.

(6) Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", $71,486 and 1.00 FTE shall be allocated to support the administrative assistant VI position created in section 26 of this Act.

b. For the operations of the dairy trade practices bureau:

..... $ 66,846

c. For the purpose of performing commercial feed audits:

..... $ 64,698

d. For the purpose of performing fertilizer audits:

..... $ 64,697

2. REGULATORY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,858,960

..... FTEs 122.50

Of the amount appropriated pursuant to this paragraph "a", not more than $10,000 shall be used to support the hiring and training of a meat and poultry inspector in west-central Iowa.

b. For the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

..... $ 651,220

3. LABORATORY DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, including the administration of the gypsy moth program, and for not more than the following full-time equivalent positions:

..... $ 852,475

..... FTEs 85.10

(1) Of the amount appropriated in this paragraph "a", $110,000 shall be used to administer a program relating to the detection, surveillance, and eradication of the gypsy moth. The department shall allocate and use the appropriation made in this paragraph before moneys other than those appropriated in this paragraph are used to support the program.

*(2) *Of the amount appropriated and the number of full-time equivalent positions authorized in this paragraph "a", $49,850 and 1.00 FTE shall be used to support an additional regional entomologist for purposes of conducting laboratory and field inspection activities.**

(3) Of the number of full-time equivalent positions authorized in this paragraph "a" and funded in paragraph "c", 1.00 FTE shall be used to support an organics program coordinator who shall assure compliance of organic foods sold commercially within the state with federal regulations relating to organic foods.

b. For the operations of the commercial feed programs:

..... $ 742,499

c. For the operations of the pesticide programs:

..... $ 1,291,781

Of the amount appropriated in this paragraph "c", $200,000 shall be allocated to Iowa state university for purposes of training commercial pesticide applicators.

d. For the operations of the fertilizer programs:

..... $ 633,832

4. SOIL CONSERVATION DIVISION

a. For salaries, support, maintenance, assistance to soil conservation districts, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,951,591

..... FTEs 172.28

(1) Of the amount appropriated in this paragraph "a", $330,000 shall be used to reimburse commissioners of soil and water conservation districts for administrative expenses. Moneys used for the payment of meeting dues by counties shall be matched on a dollar-for-dollar basis by the soil conservation division.

*(2) *Of the amount appropriated and the number of full-time equivalent positions authorized in this paragraph "a", $56,000 and 1.00 FTE shall be used to support a position for oversight of financial incentive programs.**

b. To provide financial incentives for soil conservation practices under chapter 161A:

..... $ 6,461,850

c. The following requirements apply to the moneys appropriated in paragraph "b":

(1) Not more than 5 percent of the moneys appropriated in paragraph "b" may be allocated for cost sharing to abate complaints filed under section 161A.47.

(2) Of the moneys appropriated in paragraph "b", 5 percent shall be allocated for financial incentives to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment as provided in section 161A.73.

(3) Not more than 30 percent of a district's allocation of moneys as financial incentives may be provided for the purpose of establishing management practices to control soil erosion on land that is row cropped, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping as provided in section 161A.73.

(4) The state soil conservation committee created in section 161A.4 may allocate moneys to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

(5) The financial incentive payments may be used in combination with department of natural resources moneys.

*Item veto; see message at end of the Act

d. The provisions of section 8.33 shall not apply to the moneys appropriated in paragraph "b". Unencumbered or unobligated moneys remaining on June 30, 2000, from moneys appropriated in paragraph "b" for the fiscal year beginning July 1, 1996, shall revert to the general fund on August 31, 2000.

Sec. 2. FARMERS' MARKET COUPON PROGRAM. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, to 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 not more than the following full-time equivalent positions:

..... $ 215,807
..... FTEs 1.00

Sec. 3. PSEUDORABIES ERADICATION PROGRAM.

1. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... $ 900,300

2. Persons, including organizations interested in swine production in this state and in the promotion of Iowa pork products who contribute support to the program, are encouraged to increase financial support for purposes of ensuring the program's effective continuation.

Sec. 4. HORSE AND DOG RACING. There is appropriated from the moneys available under section 99D.13 to the regulatory division of the department of agriculture and land stewardship for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:

..... $ 192,560

DEPARTMENT OF NATURAL RESOURCES

Sec. 5. GENERAL APPROPRIATION. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE AND SUPPORT SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,002,389
..... FTEs 119.25

Of the amount appropriated and the number of full-time equivalent positions authorized in this subsection 1, at least $150,000 and 4.00 FTEs shall be used by administration and support services to support a compliance and permit assistance team to facilitate cooperation between the department and persons regulated by the department in order to ensure efficient compliance with applicable legal requirements.

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,546,988
..... FTEs 195.73

3. FORESTS AND FORESTRY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,494,908
..... FTEs 48.71

4. ENERGY AND GEOLOGICAL RESOURCES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,681,228
..... FTEs 52.00

5. a. ENVIRONMENTAL PROTECTION DIVISION

(1) For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,920,509
..... FTEs 214.50

(2) Of the amount appropriated and the number of full-time equivalent positions authorized in subparagraph (1) at least $374,600 and 9.00 FTEs shall be used to support the regulation of animal feeding operations.

(3) Of the number of full-time equivalent positions authorized in subparagraph (1), 1.00 FTE shall be used to support the administration of the waste tire management fund, as provided in section 455D.11C, as enacted in 1996 Iowa Acts, House File 2433.*

b. WATER QUALITY PROTECTION FUND

For allocation to the administrative account of the water quality protection fund established pursuant to section 455B.183A, to carry out the purpose of that account:

..... $ 729,000

(1) Of the number of full-time equivalent positions authorized in paragraph "a", 32.50 FTEs shall be dedicated to carrying out the provisions of chapter 455B relating to the administration, regulation, and enforcement of the federal Safe Drinking Water Act and to support the program to assist water supply systems as provided in section 455B.183B. However, the limitation on full-time equivalent positions provided in paragraph "a", shall not limit the number of additional full-time equivalent positions supported by moneys deposited in the water quality protection fund as provided in section 455B.183A, in order to carry out the provisions of division III of chapter 455B relating to the administration, regulation, and enforcement of the federal Safe Drinking Water Act, and the administration of the program to assist water supply systems pursuant to section 455B.183B.

(2) In providing assistance to water supply systems, the department shall provide priority to water supply systems serving a population of seven thousand or less. At least 2.00 FTEs shall be allocated to provide assistance to systems serving a population of seven thousand or less.

6. FISH AND WILDLIFE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 342.18

7. WASTE MANAGEMENT ASSISTANCE DIVISION

For not more than the following full-time equivalent positions:

..... FTEs 16.75

Sec. 6. STATE FISH AND GAME PROTECTION FUND – APPROPRIATION TO THE DIVISION OF FISH AND WILDLIFE.

1. There is appropriated from the state fish and game protection fund to the division of fish and wildlife of the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

*Chapter 1117, §3 herein

For administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

..... $ 21,340,891

2. The department shall not expend more moneys from the fish and game protection fund than provided in this section, unless the expenditure derives from contributions made by a private entity, or a grant or moneys received from the federal government, and is approved by the natural resource commission. The department of natural resources shall promptly notify the legislative fiscal bureau and the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.

Sec. 7. MARINE FUEL TAX RECEIPTS – BOATING FACILITIES AND ACCESS. There is appropriated from the marine fuel tax receipts deposited in the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For maintaining and developing boating facilities and access to public waters by the parks and preserves division:

..... $ 411,311

Sec. 8. SNOWMOBILE FEES – TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1996, from the fees deposited under section 321G.7 to the fish and game protection fund and appropriated to the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:

..... $ 100,000

Sec. 9. VESSEL FEES – TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1996, from the fees deposited under section 462A.52 to the fish and game protection fund and appropriated to the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the administration and enforcement of navigation laws and water safety:

..... $ 1,300,000

Of the amount appropriated in this section and the full-time equivalent positions authorized by section 5, subsection 6, of this Act, not more than $100,000 and 1.00 FTE may be used for purposes of controlling and eradicating eurasian milfoil.

Notwithstanding section 8.33, moneys transferred pursuant to this section which are unencumbered or unobligated on June 30, 1997, shall be transferred on July 1, 1997, to the special conservation fund established by section 462A.52 to be used as provided in that section, and shall not revert as provided in section 8.33.

RESOURCES ENHANCEMENT AND PROTECTION

Sec. 10. GENERAL APPROPRIATION. Notwithstanding the amount of the standing appropriation from the general fund of the state under section 455A.18, subsection 3, there is appropriated from the general fund of the state to the Iowa resources enhancement and protection fund, in lieu of the appropriation made in section 455A.18, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the sum of $9,000,000, of which all moneys shall be allocated as provided in section 455A.19.

RELATED APPROPRIATIONS

Sec. 11. APPROPRIATION AND TRANSFER FROM ORGANIC NUTRIENT MANAGEMENT FUND. There is appropriated and transferred from the organic nutrient management

fund, as created in section 161C.5, to the following entities in the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To Iowa state university for supporting odor control applications of animal feeding operations, including confinement feeding operations, regulated by the department of natural resources pursuant to chapter 455B:

..... $ 400,000

a. Moneys provided under this subsection for odor control applications of animal feeding operations shall be provided on a dollar-for-dollar match with an individual owner or operator and shall not exceed the amount actually spent by or on behalf of the owner or operator for odor control.

b. Notwithstanding section 8.33, moneys provided under this subsection for odor control applications of animal feeding operations shall not revert to the organic nutrient management fund but shall remain available for use as provided in this subsection during the fiscal year beginning July 1, 1997, and ending June 30, 1998. The moneys provided in this subsection which remain unexpended or unobligated on June 30, 1998, shall revert to the organic nutrient management fund on August 31, 1998.

*2. *To Iowa state university for supporting a person connected with the United States department of agriculture who engages in animal control, for purposes of contributing to the control of animals, and especially predators, which pose a threat to this state's agriculture:*

..... $ *50,000*

3. To the soil conservation division of the department of agriculture and land stewardship for supporting soil and water conservation district development, including the training of soil and water conservation district staff:

..... $ *42,000*

4. To the interstate agricultural grain marketing commission for carrying out duties of the commission as provided in Article IV of the interstate compact on agricultural grain marketing as provided in chapter 183:

..... $ *80,000*

5. a. To Iowa state university for supporting multiflora rose eradication research and projects:

..... $ *25,000**

b. Notwithstanding 1995 Iowa Acts, chapter 216, section 19, subsection 2, moneys allocated pursuant to 1995 Iowa Acts, chapter 216, section 19, subsection 1, paragraph "d", which remain unencumbered or unobligated on June 30, 1996, shall not revert pursuant to section 8.33, but shall remain available to Iowa state university for purposes of supporting multiflora rose eradication research and projects, for subsequent fiscal years.

**6. To the soil conservation division of the department of agriculture and land stewardship to provide financial incentives for soil conservation practices under chapter 161A:*

..... $ *100,000*

7. To Iowa state university, in cooperation with the farm section of the attorney general's office, in sponsoring an Iowa agriculture 2000 conference, with assistance provided by the department of agriculture and land stewardship and Iowa commodity organizations, for independent agricultural producers and other persons interested in the future of Iowa agriculture:

..... $ *80,000*

*Moneys provided by this subsection shall be used to defray expenses incurred by Iowa state university and the farm section of the attorney general's office in planning and sponsoring the conference. Iowa state university shall prepare a report which accounts for moneys expended by the university in sponsoring the conference. The report shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources on or before January 15, 1997.**

Sec. 12. NONREVERSION OF MONEYS ALLOCATED TO IOWA GRAIN QUALITY INITIATIVE. Notwithstanding 1995 Iowa Acts, chapter 216, section 19, subsection 2,

*Item veto; see message at end of the Act

moneys allocated pursuant to 1995 Iowa Acts, chapter 216, section 19, subsection 1, paragraph "f", subparagraph (1), which remain unencumbered or unobligated on June 30, 1996, shall not revert pursuant to section 8.33, but shall remain available to Iowa state university for purposes of supporting the Iowa cooperative extension service in agriculture and home economics in establishing and administering an Iowa grain quality initiative in subsequent fiscal years.

Sec. 13. TRANSFERS OF MONEYS REQUIRED TO BE DEPOSITED IN THE WATER PROTECTION FUND. Notwithstanding section 161C.4 and the reversion and allocation provisions in section 455A.19, subsection 1, paragraph "c", of the unencumbered and unobligated moneys remaining, which are required to be deposited in the water protection fund created in section 161C.4, as provided in section 455A.19, subsection 1, paragraph "c", the following amount shall be transferred first from moneys required to be deposited in the water protection practices account, and if necessary from moneys required to be deposited in the water quality protection projects account, which shall be used for the following purposes:

To the Loess Hills development and conservation authority, for deposit in the Loess Hills development and conservation fund created in section 161D.2 for the purposes specified in section 161D.1:

..... $ 400,000

Sec. 14. REVENUE ADMINISTERED BY THE IOWA COMPREHENSIVE UNDERGROUND STORAGE TANK FUND BOARD – TRANSFER. There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive underground storage tank fund board, to the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administration expenses of the underground storage tank section of the department of natural resources:

..... $ 75,000

Sec. 15. TRANSFER – AIR QUALITY. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, the department of natural resources shall transfer up to $430,000 from the hazardous substance remedial fund created pursuant to section 455B.423, to support purposes related to carrying out the duties of the commission under section 455B.133, or the director under section 455B.134, or for carrying out the provisions of chapter 455B, division II.

MISCELLANEOUS

Sec. 16. STUDY OF LOCATING FIELD OFFICE IN NORTH CENTRAL DISTRICT. The department of natural resources shall conduct a study of the feasibility of locating a field office in the department's north central district. On or before January 1, 1997, the department of natural resources shall submit a report including findings and recommendations resulting from the study to the committees of the general assembly which have jurisdiction over natural resources.

Sec. 17. STATE NURSERIES. Notwithstanding section 17A.2, subsection 10, paragraph "g", the department of natural resources shall adopt administrative rules establishing a range of prices of plant material grown at the state forest nurseries to cover all expenses related to the growing of the plants.

1. The department shall develop programs to encourage the wise management and preservation of existing woodlands and shall continue its efforts to encourage forestation and reforestation on private and public lands in the state.

2. 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. 18. TRANSFER OF MONEYS OR POSITIONS; CHANGES IN TABLES OF ORGANIZATION - NOTIFICATION. In addition to the requirements of section 8.39, in each fiscal quarter, the department of agriculture and land stewardship and the department of natural resources shall notify the chairpersons, vice chairpersons, and ranking members of the joint appropriations subcommittee on agriculture and natural resources for the previous fiscal quarter of any transfer of moneys or full-time equivalent positions made by either department which is not authorized in this Act, or any permanent position added to or deleted from either department's table of organization.

Sec. 19. AIR QUALITY PROGRAM - NONGENERAL FUND SUPPORT. The department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, shall not use moneys appropriated from the general fund of the state pursuant to this Act, to support any purpose related to carrying out the duties of the commission under section 455B.133 or the director under section 455B.134, or for carrying out the provisions of chapter 455B, division II.

Notwithstanding section 455B.133B, the department may use moneys deposited in the air contaminant source fund created in section 455B.133B during the fiscal year beginning July 1, 1996, and ending June 30, 1997, for any purpose related to carrying out the duties of the commission under section 455B.133 or the director under section 455B.134, or for carrying out the provisions of chapter 455B, division II.

Sec. 20. NATIVE AMERICAN WAR MEMORIAL. The department of natural resources may purchase, with funds which become available under chapter 465A for the fiscal year beginning July 1, 1996, and ending June 30, 1997, lands on which to locate a native American war memorial.

Sec. 21. SOIL AND WATER CONSERVATION CONFERENCE.

1. The division of soil conservation of the department of agriculture and land stewardship shall sponsor a conference not later than September 1, 1996, regarding the protection of cropland soils in this state. The conference shall include discussions of the status of soil and water conservation as it relates to conservation compliance accomplishments, agricultural production policies, water quality protection, and the state's Iowa soil 2000 goal.

2. Conferees shall include representatives of the division of soil conservation, the state soil conservation committee, soil and water conservation districts, the natural resources conservation service of the United States department of agriculture, the cooperative extension service of Iowa state university, and the department of natural resources. The division of soil conservation shall invite other interested persons to serve as conferees, including members of Iowa's congressional delegation; the chairpersons and ranking members of the standing committees on agriculture, and on natural resources, environment, and energy of the senate; the chairpersons and ranking members of the standing committees on agriculture, on natural resources, and on environmental protection of the house of representatives; the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources; representatives of the United States environmental protection agency; and members of farm and commodity organizations.

3. The division of soil conservation shall report to the general assembly not later than January 15, 1997, regarding findings and recommendations of the conferees.

Sec. 22. LAND ACQUISITION - NATURAL RESOURCE COMMISSION. The natural resource commission, upon consultation with department of natural resources staff, shall develop and implement a land acquisition policy which shall be embodied in a strategic land acquisition plan administered by the department. The land acquisition policy and the land acquisition strategic plan shall provide for the acquisition of land in order to enhance the quality of existing state parks, state preserves, state forests, state wildlife areas, and state recreation areas. The commission shall consider all of the following factors and may consider additional factors:

1. The enhancement of the goals of an ecosystem or biodiversity management plan for a state park, state preserve, state forest, state wildlife area, or state recreation area.
2. The proximity or contiguity of the land to a state park, state preserve, state forest, state wildlife area, or state recreation area.
3. The quality of existing natural communities existing on the land.
4. The presence on the land of threatened or endangered species.
5. The potential for enhancing the natural quality or recreational potential of land owned or managed for conservation purposes by other public or nonprofit entities.
6. The risk of losing natural assets through the sale of the land to a competing interest.
7. The preservation or enhancement of unique irreplaceable archaeological, historical, or cultural features existing on land owned or managed for such purposes by other public or nonprofit entities.

Sec. 23. GIFT CERTIFICATES FOR SPECIAL PRIVILEGE FEES ON STATE PARKS AND RECREATION AREAS. The department of natural resources shall publish and make available for purchase by the general public gift certificates entitling the bearer of the certificate to free camping and other special privileges at state parks and recreation areas. The department shall establish prices for the certificates based on amounts required to be paid in fees for camping and special privileges pursuant to section 461A.47.

Sec. 24. APPROPRIATIONS CONDITIONAL UPON IMPLEMENTATION OF CERTAIN PROVISIONS. As a condition of the appropriations made to the department of agriculture and land stewardship in sections 1 through 4 of this Act, the following shall occur as provided in sections 26 and 27 of this Act by July 1, 1996:
1. The department shall complete all administrative functions necessary to transfer the powers and duties of the deputy secretary of agriculture to the interim assistant secretary of agriculture.
2. The office from which the position of deputy secretary of agriculture performed duties on January 1, 1996, shall be vacated until the position of interim assistant secretary of agriculture is filled.

Sec. 25. DEPUTY SECRETARY OF AGRICULTURE – POSITION ELIMINATED. Notwithstanding contrary provisions in sections 14A.1 and 159.14, the position of deputy secretary of agriculture is eliminated.

Sec. 26. ADMINISTRATIVE ASSISTANT VI POSITION. An additional position of administrative assistant VI is created within the department of agriculture and land stewardship. The duties of the position shall not include any matter relating to personnel, including the appointment of an interim assistant secretary of agriculture as provided in section 27 of this Act; or the administration of or budgeting for the department or its administrative units, including divisions within the department. The position shall not have jurisdiction over the heads of the department's administrative units, including division directors. Notwithstanding chapter 19A, the person appointed to fill the position shall serve at the pleasure of the secretary of agriculture. The secretary of agriculture shall prepare and submit a written report to the chairpersons and ranking members of the house and senate standing committees on appropriations and to the legislative fiscal bureau director not later than August 31, 1996, describing the duties and responsibilities of the position.

Sec. 27. INTERIM ASSISTANT SECRETARY OF AGRICULTURE. The position of interim assistant secretary of agriculture is created within the department of agriculture and land stewardship. The secretary of agriculture shall appoint a person to serve as the interim assistant secretary of agriculture, at any time after the effective date of this section of this Act. However, the person appointed as interim assistant secretary of agriculture shall not fill that position before January 15, 1997. Notwithstanding chapter 19A, the person appointed as interim assistant secretary of agriculture shall serve at the pleasure of the secretary of agriculture. The interim assistant secretary of agriculture shall have the same powers and duties

performed by the position of the deputy secretary of agriculture, as that position existed on January 1, 1996. Until the appointment of the interim assistant secretary of agriculture is made, the interim assistant secretary of agriculture's duties shall be performed by the administrative division director of the department of agriculture and land stewardship who shall be acting interim assistant secretary of agriculture. Upon appointment, the interim assistant secretary of agriculture shall receive compensation at the same pay grade at which the position of deputy secretary of agriculture was compensated immediately prior to the effective date of this section of this Act. No position shall be housed in the office from which the position of deputy secretary of agriculture performed duties on January 1, 1996, until the appointment of the interim assistant secretary of agriculture, who shall be housed in that office.

CODIFIED CHANGES

Sec. 28. NEW SECTION. 2.55A DEPARTMENTAL INFORMATION REQUIRED.

1. The department of agriculture and land stewardship and 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 departments' 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 full-time equivalent position limits authorized in law for the departments.

2. 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.

3. The department of agriculture and land stewardship shall provide the legislative fiscal bureau information and financial data on at least a monthly basis, relating to the internal budget system used by the department. The information shall include but is not limited to financial data covering the department's budget prior to the start of the fiscal year, and to the department's actual expenditures after the accounting system has been closed for that fiscal year.

Sec. 29. NEW SECTION. 8.60A TRUST FUND INFORMATION.

The department of revenue and finance in cooperation with each appropriate agency shall track receipts to the general fund of the state which under law were previously collected to be used for specific purposes, or to be credited to, or be deposited to a particular account or fund, as provided in section 8.60.

The department of revenue and finance and each appropriate agency shall prepare reports detailing revenue from receipts previously deposited into each of the funds. A report shall be submitted to the legislative fiscal bureau at least once for each three-month period as designated by the legislative fiscal bureau.

Sec. 30. Section 166D.10, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In addition to other applicable requirements of this section, feeder swine shall not be moved into this state from another state except to slaughter, unless the feeder swine are vaccinated by a differentiable vaccine within forty-five days of arrival in this state.

Sec. 31. Section 455A.18, subsection 3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

For each fiscal year of the fiscal period beginning July 1, ~~1990~~ 1997, and ending June 30, ~~2001~~ 2021, there is appropriated from the general fund, to the Iowa resources enhancement and protection fund, the amount of ~~thirty~~ twenty 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. 32. NEW SECTION. 455A.21 PREFERENCE PROVIDED – PERSONS MEETING ELIGIBILITY REQUIREMENTS OF THE GREEN THUMB PROGRAM.

In its employment of persons in temporary positions in conservation and outdoor recreation, the department of natural resources shall give preference to persons meeting eligibility requirements for the green thumb program under section 15.227 and to persons working toward an advanced education in natural resources and conservation.

Sec. 33. FUTURE REPEAL. Sections 25 through 27 of this Act are repealed on December 31, 1998.

Sec. 34. EFFECTIVE DATES.

1. This subsection, section 11, subsection 5, paragraph "b", and section 12 of this Act, being deemed of immediate importance, take effect upon enactment.
2. The amendment to section 455A.18 in this Act takes effect on July 1, 1997.

Approved May 29, 1996, except the items which I hereby disapprove and which are designated as Section 1, subsection 3, paragraph a, subparagraph 2 in its entirety; Section 1, subsection 4, paragraph a, subparagraph 2 in its entirety; Section 11, subsections 2, 3, and 4 in their entirety; Section 11, subsection 5, paragraph a in its entirety; and Section 11, subsections 6 and 7 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 Mr. Secretary:

I hereby transmit Senate File 2446, an Act relating to agriculture and natural resources, by providing for appropriations, providing related statutory changes, and providing effective dates.

Senate File 2446 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Section 1, subsection 3, paragraph a, subparagraph 2, and Section 1, subsection 4, paragraph a, subparagraph 2, in their entirety. These items would fund two new positions in the Department of Agriculture and Land Stewardship which were not included in my budget recommendations.

I am unable to approve Section 11, subsections 2, 3, and 4, subsection 5, paragraph a, and subsections 6 and 7, in their entirety. These items make appropriations from the Organic Nutrient Management Fund for variety of purposes. The Organic Nutrient Management Fund was established to provide financial incentives to establish livestock manure management systems, to facilitate the proper utilization of livestock manure as a nutrient source, and

to protect water resources from livestock runoff. The vetoed items fall outside the intended purposes of the fund.

For the above reasons, I 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 2446 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1215

APPROPRIATIONS - EDUCATION
H.F. 2477

AN ACT relating to the funding of, operation of, and appropriation of moneys to agencies, institutions, commissions, departments, and boards responsible for education and cultural programs of this state and making related statutory changes and providing effective date provisions.

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

COLLEGE STUDENT AID COMMISSION

Section 1. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

..... $ 342,797
..... FTEs 7.05

The college student aid commission shall conduct a study of and consider possible differentiations in the grants awarded that are based upon parental income and assets under the Iowa tuition grant program and shall consider the reimbursement of grant moneys by a student if the student does not complete a term of study funded by an Iowa tuition grant or a vocational-technical tuition grant. The commission shall submit a report of its findings and recommendations to the general assembly by January 1, 1997.

2. UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES

a. For forgivable loans to Iowa students attending the university of osteopathic medicine and health sciences, under the forgivable loan program pursuant to section 261.19A:

..... $ 379,260

b. For the university of osteopathic medicine and health sciences for an initiative in primary health care to direct primary care physicians to shortage areas in the state:

..... $ 395,000

The moneys appropriated in this lettered paragraph shall be used as follows:

(1) To reduce student loan debt for primary care physicians in an amount not to exceed $30,000 per student for a four-year period of medical service in medically underserved areas of the state.

(2) For tuition scholarships for students attending the university of osteopathic medicine and health sciences who agree to practice primary care medicine in medically underserved

areas of the state. The student shall practice in the state two years for every year of tuition. A person receiving funds under this subparagraph shall not be eligible for funds under subparagraph (1).

(3) For general administration costs of the university for the primary care initiative, the university shall expend an amount not to exceed $50,000.

Within one month of the end of a fiscal quarter, the university of osteopathic medicine and health sciences shall submit a report to the legislative fiscal bureau concerning the expenditure of funds used pursuant to subparagraphs (1), (2), and (3) of this lettered paragraph. The university shall also submit the annual audit of the university to the legislative fiscal bureau within six months following the end of the year being audited.

The college student aid commission shall not provide moneys for subparagraphs (1) and (2) of this lettered paragraph until the university has signed and submitted contracts for the use of these moneys for reduction of student loan debt and tuition scholarships. Funds for subparagraph (3) of this lettered paragraph shall be provided quarterly to the university.

Notwithstanding section 8.33, the funds for this lettered paragraph shall not revert to the general fund but be available for expenditure the following fiscal year for purposes of subparagraphs (1) and (2).

The college student aid commission, the university of osteopathic medicine and health sciences, and the legislative fiscal bureau shall cooperatively develop and propose uniform time periods of medical practice which shall be served in the state in return for an allocation of state funds for purposes of the university of osteopathic medicine and health sciences. Proposals developed may relate to allocations of funds within a single appropriation concept and include contracting provisions. Proposals shall be submitted in a report to the general assembly by January 1, 1997.

3. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

..... $ 1,397,790

Sec. 2. There is appropriated from the loan reserve account to the college student aid commission for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

..... $ 4,596,739
..... FTEs 31.95

Sec. 3. Notwithstanding the maximum allowed balance requirement of the scholarship and tuition grant reserve fund as provided in section 261.20, there is appropriated from the scholarship and tuition grant reserve fund to the college student aid commission for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the funds remaining following transfer, pursuant to section 261.20 for the fiscal year ending June 30, 1995, which are to be divided equally for purposes of the Iowa vocational-tuition grants and the work study program. Funds appropriated in this section are in addition to funds appropriated in section 261.25, subsection 3, and section 261.85.

Sec. 4. **Not later than September 1, 1996, the college student aid commission shall compile a list of affected students receiving tuition grants during the fiscal year beginning July 1, 1995, and who transferred from a nonaccredited to an accredited private institution for the fiscal year beginning July 1, 1996. If the student meets all financial aid criteria as set forth by the commission, the transferring affected student may continue to receive a tuition grant for the fiscal year beginning July 1, 1996. The commission shall calculate the funds remaining from tuition grants awarded to affected students who do not transfer to an accredited private institution in the fiscal year beginning July 1, 1996. Notwithstanding section 261.25, subsection 1, the first $200,000 of these funds shall be used for national guard tuition aid as provided in section*

*Item veto; see message at end of the Act

261.21 as enacted by this Act, the next $115,000 shall be used for enhanced forgivable loans as provided in this section, the next $100,000 shall be used for chiropractic graduate student forgivable loans as provided in section 261.71, the next $15,000 shall be used to provide grants to students who would meet the requirements for receipt of a vocational-technical tuition grant, but who are enrolled in a licensed school of cosmetology arts and sciences under chapter 157, or a licensed barber school under chapter 158, and any excess remaining funds shall be used to award tuition grants to eligible students. For purposes of this paragraph, "affected student" means a qualified student for whom payment of a tuition grant was made under section 261.13 for one or more semesters or trimesters while the student was attending a private institution which was accredited as defined in section 261.9 for the fiscal year beginning July 1, 1995, but which does not meet the requirements for an accredited private institution for the fiscal year beginning July 1, 1996.

*The amount of an enhanced forgivable loan issued under this section shall not exceed $11,500.** To qualify for an enhanced forgivable loan a person shall do all of the following:

(1) Practice as a primary care physician in a community designated as underserved by state and federal authorities and which has a population of less than 20,000. A student must provide one year of practice for every year of loan forgiveness.

(2) Have shown superior academic achievement and demonstrated exceptional financial need during the last year of undergraduate study.

The commission shall prescribe by rule the terms of repayment and forgiveness. The rules shall be consistent with the requirements of section 261.19A. The commission shall deposit payments made by loan recipients into the fund created in section 261.19B.

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 5. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ARTS DIVISION

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants, for areawide arts and cultural service organizations that meet the requirements of chapter 303C, and for not more than the following full-time equivalent positions:

.....	$	1,081,918
.....	FTEs	11.00

The Iowa arts council shall develop and implement a simplified, uniform grant application for use by all grant applicants and shall prescribe a uniform grant application renewal period for all grant applicants by January 15, 1997.

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,626,267
.....	FTEs	58.50

3. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	386,039
.....	FTEs	5.00

4. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	250,227
.....	FTEs	4.30

*Item veto; see message at end of the Act

5. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3, and for not more than the following full-time equivalent position:

.....	$	707,721
.....	FTEs	0.70

DEPARTMENT OF EDUCATION

Sec. 6. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

.....	$	5,378,382
.....	FTEs	96.95

The department of education shall conduct a study of the special education funding system with the following goals: increasing the capacity of the whole school to meet the needs of all children; increasing support available to "at-risk" students; and ensuring predictable and equitable special education funding at both the state and local levels. The study shall include, but is not limited to, an examination of the consequences of increasing the current special education weights and the impact that will have on those districts whose expenditures exceed the amounts generated under the present weighting plan and on those districts which are generating sufficient funds; the issues and feasibility of alternative special education funding systems based on school district experiences with involvement from representatives of the education community, including representatives from area education agencies, special education teachers, administrators, and advocacy groups; and the possibility of establishing a funding system to address students that are "at-risk" but are not currently eligible for special education services. The department shall submit its findings and specific recommendations in a report to the general assembly and the legislative fiscal bureau by January 1, 1997.

The department of education shall conduct a study of the trends in the number of students requiring services to become proficient in the English language and the current and projected costs related to providing such services by local school districts. The department shall report its findings and specific recommendations regarding funding to the general assembly and the legislative fiscal bureau by January 1, 1997.

The department of education, in consultation with the department of human services, shall conduct a study of the funding for educational programs provided for each child living with an individual licensed under chapter 237, or in a foster care or other facility as defined in sections 282.19 and 282.27. The recommendations developed shall include but not be limited to the funding structure and source of funding. The department shall submit a report of its findings and recommendations to chairpersons and ranking members of the joint appropriations subcommittee on education and the chairpersons and ranking members of the standing education committees by January 1, 1997.

The department of education shall review the reports required of the department by the general assembly since 1980 and shall catalog the progress, success, and failures of the general assembly in implementing or responding to the recommendations contained in those reports. The department shall submit its findings and recommendations to the chairpersons and ranking members of the joint appropriations subcommittee on education and the chairpersons and ranking members of the standing education committees of the senate and the house of representatives by January 1, 1997.

The department of education shall conduct a study of the means by which student employability skills may be measured, including but not limited to the employability skills of students at various levels of their secondary education and students who have graduated, the

*Item veto; see message at end of the Act

businesses that employ them, and the institutions of higher learning which admit the graduates. The department shall submit its findings and recommendations to the chairpersons and ranking members of the joint appropriations subcommittee on education and the chairpersons and ranking members of the standing education committees of the senate and the house of representatives by January 1, 1997.

The department of education shall submit an annual report of funds expended and activities accomplished in the K-12 and community college management information system to the general assembly and the legislative fiscal bureau by January 1, 1997. The department shall determine the goals of the K-12 and community college management information system and establish a timeline by which the goals shall be accomplished. The goals and timeline shall be included in the annual report submitted to the general assembly and the legislative fiscal bureau by January 1, 1997.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	656,057
.....	FTEs	18.60

3. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	194,582
.....	FTEs	2.00

4. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	4,098,243
.....	FTEs	289.75

The division of vocational rehabilitation services of the department of education shall seek, in addition to state appropriations, funds other than federal funds, which may include but are not limited to local funds, for purposes of matching federal vocational rehabilitation funds.

Notwithstanding the full-time equivalent position limit established in this subsection for the fiscal year ending June 30, 1997, if federal funding is available to pay the costs of additional employees for the vocational rehabilitation division who would have duties relating to vocational rehabilitation services paid for through federal funding, authorization to hire not more than four full-time equivalent employees shall be provided, the full-time equivalent position limit shall be exceeded, and the additional employees shall be hired by the division.

b. For matching funds for programs to enable severely physically or mentally disabled persons to function more independently, including salaries and support, and for not more than the following full-time equivalent positions:

.....	$	75,169
.....	FTEs	1.50

5. STATE LIBRARY

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,797,190
.....	FTEs	34.50

Reimbursement of the institutions of higher learning under the state board of regents for participation in the access plus program during the fiscal year beginning July 1, 1996, and ending June 30, 1997, shall not exceed the total amount of reimbursement paid to the regents institutions of higher learning for participation in the access plus program during the fiscal year beginning July 1, 1995, and ending June 30, 1996.

6. REGIONAL LIBRARY

For state aid:

.....	$	1,537,000

7. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,075,335
..... FTEs 104.50

8. CAREER PATHWAYS PROGRAM

For purposes of developing and implementing a career pathways program to expand opportunities for youth and adults to become prepared for and succeed in high-wage, high-skill employment:

..... $ 650,000

Of the funds appropriated in this subsection, and from funds available pursuant to section 256.39, subsection 7, for each year during the fiscal period beginning July 1, 1996, and ending June 30, 1998, $50,000 may be expended for purposes of employing an individual to administer and direct the career pathways program.

Notwithstanding section 8.33, unobligated and unencumbered money remaining on June 30, 1997, from the allocation made in this subsection shall not revert but shall be available for expenditure during the following fiscal year.

9. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

..... $ 3,308,850

Funds allocated in this subsection shall be used for expenditures made by school districts to meet the standards set in sections 256.11, 258.4, and 260C.14 as a result of the enactment of 1989 Iowa Acts, chapter 278. Funds shall be used as reimbursement for vocational education expenditures made by secondary schools in the manner provided by the department of education for implementation of the standards set in 1989 Iowa Acts, chapter 278.

10. SCHOOL FOOD SERVICE

For use as state matching funds for federal programs that shall be disbursed according to federal regulations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,716,859
..... FTEs 14.00

11. 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:

..... $ 616,000

12. 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 and for other youth activities:

..... $ 107,900

13. FAMILY RESOURCE CENTERS

For support of the family resource center demonstration program established under chapter 256C:

..... $ 120,000

14. CENTER FOR ASSESSMENT

For the purpose of developing academic standards in the areas of math, history, science, English, language arts, and geography:

..... $ 200,000

The department of education shall submit in a report to the general assembly by January 1, 1997, the amount of state funding anticipated to be needed to fund the department's future participation with the center for assessment and shall determine the number of years participation is necessary.

15. COMMUNITY COLLEGES

Notwithstanding chapter 260D, if applicable, for general state financial aid, including general financial aid to merged areas in lieu of personal property tax replacement payments under section 427A.13, to merged areas as defined in section 260C.2, for vocational education programs in accordance with chapters 258 and 260C:

..... $ 126,006,270

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I	$	6,011,556
b. Merged Area II	$	7,088,572
c. Merged Area III	$	6,693,483
d. Merged Area IV	$	3,261,020
e. Merged Area V	$	6,820,986
f. Merged Area VI	$	6,321,009
g. Merged Area VII	$	9,016,757
h. Merged Area IX	$	11,055,518
i. Merged Area X	$	17,159,800
j. Merged Area XI	$	18,467,633
k. Merged Area XII	$	7,281,649
l. Merged Area XIII	$	7,447,594
m. Merged Area XIV	$	3,303,347
n. Merged Area XV	$	10,303,739
o. Merged Area XVI	$	5,773,608

Of the moneys allocated to merged area XI in paragraph "j", for the fiscal year beginning July 1, 1996, and ending June 30, 1997, $135,000 shall be expended on the career opportunity program established in section 260C.29 to provide assistance to minority persons who major in fields or subject areas where minorities are currently underutilized.

By January 1, 1997, the department of education, in consultation with the Iowa association of community college trustees, shall submit recommendations for a funding formula that identifies and addresses community college needs.

Unless the board of directors of a community college filed a dental hygiene program intent form with the department of education by December 1, 1995, the board shall not authorize the creation of a dental hygienist program until after the adjournment of the first regular session of the Seventy-seventh General Assembly.

Sec. 7. The board of directors of each community college shall submit to the department of education and the legislative fiscal bureau, by August 15, 1996, on forms designed by the department of education in consultation with the community colleges, information which shall include, but is not limited to, the following:

1. The number of full-time and part-time students enrolled in each program offered by the community college, listed by program.

2. The number of and any appropriate demographic information, including salaries of full-time and part-time staff, relating to the faculty, administration, and support personnel employed at each community college.

3. The full-time equivalent total of persons employed as identified in subsection 2.

4. Tuition charges, fees, and other costs payable to the community college by a student.

5. The types of degrees granted by the community college and the number of students receiving these degrees.

6. The amounts of revenues and expenditures from state financial aid, federal funds, tax levies, projects authorized under chapters 260E and 260F, tuition, bonds, other local sources, foundation sources, and donations and gifts that may be accepted by the governing board of a community college.

7. An inventory of buildings and facilities owned and leased by the community college, and any related operation and maintenance costs.

8. Infrastructure plans, which shall include, but are not limited to, the amounts expended in the current fiscal year on renovation and construction, and any future plans and projected costs for expansion.

The department of education may withhold from a community college any state financial assistance appropriated to the department for allocation to the community college for the fiscal year beginning July 1, 1996, and ending June 30, 1997, if the community college fails to substantially meet the requirements of this section.

Sec. 8. Notwithstanding section 8.33 and 1995 Iowa Acts, chapter 218, section 1, subsection 17, funds appropriated and allocated for advanced placement pursuant to 1995 Iowa Acts, chapter 218, section 1, subsection 17, remaining unencumbered and unobligated on June 30, 1996, shall not revert to the general fund of the state but shall be distributed to the department of education for the fiscal year beginning July 1, 1996, and ending June 30, 1997, as follows:

1. The amount of $50,000 for participation by the department of education in a state and national project, the national assessment of education progress (NAEP), to determine the academic achievement of Iowa students in math, reading, science, United States history, or geography.

2. The amount of $19,000 for purposes of providing grants to support qualifying teams for a worldwide academic competition.

If funds available from the specified source under this section are insufficient to fully fund the appropriations made in this section, the amounts appropriated to the department for the purposes specified under this section shall be reduced proportionately.

Sec. 9. DEPARTMENT OF EDUCATION INTERIM MEETING. It is the intent of the general assembly that the chairpersons and ranking members of the joint appropriations subcommittee on education, the legislative fiscal bureau, and the legislative service bureau meet with representatives from the international center for gifted and talented education and the first in the nation in education foundation during the 1996 legislative interim period to determine and recommend a permanent funding source and the amount of funding needed to support the center and the foundation.

Sec. 10. INTERNATIONAL CENTER FOR GIFTED AND TALENTED EDUCATION. It is the intent of the general assembly that the international center for gifted and talented education fund the gifted and talented summer institute during the fiscal year beginning July 1, 1996, from the moneys appropriated to the international center for gifted and talented education pursuant to section 257B.1A for the fiscal year beginning July 1, 1996, and ending June 30, 1997.

Sec. 11. Notwithstanding section 257B.1A, subsection 5, as amended by 1996 Iowa Acts, House File 570,* and this Act, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 50 percent of the interest remaining in the interest for Iowa schools fund after the total of the transfer of moneys to the first in the nation in education foundation pursuant to section 257B.1A, subsection 2, and after the transfer of moneys to the international center endowment fund in section 257B.1A, subsection 3, paragraph "a", shall, in addition, be transferred to the international center endowment fund and the remaining 50 percent, rather than become a part of the interest for Iowa schools fund, shall be transferred to the first in the nation in education foundation.

STATE BOARD OF REGENTS

Sec. 12. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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

*Chapter 1184 herein

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,137,417
..... FTEs 15.63

If the moneys provided in this lettered paragraph are augmented by reimbursements from the institutions under the control of the state board of regents for the funding of the office of the state board of regents, the office shall report quarterly such reimbursements to the chairpersons and ranking members of the joint appropriations subcommittee on education.

The board shall prepare a quarterly report, regarding the board office budget and the reimbursements provided to the board by the institutions of higher learning under the control of the board, which shall be submitted quarterly to the general assembly and the legislative fiscal bureau.

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:

..... $ 26,984,350

The state board of regents, the department of management, and the legislative fiscal bureau shall cooperate to determine and agree upon, by November 15, 1996, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 1997.

c. For funds to be allocated to the southwest Iowa graduate studies center:

..... $ 104,156

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... $ 74,511

e. For funds to be allocated to the quad-cities graduate studies center:

..... $ 154,278

It is the intent of the general assembly that the state board of regents explore options relating to locating the graduate centers under its control within the appropriate campuses of the community college system, and that the board consider the benefits of fully utilizing the Iowa communications network to maximize efficiency. The board shall review options regarding relocation of the centers and submit recommendations to the legislative fiscal bureau and the joint appropriations subcommittee on education by January 1, 1997.

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 202,702,328
..... FTEs 4,022.97

b. For the primary health care initiative in the college of medicine and for not more than the following full-time equivalent positions:

..... $ 771,000
..... FTEs 11.00

From the moneys appropriated in this lettered paragraph, $330,000 shall be allocated to the department of family practice at the state university of Iowa college of medicine for family practice faculty and support staff.

c. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes and for medical and surgical treatment of indigent patients as provided in chapter 255, for medical education, and for not more than the following full-time equivalent positions:

..... $ 29,452,383
..... FTEs 5,701.67

*Item veto; see message at end of the Act

The university of Iowa hospitals and clinics shall submit quarterly a report regarding the portion of the appropriation in this lettered paragraph expended on medical education. The report shall be submitted in a format jointly developed by the university of Iowa hospitals and clinics, the legislative fiscal bureau, and the department of management, and shall delineate the expenditures and purposes of the funds.

Funds appropriated in this lettered paragraph 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 lettered 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.

The total quota allocated to the counties for indigent patients for the fiscal year beginning July 1, 1996, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1995. The total quota shall be allocated among the counties on the basis of the 1990 census pursuant to section 255.16.

d. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, for the care, treatment, and maintenance of committed and voluntary public patients, and for not more than the following full-time equivalent positions:

.....	$	7,225,868
.....	FTEs	307.05

e. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	5,938,345
.....	FTEs	167.10

f. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,896,269
.....	FTEs	63.58

g. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,309,148
.....	FTEs	102.49

h. Family practice program

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:

.....	$	2,060,917
.....	FTEs	180.74

i. Child health care services

For specialized child health care services, including childhood cancer diagnostic and treatment network programs, rural comprehensive care for hemophilia patients, and the Iowa high-risk infant follow-up program, including salaries and support, and for not more than the following full-time equivalent positions:

.....	$	464,274
.....	FTEs	10.60

j. Agricultural health and safety programs

For agricultural health and safety programs, and for not more than the following full-time equivalent positions:

.....	$	253,213
.....	FTEs	3.48

k. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

.....	$	195,167
.....	FTEs	3.07

l. Substance abuse consortium

For funds to be allocated to the Iowa consortium for substance abuse research and evaluation, and for not more than the following full-time equivalent positions:

.....	$	64,396
.....	FTEs	1.15

m. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

.....	$	1,017,000
.....	FTEs	14.40

n. National advanced driving simulator

For the national advanced driving simulator, and for not more than the following full-time equivalent positions:

.....	$	608,448
.....	FTEs	3.58

It is the intent of the general assembly that fiscal year 1997-1998 shall be the last fiscal year in which the general assembly appropriates funds for purposes of the planning and construction of the national advanced driving simulator.

o. Research park

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	321,000
.....	FTEs	4.35

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:

.....	$	161,084,066
.....	FTEs	3,583.64

Of the funds appropriated in this lettered paragraph, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, $40,000 shall be expended for purposes of the institute of public leadership.

Of the funds appropriated in this lettered paragraph, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, $1,700,000 shall be expended for purposes of the healthy livestock program.

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	31,754,200
.....	FTEs	546.98

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, including salaries and support for the fire service institute, and for not more than the following full-time equivalent positions:

.....	$	19,280,398
.....	FTEs	431.85

By January 1, 1997, Iowa state university of science and technology shall submit a report concerning the population served and each service provided by the Iowa cooperative extension service in agriculture and home economics to the chairpersons and ranking members of the joint appropriations subcommittee on education and the legislative fiscal bureau.

d. Leopold center

For agricultural research grants at Iowa state university under section 266.39B, and for not more than the following full-time equivalent positions:

.....	$	560,593
.....	FTEs	11.25

e. Livestock disease research

For deposit in and the use of the livestock disease research fund under section 267.8, and for not more than the following full-time equivalent positions:

.....	$	276,022
.....	FTEs	3.17

f. Research park

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	370,000
.....	FTEs	4.31

4. UNIVERSITY OF NORTHERN IOWA

a. General university

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	72,083,159
.....	FTEs	1,425.50

b. Recycling and reuse center

.....	$	239,745

c. Metal casting

.....	$	160,000

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	6,703,655
.....	FTEs	124.14

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,736,503
.....	FTEs	83.68

7. TUITION AND TRANSPORTATION COSTS

For payment to local school boards for the tuition and transportation costs of students residing in the Iowa braille and sight saving school and the state school for the deaf pursuant

to section 262.43 and for payment of certain clothing and transportation costs for students at these schools pursuant to section 270.5:

..... $ 11,882

*Sec. 13. *If revenues received by the state board of regents from indirect cost reimbursements, refunds and reimbursements, interest, and other categories within the general operating budgets of the institutions of higher learning under the control of the regents equal an amount greater than the original budget approved by the regents board for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the increase shall be used for building repair, deferred maintenance, or fire safety at the respective institutions of higher learning under the control of the board, and shall not be used to increase budget ceilings adopted by the regents board.**

Sec. 14. Reallocations of sums received under section 12, subsections 2, 3, 4, 5, and 6, of this Act, including sums received for salaries, shall be reported on a quarterly basis to the co-chairpersons and ranking members of the legislative fiscal committee and the joint appropriations subcommittee on education.

Sec. 15. It is the intent of the general assembly that $328,155 of the money appropriated to the university of northern Iowa for the fiscal year beginning July 1, 1996, and ending June 30, 1997, in 1996 Iowa Acts, Senate File 2195,** section 3, if enacted, shall be treated by the department of management in the same manner as the money appropriated under the general university category for the university of northern Iowa in section 12, subsection 4, paragraph "a", of this Act.

Sec. 16. Notwithstanding section 8.33, funds appropriated in 1995 Iowa Acts, chapter 218, section 6, subsection 1, paragraph "b", remaining unencumbered or unobligated on June 30, 1996, shall not revert to the general fund of the state but shall be available for expenditure for the purposes listed in section 12, subsection 1, paragraph "b", of this Act during the fiscal year beginning July 1, 1996, and ending June 30, 1997.

Sec. 17. MEDICAL ASSISTANCE - SUPPLEMENTAL AMOUNTS. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, the department of human services shall continue the supplemental disproportionate share and a supplemental indirect medical education adjustment applicable to state-owned acute care hospitals with more than 500 beds and shall reimburse qualifying hospitals pursuant to that adjustment with a supplemental amount for services provided medical assistance recipients. The adjustment shall generate supplemental payments intended to equal the state appropriation made to a qualifying hospital for treatment of indigent patients as provided in chapter 255. To the extent of the supplemental payments, a qualifying hospital shall, after receipt of the funds, transfer to the department of human services an amount equal to the actual supplemental payments that were made in that month. The aggregate amounts for the fiscal year shall not exceed the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255. The department of human services shall deposit the portion of these funds equal to the state share in the department's medical assistance account and the balance shall be credited to the general fund of the state. To the extent that state funds appropriated to a qualifying hospital for the treatment of indigent patients as provided in chapter 255 have been transferred to the department of human services as a result of these supplemental payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup the supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by a qualifying hospital pursuant to this provision is transferred to the qualifying hospital by the department.

If the state supplemental amount allotted to the state of Iowa for the federal fiscal year beginning October 1, 1996, and ending September 30, 1997, pursuant to section 1923 (f)(3) of the federal Social Security Act, as amended, or pursuant to federal payments for indirect medical education is greater than the amount necessary to fund the federal share of the

*Item veto; see message at end of the Act
**Chapter 1209 herein

supplemental payments specified in the preceding paragraph, the department of human services shall increase the supplemental disproportionate share or supplemental indirect medical education adjustment by the lesser of the amount necessary to utilize fully the state supplemental amount or the amount of state funds appropriated to the state university of Iowa general education fund and allocated to the university for the college of medicine. The state university of Iowa shall transfer from the allocation for the college of medicine to the department of human services, on a monthly basis, an amount equal to the additional supplemental payments made during the previous month pursuant to this paragraph. A qualifying hospital receiving supplemental payments pursuant to this paragraph that are greater than the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255 shall be obligated as a condition of its participation in the medical assistance program to transfer to the state university of Iowa general education fund on a monthly basis an amount equal to the funds transferred by the state university of Iowa to the department of human services. To the extent that state funds appropriated to the state university of Iowa and allocated to the college of medicine have been transferred to the department of human services as a result of these supplemental payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup these supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by the state university of Iowa pursuant to this paragraph is transferred to the qualifying hospital by the department.

Continuation of the supplemental disproportionate share and supplemental indirect medical education adjustment shall preserve the funds available to the university hospital for medical and surgical treatment of indigent patients as provided in chapter 255 and to the state university of Iowa for educational purposes at the same level as provided by the state funds initially appropriated for that purpose.

The department of human services shall, in any compilation of data or other report distributed to the public concerning payments to providers under the medical assistance program, set forth reimbursements to a qualifying hospital through the supplemental disproportionate share and supplemental indirect medical education adjustment as a separate item and shall not include such payments in the amounts otherwise reported as the reimbursement to a qualifying hospital for services to medical assistance recipients.

For purposes of this section, "supplemental payment" means a supplemental payment amount paid for medical assistance to a hospital qualifying for that payment under this section.

Sec. 18. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, the state board of regents may use notes, bonds, or other evidences of indebtedness issued under section 262.48 to finance projects that will result in energy cost savings in an amount that will cause the state board to recover the cost of the projects within an average of six years.

Sec. 19. Notwithstanding section 270.7, the department of revenue and finance shall pay the state school for the deaf and the Iowa braille and sight saving school the moneys collected from the counties during the fiscal year beginning July 1, 1996, for expenses relating to prescription drug costs for students attending the state school for the deaf and the Iowa braille and sight saving school.

Sec. 20. Section 11.6, subsection 1, paragraph a, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least

once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of all school funds, the certified annual financial report, and the certified enrollment as provided in section 257.6. ~~Examinations of community colleges shall include an audit of eligible and noneligible contact hours as defined in section 260D.2. Eligible and noneligible contact hours and any differences~~ Differences in certified enrollment shall be reported to the department of management.

Sec. 21. Section 256.52, subsections 1 and 2, Code 1995, are amended to read as follows:

1. The state commission of libraries consists of one member appointed by the supreme court, the director of the department of education, or the director's designee, and six members appointed by the governor to serve four-year terms beginning and ending as provided in section 69.19. Of the governor's appointees, one member shall be from the medical profession and five members selected at large. Not more than three of the members appointed by the governor shall be of the same gender. The members shall be reimbursed for their actual expenditures necessitated by their official duties. Members may also be eligible for compensation as provided in section 7E.6.

2. The commission shall elect one of its members as chairperson. The commission shall meet at the time and place specified by call of the chairperson. ~~Four~~ Five members are a quorum for the transaction of business.

Sec. 22. Section 257.31, subsection 16, Code 1995, is amended to read as follows:

16. The committee shall perform the duties assigned to it under ~~chapter 260D and section~~ sections 257.32 and 260C.18B.

*Sec. 23. *Section 257B.1A, subsections 2 through 4, if enacted by 1996 Iowa Acts, House File 570, are amended to read as follows:*

2. For a transfer of moneys from the interest for Iowa schools fund to the first in the nation in education foundation, prior to July 1, October 1, January 1, and March 1 of each year, the governing board of the first in the nation in education foundation established in section 257A.2 shall certify to the treasurer of state the cumulative total value of cash contributions received under section 257A.7 for deposit in the first in the nation in education fund and for the use of the foundation. ~~The value of in-kind contributions shall be based upon the fair market value of the contribution determined for income tax purposes.~~

The portion of the permanent school fund that is equal to the cumulative total value of cash contributions, less the portion of the permanent school fund dedicated to the international center for gifted and talented education, is dedicated to the first in the nation in education foundation for that year. The interest earned on this dedicated amount shall be transferred by the treasurer of state to the credit of the first in the nation in education foundation.

3. a. For a transfer of moneys from the interest for Iowa schools fund to the international center endowment fund established in section 263.8A, prior to July 1, October 1, January 1, and March 1 of each year, the state university of Iowa shall certify to the treasurer of state the cumulative total value of cash contributions received and deposited in the international center endowment fund. Within fifteen days following certification by the state university of Iowa, the treasurer of state shall transfer from the interest for Iowa schools fund to the international center an amount equal to the amount of interest earned on the portion of the permanent school fund that is equal to one-half the cumulative total value of the cash contributions deposited in the international center endowment fund, not to exceed eight hundred seventy-five thousand dollars.

b. However, if prior to July 1, 1998, the general assembly appropriates moneys for the international center endowment fund established in section 263.8A in an aggregate amount equal to eight hundred seventy-five thousand dollars, the transfer of the interest earned based upon the cumulative value of cash contributions equal to one million seven hundred fifty

*Item veto; see message at end of the Act

thousand dollars deposited in the international center endowment fund on July 1, 1995, is no longer required under this section. If, on or after July 1, 1998, the general assembly appropriates moneys for the international center endowment fund in an aggregate amount equal to six hundred seventy-five thousand dollars, the transfer of interest earned based upon the cumulative value of cash contributions equal to one million three hundred fifty thousand dollars deposited in the international center endowment fund between July 1, 1995, and June 30, 1998, is no longer required under this section.

*4. In addition to the moneys transferred pursuant to subsection 3, paragraph "a", effective on the date on which the cumulative total value of cash contributions deposited in the international center endowment fund between July 1, 1995, and June 30, 1998, equals or exceeds one million three hundred fifty thousand dollars, and annually thereafter, the treasurer of state shall transfer moneys from the interest for Iowa schools fund to the international center endowment fund in an amount equal to the interest earned on six hundred seventy-five thousand dollars in the permanent school fund.**

Sec. 24. Section 260C.2, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Instructional cost center" means one of the following areas of course offerings of the community colleges:

a. Arts and sciences cost center.
b. Vocational-technical preparatory cost center.
c. Vocational-technical supplementary cost center.
d. Adult basic education and high school completion cost center.
e. Continuing and general education cost center.

Sec. 25. Section 260C.4, subsection 4, paragraph h, Code 1995, is amended to read as follows:

h. This subsection is void and shall be stricken from the Code effective June 30, ~~1995~~ 1998, except as provided in section 260C.47.

Sec. 26. Section 260C.14, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Provide, within a reasonable time, information as requested by the departments of management and education.

Sec. 27. Section 260C.18, subsection 4, Code 1995, is amended to read as follows:

4. State aid and supplemental state aid to be paid in accordance with the statutes which provide such aid.

Sec. 28. NEW SECTION. 260C.18A STATE AID.

For the fiscal year beginning July 1, 1996, and for each succeeding fiscal year, moneys appropriated by the general assembly from the general fund of the state to the department of education for community college purposes for general state financial aid, including general financial aid to merged areas in lieu of personal property tax replacement payments under section 427A.13, to merged areas as defined in section 260C.2, and for vocational education programs in accordance with chapters 258 and 260C, for a fiscal year, shall be allocated to each community college by the department of education in the proportion that the allocation to that community college in 1995 Iowa Acts, chapter 218, section 1, subsection 19, bears to the total appropriation made in 1995 Iowa Acts, chapter 218, section 1, subsection 19.

Sec. 29. NEW SECTION. 260C.18B COMMUNITY COLLEGE BUDGET REVIEW.

1. A community college budget review procedure is established for the school budget review committee created in section 257.30. The school budget review committee, in addition to its duties under chapter 257, shall meet and hold hearings each year under this chapter to review unusual circumstances of community colleges, either upon the committee's motion or upon the request of a community college. The committee may grant supplemental state aid to

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the community college from funds appropriated to the department of education for community college budget review purposes.

Unusual circumstances shall include but not be limited to the following:

a. An unusual increase or decrease in enrollment or contact hours.

b. Natural disasters.

c. Unusual staffing problems.

d. Unusual necessity for additional funds to permit continuance of a course or program in an instructional cost center which provides substantial benefit to students.

e. Unusual need for a new course or program in an instructional cost center which will provide substantial benefit to students, if the community college establishes the need and the amount of necessary increased cost.

f. Unique problems of community colleges to include vandalism, civil disobedience, and other costs incurred by community colleges.

2. When the school budget review committee makes a decision under subsection 1, it shall provide written notice of its decision, including the amount of supplemental state aid approved, to the board of directors of the community college and to the department of education.

3. All decisions by the school budget review committee under this chapter shall be made in accordance with reasonable and uniform policies which shall be consistent with this chapter.

4. Failure by a community college to provide information or appear before the school budget review committee as requested for the accomplishment of review or hearing constitutes justification for the committee to instruct the department of revenue and finance to withhold supplemental state aid to that community college until the committee's inquiries are satisfied completely.

Sec. 30. Section 260C.22, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The board of directors of any merged area that failed to certify for levy under subsection 3 by March 15, 1982, and March 15, 1983, may certify for levy by April 15, 1997, and April 15, 1998, 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, 1995, in order to provide a cash reserve for that area school. 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. Notwithstanding subsection 3, moneys from the cash reserve fund established by a merged area under subsection 3 or this subsection shall be used only to alleviate temporary cash shortages *and for the acquisition, lease, lease-purchase, installation, and maintenance of instructional technology equipment, including hardware and software, materials and supplies, and staff development and training related to instructional technology.* 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 community college 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. 31. Section 260C.29, subsection 3, Code Supplement 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. f. Contract with other community colleges to expand the availability of program services and increase the number of students served by the program.

NEW PARAGRAPH. g. Establish a separate account, which shall consist of all appropriations, grants, contributions, bequests, endowments, or other moneys or gifts received specifically for purposes of the program by the community college administering the program as provided in subsection 2. Not less than eighty percent of the funds received from state appropriations for purposes of the program shall be used for purposes of assistance to students as provided in subsection 5.

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Sec. 32. Section 260C.34, Code 1995, is amended to read as follows:

260C.34 USES OF FUNDS.

Funds obtained pursuant to section 260C.17; section 260C.18, subsections 3, 4, and 5 ~~of section 260C.18~~; ~~section~~ and sections 260C.18A, 260C.18B, 260C.19~~;~~, and ~~section~~ 260C.22 shall not be used for the construction or maintenance of athletic buildings or grounds but may be used for a project under section 260C.56.

Sec. 33. Section 260C.39, unnumbered paragraph 5, Code 1995, is amended to read as follows:

The terms of employment of personnel, for the academic year following the effective date of the agreement to combine the merged areas shall not be affected by the combination of the merged areas, except in accordance with the procedures under sections 279.15 to 279.18 and section 279.24, to the extent those procedures are applicable, or under the terms of the base bargaining agreement. The authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to any applicable procedures under chapter 279, shall be transferred to the acting, and then to the new, board of the combined merged area upon certification of a favorable vote to each of the merged areas affected by the agreement. The collective bargaining agreement of the merged area ~~with the largest number of contact hours eligible for~~ receiving the greatest amount of general state aid~~, as defined under section 260D.2,~~ shall serve as the base agreement for the combined merged area and the employees of the merged areas which combined to form the new combined merged area shall automatically be accreted to the bargaining unit from that former merged area for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the merged areas which are combining under this section, then that agreement shall serve as the base agreement, and the employees of the merged areas which are combining to form the new combined merged area shall automatically be accreted to the bargaining unit of that former merged area for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the combined merged area, using the base agreement as its existing contract, shall bargain with the combined employees of the merged areas that have agreed to combine for the academic year beginning with the effective date of the agreement to combine merged areas. The bargaining shall be completed by March 15 prior to the academic year in which the agreement to combine merged areas becomes effective or within one hundred eighty days after the organization of the acting board of the new combined merged area, whichever is later. If a bargaining agreement was already concluded in the former merged area which has the collective bargaining agreement that is serving as the base agreement for the new combined merged area, between the former merged area board and the employees of the former merged area, that agreement is void, unless the agreement contained multiyear provisions affecting academic years subsequent to the effective date of the agreement to form a combined merged area. If the base collective bargaining agreement contains multiyear provisions, the duration and effect of the agreement shall be controlled by the terms of the agreement. The provisions of the base agreement shall apply to the offering of new contracts, or the continuation, modification, or termination of existing contracts between the acting or new board of the combined merged area and the combined employees of the new combined merged area.

Sec. 34. Section 260C.47, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The state board of education shall establish an accreditation process for community college programs by July 1, ~~1994~~ 1997. The process shall be jointly developed and agreed upon by the department of education and the community colleges. The state accreditation process shall be integrated with the accreditation process of the north central association of colleges and schools, including the evaluation cycle, the self-study process, and the criteria for evaluation, which shall incorporate the standards for community colleges developed under section

260C.48; and shall identify and make provision for the needs of the state that are not met by the association's accreditation process. If a joint agreement has not been reached by July 1, ~~1994~~ 1997, the approval process provided under section 260C.4, subsection 4, shall remain the required accreditation process for community colleges. For the academic year commencing July 1, ~~1995~~ 1998, and in succeeding school years, the department of education shall use a two-component process for the continued accreditation of community college programs.

Sec. 35. NEW SECTION. 260C.49 RULES.

The department of education shall adopt rules and definitions of terms necessary for the administration of this chapter. The school budget review committee shall adopt rules under chapter 17A to carry out section 260C.18B.

Sec. 36. Section 261.12, subsection 1, paragraph b, Code Supplement 1995, is amended to read as follows:

b. For the fiscal year beginning July 1, ~~1995~~ 1996, and for each following fiscal year, ~~two~~ three thousand ~~nine~~ one hundred fifty dollars.

Sec. 37. NEW SECTION. 261.21 NATIONAL GUARD TUITION AID PROGRAM.

1. Subject to an appropriation of sufficient funds by the general assembly, a member of the national guard who meets the eligibility requirements of this subsection is entitled to attend and pursue any undergraduate course of study at a community college as defined in chapter 260C, or an institution of higher learning under the control of the state board of regents upon the payment by the member personally of fifty percent of the tuition charged by the community college or institution of higher learning. The remaining tuition shall be paid by the college student aid commission from funds appropriated by the general assembly. To be eligible for tuition aid under this section, a national guard member shall meet the following conditions:

a. Be a resident of the state and a member of an Iowa army or air national guard unit throughout each semester or duration of the vocational program for which the member has applied for benefits.

b. Have satisfactorily completed required initial active duty training.

c. Have maintained satisfactory performance of duty upon return from initial active duty training, including attending a minimum ninety percent of scheduled drill dates and attending annual training.

d. Have satisfactorily met the entrance requirements for admission to a community college, or institution of higher learning under the control of the state board of regents, and maintain satisfactory academic progress.

e. Have provided proper notice of national guard status to the community college or institution at the time of registration for the term in which tuition benefits are sought.

f. Apply to the adjutant general of Iowa, who shall determine eligibility and whose decision is final.

2. Participation in the tuition aid program by an accredited private institution, as defined in section 261.9, is voluntary. Subject to an appropriation of sufficient funds by the general assembly, a member of the Iowa national guard who meets the eligibility requirements of subsection 1, except for subsection 1, paragraph "d", is entitled to attend and pursue any undergraduate course of study at any participating accredited private institution, as defined in section 261.9, upon admission to the institution and payment of tuition less an amount equal to fifty percent of the resident tuition rate established for institutions of higher learning under the control of the state board of regents. The remaining tuition, not to exceed fifty percent of the resident tuition rate for a regents university, shall be paid by the college student aid commission from funds appropriated by the general assembly.

3. An eligible member of the national guard, attending an educational institution as a full-time student, shall not receive tuition aid under this section for more than eight semesters, or if attending as a part-time student, not more than sixteen semesters of undergraduate study, or

the trimester or quarter equivalent. A guard member who has met the educational requirements for a baccalaureate degree is ineligible for tuition aid under this section.

4. The eligibility of applicants shall be certified by the adjutant general of Iowa to the college student aid commission, and all amounts that are or become due to a community college, accredited private institution, or institution of higher learning under the control of the state board of regents under this section shall be paid to the college or institution by the college student aid commission upon receipt of certification by the president or governing board of the educational institution as to accuracy of charges made, and as to the attendance of the individual at the educational institution. The college student aid commission shall maintain an annual record of the number of participants and the tuition dollar value of the participation.

5. The college student aid commission shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 38. Section 261.25, subsections 1 and 3, Code Supplement 1995, 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-five~~ thirty-eight million six hundred sixty-four thousand seven hundred fifty dollars for tuition grants.

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of one million ~~four~~ six hundred ~~twenty-four~~ eight thousand ~~seven~~ two hundred ~~eighty~~ fifty-seven dollars for vocational-technical tuition grants.

Sec. 39. Section 261.48, unnumbered paragraph 4, Code 1995, is amended by striking the unnumbered paragraph.

Sec. 40. Section 261C.6, subsection 2, unnumbered paragraph 2, Code 1995, is amended to read as follows:

A pupil is not eligible to enroll on a full-time basis in an eligible postsecondary institution and receive payment for all courses in which a student is enrolled. ~~If an eligible postsecondary institution is a community college established under chapter 260C, the contact hours of a pupil for which a tuition reimbursement amount is received are not contact hours eligible for general aid under chapter 260D.~~

Sec. 41. Section 262.9, subsection 4, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

Manage and control the property, both real and personal, belonging to the institutions. The board shall purchase or require the purchase of, when the price is reasonably competitive and the quality as intended, ~~and in keeping with the schedule established in this subsection,~~ soybean-based inks ~~and plastic products with recycled content, including but not limited to plastic garbage can liners. For purposes of this subsection, "recycled content" means that the content of the product contains a minimum of thirty percent postconsumer material.~~ All inks purchased that are used internally or are contracted for by the board shall be soybean-based to the extent formulations for such inks are available.

Sec. 42. Section 262.9, subsection 4, paragraphs a, b, and c, Code Supplement 1995, are amended by striking the paragraphs.

Sec. 43. Section 262.9, subsection 10, Code Supplement 1995, is amended by striking the subsection.

**Sec. 44. Section 262.9, Code Supplement 1995, is amended by adding the following new subsection:*

NEW SUBSECTION. 30. By January 1 annually, submit a report to the general assembly and the legislative fiscal bureau on the facilities overhead use allowance and the amount of

*Item veto; see message at end of the Act

*building and equipment use allowances of the overall indirect cost recovery on federally sponsored research programs. The report shall include the individual institutional policies of distribution of the federal facilities overhead use allowance within each institution of higher learning under the control of the board, and shall be in a format agreed to by the board and the legislative fiscal bureau.**

**Sec. 45. Section 262.34A, Code 1995, is amended to read as follows:*

262.34A BID REQUESTS.

*The state board of regents shall request bids and proposals for materials, products, supplies, provisions, and other needed articles to be purchased at public expense, from Iowa state industries as defined in section 904.802, subsection 2, when the articles are available in the requested quantity and at comparable prices and quality. The exceptions provided under section 904.808, subsection 1, shall not apply to the state board of regents.**

Sec. 46. Section 272.2, subsection 15, if enacted by 1996 Iowa Acts, House File 455,** is amended to read as follows:

15. Adopt rules that require specificity in written complaints that are filed by individuals who have personal knowledge of an alleged violation and which are accepted by the board, provide that the jurisdictional requirements as set by the board in administrative rule are met on the face of the complaint before initiating an investigation of allegations, provide that before initiating an investigation of allegations, provide that any investigation be limited to the allegations contained on the face of the complaint, provide for an adequate interval between the receipt of a complaint and public notice of the complaint, permit parties to a complaint to mutually agree to a resolution of the complaint filed with the board, allow the respondent the right to review any investigative report ~~for accuracy with its author prior to the submission of the report to~~ upon a finding of probable cause for further action by the board, require that the conduct providing the basis for the complaint occurred within three years of ~~the filing~~ discovery of the ~~complaint~~ event by the complainant unless good cause can be shown for an extension of this limitation, and require complaints to be resolved within one hundred eighty days unless good cause can be shown for an extension of this limitation.

Sec. 47. Section 273.3, subsection 12, Code 1995, is amended to read as follows:

12. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 256B within the limits of funds provided under section 256B.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall be not later than March 1 of each year, the time, and the location of the public hearing. The proposed budget as approved by the board shall then be submitted to the state board of education, on forms provided by the department, no later than March 15 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall before April 1, either grant approval or return the budget without approval with comments of the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than April 15. For the fiscal year beginning July 1, 1999, and each succeeding fiscal year, the state board shall give final approval only to budgets submitted by area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

Sec. 48. Section 273.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 22. Meet annually with the members of the boards of directors of the school districts located within its boundaries if requested by the school district boards.

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*Item veto; see message at end of the Act

**Chapter 1189 herein

Sec. 49. NEW SECTION. 273.10 ACCREDITATION OF AREA EDUCATION PROGRAMS.

1. The department of education shall develop, in consultation with the area education agencies, and establish an accreditation process for area education agencies by July 1, 1997. At a minimum, the accreditation process shall consist of the following:

a. The timely submission by an area education agency of information required by the department on forms provided by the department.

b. The use of an accreditation team appointed by the director of the department of education to conduct an evaluation, including an on-site visit of each area education agency. The team shall include, but is not limited to, department staff members, representatives from the school districts served by the area education agency being evaluated, area education agency staff members from area education agencies other than the area education agency that conducts the programs being evaluated for accreditation, and other team members with expertise as deemed appropriate by the director.

2. Prior to a visit to an area education agency, the accreditation team shall have access to that area education agency's program audit report filed with the department. After a visit to an area education agency, 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 programs of the area education agency should receive initial accreditation or remain accredited. The accreditation team shall report strengths and weaknesses, if any, for each accreditation standard and shall advise the area education agency of available resources and technical assistance to further enhance the strengths and improve areas of weakness. An area education agency may respond to the accreditation team's report.

3. The state board of education shall determine whether a program of an area education agency shall receive initial accreditation or shall remain accredited. Approval of area education agency programs by the state board shall be based upon the recommendation of the director of the department of education after a study of the factual and evaluative evidence on record about each area education agency program in terms of the accreditation standards adopted by the state board.

Approval, if granted, shall be for a term of three years. However, the state board may grant conditional approval for a term of less than three years if conditions warrant.

4. If the state board of education determines that an area education agency's program does not meet accreditation standards, the director of the department of education, in cooperation with the board of directors of the area education agency, shall establish a remediation 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 remediation plan is subject to the approval of the state board.

5. The area education agency program shall remain accredited during the implementation of the remediation plan. The accreditation team shall visit the area education agency 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 of education. The state board shall review the report and recommendation and shall determine whether the deficiencies in the program have been corrected.

6. If the deficiencies in an area education program have not been corrected, the agency board shall take one of the following actions within sixty days from removal of accreditation:

a. Merge the deficient program with a program from another accredited area education agency.

b. Contract with another area education agency or other public educational institution for purposes of program delivery.

The rules developed by the state board of education for the accreditation process shall include provisions for removal of accreditation, including provisions for proper notice to the administrator of the area education agency, each member of the board of directors of the area

education agency, and the superintendents and administrators of the schools of the districts served by the area education agency.

Sec. 50. NEW SECTION. 273.11 STANDARDS FOR ACCREDITING AREA EDUCATION PROGRAMS.

1. The state board of education shall develop standards and rules for the accreditation of area education agencies by July 1, 1997. Standards shall be general in nature, but at a minimum shall identify requirements addressing the services provided by each division, as well as identifying indicators of quality that will permit area education agencies, school districts, the department of education, and the general public to judge accurately the effectiveness of area education agency services.

2. Standards developed shall include, but are not limited to, the following:

a. Support for school-community planning, including a means of assessing needs, establishing shared direction and implementing program plans and reporting progress.

b. Professional development programs that respond to current needs.

c. Support for curriculum development, instruction, and assessment for reading, language arts, math and science, using research-based methodologies.

d. Special education compliance and support.

e. Management services, including financial reporting and purchasing as requested and funded by local districts.

f. Support for instructional media services that supplement and support local district media centers and services.

g. Support for school technology planning and staff development for implementing instructional technologies.

h. A program and services evaluation and reporting system.

Sec. 51. Section 282.4, subsection 3, Code Supplement 1995, is amended to read as follows:

3. Notwithstanding section 282.6, if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension ~~and if the student, or the parent or guardian of the student, changes district of residence~~, the student shall not be ~~enrolled~~ permitted to enroll in ~~the new~~ a school district ~~of residence~~ until the board of directors of the ~~new~~ school district ~~of residence~~ approves, by a majority vote, the enrollment of the student.

Sec. 52. Section 282.5, Code Supplement 1995, is amended to read as follows:

282.5 READMISSION OF STUDENT.

When a student is suspended by a teacher, principal, or superintendent, pursuant to section 282.4, the student may be readmitted by the teacher, principal, or superintendent when the conditions of the suspension have been met, but when expelled by the board the student may be readmitted only by the board or in the manner prescribed by the board.

Sec. 53. Section 294A.25, subsections 7 and 8, Code Supplement 1995, are amended to read as follows:

7. Commencing with the fiscal year beginning July 1, ~~1993~~ 1996, the amount of fifty thousand dollars for geography alliance~~, seventy thousand dollars for gifted and talented,~~ and one hundred eighty thousand dollars for a management information system from additional funds transferred from phase I to phase III.

8. For the fiscal year beginning July 1, ~~1995~~ 1996, and ending June 30, 1997, to the department of education from phase III moneys the amount of one million two hundred fifty thousand dollars for support for the operations of the new Iowa schools development corporation and for school transformation design and implementation projects administered by the corporation. Of the amount provided in this subsection, one hundred fifty thousand dollars shall be used for the school and community planning initiative.

Sec. 54. Section 298.9, Code Supplement 1995, is amended to read as follows:

298.9 SPECIAL LEVIES.

If the voter-approved physical plant and equipment levy, consisting solely of a physical plant and equipment property tax levy, is voted at a special election and certified to the board of supervisors after the regular levy is made, the board shall at its next regular meeting levy the tax and cause it to be entered upon the tax list to be collected as other school taxes. If the certification is filed prior to ~~April~~ May 1, the annual levy shall begin with the tax levy of the year of filing. If the certification is filed after ~~April~~ May 1 in a year, the levy shall begin with the levy of the fiscal year succeeding the year of the filing of the certification.

Sec. 55. FUNDS TRANSFERRED. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts for the purposes designated shall be paid to the department of education from additional funds transferred from phase I to phase III:

1. For support of the Iowa mathematics and science coalition:
..... $ 50,000

*2. *For purposes of the Iowa law and school safety project:*
..... $ *75,000**

3. For supplemental funds for a management information system:
..... $ 120,000

If funds available are insufficient to fully fund the appropriation for a management information system under this section, the amount distributed for the management information system shall be reduced to an amount equal to the available funds.

Sec. 56. 1996 Iowa Acts, Senate File 2080,** section 70, subsection 1, is amended to read as follows:

1. ~~Sections 260C.24 and~~ Section 303.18, Code Supplement 1995, ~~are~~ is repealed.

Sec. 57. 1996 Iowa Acts, Senate File 2080,** section 16, is repealed.

Sec. 58. REPEAL – DIRECTION TO CODE EDITOR. Section 260C.18A, as enacted in this Act, is repealed effective July 1, 1997. The Code editor shall strike the reference to section 260C.18A in section 260C.34 effective July 1, 1997.

Sec. 59. REPEAL.

1. Sections 225.34, 261.45, 261.52A, and 294.15, Code 1995, are repealed.
2. Chapter 260D, Code and Code Supplement 1995, is repealed.

Sec. 60. EFFECTIVE DATE. The unnumbered paragraph relating to the creation of a dental hygienist program provided for in section 6, subsection 15, of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 61. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. The sections of this Act which amend section 260C.4, subsection 4, paragraph "h", and section 260C.47, subsection 1, unnumbered paragraph 1, being deemed of immediate importance, take effect upon enactment and apply retroactively to June 30, 1994.

Sec. 62. Sections 3, 8, and 16 of this Act and section 59, subsection 2, of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 29, 1996, except the items which I hereby disapprove and which are designated as that portion of Section 4 which is herein bracketed in ink and initialed by me; Section 6,

*Item veto; see message at end of the Act

**Chapter 1034 herein

subsection 1, unnumbered and unlettered paragraph 5 in its entirety; Section 12, subsection 1, paragraph e, unnumbered and unlettered subparagraph 2 in its entirety; Section 13 in its entirety; Section 23 in its entirety; that portion of Section 30 which is herein bracketed in ink and initialed by me; Sections 44 and 45 in their entirety; and Section 55, subsection 2 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2477, an Act relating to the funding of, operation of, and appropriation of moneys to agencies, institutions, commissions, departments, and boards responsible for education and cultural programs of this state and making related statutory changes and providing effective date provisions.

House File 2477 is therefore approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portion of Section 4. This item would fund four new programs with dollars from the Tuition Grant Program. The funds that would be used to begin these programs are available for one year only. While these programs have merit, I strongly support the Tuition Grant Program and believe that it is wrong to divert these resources. The tuition grant funds are needed and should remain available to help students with financial need to attend Iowa independent colleges and universities.

I am unable to approve the item designated as Section 6, subsection 1, unnumbered and unlettered paragraph 5, in its entirety. This item would require the Department of Education to embark on a time-consuming review of all departmental recommendations to the Legislature since 1980 and reporting on the legislature's success and failures in implementing them. This assignment would be more appropriately directed to legislative staff.

I am unable to approve the item designated as Section 12, subsection 1, paragraph e, unnumbered and unlettered subparagraph 2, in its entirety. This item directs the Board of Regents to consider relocating the graduate centers under its control. Location of the centers is clearly a governance issue and should be decided by the State Board of Regents.

I am unable to approve the item designated as Section 13, in its entirety. This item would earmark the proceeds from indirect overhead reimbursements to be used exclusively for building repairs. Redirecting these funds could compromise future negotiations and research contracts with the federal government on indirect costs rates. The universities have been fairly conservative in budgeting for indirect cost recoveries. This policy is wise in view of the many uncertainties at the federal level both in terms of provisions of research funds and the rates for indirect cost recoveries that are allowed. The funds should be used for the purposes for which they are received.

I am unable to approve Section 23, in its entirety. This item would prohibit the FINE Foundation from using noncash contributions to satisfy the Foundation's match requirement to receive funds from the Interest for Iowa Schools Fund. A review of the source and amount of funding necessary to support the Foundation is called for in section 9 of the bill. It would be premature to approve any changes in funding until the review is completed.

I am unable to approve the designated portion of Section 30. This item would allow community college cash reserve funds to be used for purposes other than temporary cash shortages. The purpose for the cash reserves is to alleviate temporary cash shortages and the reserves should remain available for that purpose or be returned to the property taxpayers of the community college district.

I am unable to approve Section 44, in its entirety. This item would require the Regents' institutions to report annually the purposes for which certain indirect cost recovery receipts are used. This information is available and has been provided when requested, therefore it is not necessary to impose an annual reporting requirement on the institutions.

I am unable to approve Section 45, in its entirety. This item would establish requirements for purchases of Prison Industry products by the Regents that are different than those applying to all other agencies. All state agencies are encouraged to purchase and use Prison Industry products whenever possible. Any exceptions to such purchases should apply in the same way across state government.

I am unable to approve Section 55, subsection 2, in its entirety. This item would appropriate funds out of Phase I teachers' salary dollars to pay for the costs of a new program which was not recommended in my budget. These resources should rather be used for their intended purpose of improving the competitiveness of beginning teachers' salaries.

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 2477 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1216

APPROPRIATIONS - JUSTICE SYSTEM
H.F. 2472

AN ACT relating to and making appropriations to the justice system, creating a drug abuse resistance education surcharge, and providing effective dates.

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

Section 1. DEPARTMENT OF JUSTICE. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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 including odometer fraud enforcement, and for not more than the following full-time equivalent positions:

.....	$	5,693,460
.....	FTEs	178.50

It is the intent of the general assembly that of the funds appropriated in this subsection, not more than $50,000 shall be used to establish an office of veterans advocate as provided in section 13.32, as enacted by this Act.

*Item veto; see message at end of the Act

2. Prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 250,000

..... FTEs 6.00

a. In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the attorney general shall provide up to $41,000 in state matching funds from moneys retained by the attorney general from property forfeited pursuant to section 809.13, for the prosecuting attorney training program, the prosecuting intern program, or both. Counties participating in the prosecuting intern program shall match the state funds.

b. In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1996, and ending June 30, 1997, and the moneys retained by the attorney general pursuant to paragraph "a", the attorney general shall provide up to $10,000 in state matching funds from moneys retained by the attorney general from property forfeited pursuant to section 809.13, for the office of the prosecuting attorneys training coordinator to use for continuation of the domestic violence response enhancement program established in accordance with 1992 Iowa Acts, chapter 1240, section 1, subsection 2, paragraph "b".

c. The prosecuting attorneys training program shall use a portion of the funds appropriated in this subsection for educating and training prosecuting attorneys, as defined in section 13A.1, in alternative dispute resolution techniques.

3. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1996, and ending June 30, 1997, an amount not exceeding $200,000 to be used for the enforcement of the Iowa competition law. The expenditure of the funds appropriated in 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. However, if the funds received as a result of these judgments are in excess of $200,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection.

4. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1996, and ending June 30, 1997, an amount not exceeding $150,000 to be used for public education relating to consumer fraud and for enforcement of section 714.16, and an amount not exceeding $75,000 for investigation, prosecution, and consumer education relating to consumer and criminal fraud against older Iowans. The expenditure of the funds appropriated in this subsection is contingent upon receipt by the general fund of the state of an amount at least equal to the expenditures from damages awarded to the state or a political subdivision of the state by a civil consumer fraud judgment or settlement, if the judgment or settlement authorizes the use of the award for public education on consumer fraud. However, if the funds received as a result of these judgments and settlements are in excess of $225,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection.

5. For victim assistance grants:

..... $ 1,759,806

a. The funds appropriated in this subsection shall be used to provide grants to care providers providing services to crime victims of domestic abuse or to crime victims of rape and sexual assault.

b. Notwithstanding section 8.33 or 8.39, any balance remaining from the appropriation in this subsection shall not revert to the general fund of the state but shall be available for expenditure during the subsequent fiscal year for the same purpose, and shall not be transferred to any other program.

6. For the GASA prosecuting attorney program and for not more than the following full-time equivalent positions:

..... $ 108,999

..... FTEs 3.00

7. The balance of the victim compensation fund established under section 912.14 may be used to provide salary and support of not more than 9.00 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

8. The department of justice 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 comparisons of the moneys and percentage spent of budgeted to actual revenues and expenditures on a cumulative basis for full-time equivalent positions and available moneys.

9. a. The department of justice, in submitting budget estimates pursuant to section 8.23, shall include a report of funding from sources other than amounts appropriated directly from the general fund of the state to the department of justice or to the office of consumer advocate. These funding sources shall include, but are not limited to, reimbursements from other state agencies, commissions, boards, or similar entities, and reimbursements from special funds or internal accounts within the department of justice. The department of justice shall report actual reimbursements for the fiscal year commencing July 1, 1995, and actual and expected reimbursements for the fiscal year commencing July 1, 1996.

b. The department of justice shall include the report required under paragraph "a", as well as information regarding any revisions occurring as a result of reimbursements actually received or expected at a later date, in a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau. The department of justice shall submit the report on or before January 15, 1997.

10. For legal services for persons in poverty grants as provided in section 13.34, as enacted in this Act:

..... $ 950,000

Sec. 2. DEPARTMENT OF JUSTICE – ENVIRONMENTAL CRIMES INVESTIGATION AND PROSECUTION – FUNDING. There is appropriated from the environmental crime fund of the department of justice, consisting of court-ordered fines and penalties awarded to the department arising out of the prosecution of environmental crimes, to the department of justice for the fiscal year beginning July 1, 1996, and ending June 30, 1997, an amount not exceeding $20,000 to be used by the department, at the discretion of the attorney general, for the investigation and prosecution of environmental crimes, including the reimbursement of expenses incurred by county, municipal, and other local governmental agencies cooperating with the department in the investigation and prosecution of environmental crimes.

The expenditure of the funds appropriated in this section is contingent upon receipt by the environmental crime fund of the department of justice of an amount at least equal to the appropriations made in this section and received from contributions, court-ordered restitution as part of judgments in criminal cases, and consent decrees entered into as part of civil or regulatory enforcement actions. However, if the funds received during the fiscal year are in excess of $20,000, the excess funds shall be deposited in the general fund of the state.

Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the designated purpose in the succeeding fiscal year.

Sec. 3. DEPARTMENT OF JUSTICE – OBSCENITY ENFORCEMENT. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For establishing an antiobscenity enforcement unit within the general office of attorney general, and for not more than the following full-time equivalent positions:

.....	$	110,000
.....	FTEs	2.00

Sec. 4. OFFICE OF CONSUMER ADVOCATE. There is appropriated from the general fund of the state to the office of consumer advocate of the department of justice for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

.....	$	2,337,189
.....	FTEs	32.00

Sec. 5. BOARD OF PAROLE. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, including maintenance of an automated docket and the board's automated risk assessment model, employment of two statistical research analysts to assist with the application of the risk assessment model in the parole decision-making process, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	827,749
.....	FTEs	17.00

Sec. 6. DEPARTMENT OF CORRECTIONS – FACILITIES. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	26,170,099
.....	FTEs	495.00

b. In addition to the funds appropriated in paragraph "a", for the operation of cellhouse 17 of the Fort Madison correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	216,363
.....	FTEs	3.17

c. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of correctional officers and a part-time chaplain to provide religious counseling to inmates of a minority race, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	19,955,506
.....	FTEs	372.75

Moneys are provided within this appropriation for two full-time substance abuse counselors for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.

d. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	16,360,631
.....	FTEs	321.30

e. For the operation of the Newton correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 10,233,775
..... FTEs 154.28

f. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, employment of correctional officers and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 14,684,042
..... FTEs 279.32

g. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,656,219
..... FTEs 111.00

h. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 14,467,836
..... FTEs 246.00

Moneys received by the department of corrections as reimbursement for services provided to the Clarinda youth corporation are appropriated to the department and shall be used for the purpose of operating the Clarinda correctional facility.

i. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,477,098
..... FTEs 132.00

2. a. 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.

b. 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 669 for inmate tort claims of less than $50.

*3. *The department of corrections shall continue the development of the concept of a super-maximum security facility for inmates, including, but not limited to, details on the number of beds, staffing, operations, and the process for classifying inmates for incarceration at such a facility. The department shall explain the staffing, classification, and structured differences between a super-maximum security facility for inmates and any other type of facility in the corrections system.**

Sec. 7. DEPARTMENT OF CORRECTIONS - ADMINISTRATION. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

*Item veto; see message at end of the Act

1. For general administration, including salaries, support, maintenance, employment of an education director and clerk to administer a centralized education program for the correctional system, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,372,985
..... FTEs 38.18

The department shall monitor the use of the classification model by the judicial district departments of correctional services 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.

It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, the department of corrections shall not enter into a new contract, unless the contract is a renewal of an existing contract, for the expenditure of moneys in excess of one hundred thousand dollars during the fiscal year beginning July 1, 1996, for the privatization of services performed by the department using state employees as of July 1, 1996, or for the privatization of new services by the department, without prior consultation with any applicable state employee organization affected by the proposed new contract and prior notification of the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system.

It is the intent of the general assembly that the department of general services shall, notwithstanding any provisions of law or rule to the contrary, permit the department of corrections the opportunity to acquire, at no cost, computers that would otherwise be disposed of by the department of general services. The department of corrections shall use computers acquired under this paragraph to provide educational training and programs for inmates.

2. For reimbursement of counties for temporary confinement of work release and parole violators, as provided in sections 901.7, 904.908, and 906.17 and for offenders confined pursuant to section 904.513:

..... $ 237,038

3. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

..... $ 341,334

The department of corrections shall use funds appropriated by this subsection to continue to contract for the services 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:

..... $ 458,074
..... FTEs 8.16

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

6. For educational programs for inmates at state penal institutions:

..... $ 2,350,600

It is the intent of the general assembly that moneys appropriated in this subsection shall be used solely for the purpose indicated and that the moneys shall not be transferred for any other purpose. In addition, it is the intent of the general assembly that the department shall consult with the community colleges in the areas in which the institutions are located to utilize moneys appropriated in this subsection to fund the high school completion, high school equivalency diploma, adult literacy, and adult basic education programs in a manner so as to maintain these programs at the institutions.

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available only for the purposes designated in this subsection in the succeeding fiscal year.

7. For funding of the criminal justice program at the university of northern Iowa:
..... $ 175,000

*8. *For increased inmate costs at the institutions:*
..... *$ 278,000**

9. For additional correctional officers to be assigned to adult correctional institutions under the control of the department, and may be used for implementation of requirements of section 904.701, and for not more than the following full-time equivalent positions:
..... $ 770,000
..... FTEs 22.00

10. The department of corrections shall submit a report to the general assembly on January 1, 1997, concerning progress made in implementing the requirements of section 904.701, concerning hard labor by inmates.

Sec. 8. JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:
..... $ 7,036,820

(1) 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".

(2) The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

b. For the second judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:
..... $ 5,632,043

(1) The district department shall continue the sex offender treatment program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "b".

(2) The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

c. For the third judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:
..... $ 3,384,385

(1) The district department shall continue the sex offender treatment program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "c", and the intensive supervision program established within the district in 1990 Iowa Acts, chapter 1268, section 6, subsection 3, paragraph "d".

(2) The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

d. For the fourth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the

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department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 2,551,754

(1) The district department shall continue the sex offender treatment program established within the district in 1988 Iowa Acts, chapter 1271, section 6, subsection 1, paragraph "d".

(2) The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

e. For the fifth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 9,169,253

(1) 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 shall continue to provide for the rental of electronic monitoring equipment.

(2) The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

f. For the sixth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 7,118,005

(1) 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 the sex offender treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "f".

(2) The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

(3) The district department shall continue the implementation of a plan providing for the expanded use of intermediate criminal sanctions, as provided in 1993 Iowa Acts, chapter 171, section 6, subsection 1, paragraph "f", subparagraph (3).

(4) The district department is authorized to enter into financial arrangements for and to construct an addition to the Faches Center for the purposes of adding staff offices.

g. For the seventh judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 4,486,275

(1) 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 sex offender treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "g".

(2) The district department shall continue the job development program established within the district in 1990 Iowa Acts, chapter 1268, section 6, subsection 7, paragraph "e".

(3) The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

h. For the eighth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the

department of corrections violator program, the following amount, or so much thereof as is necessary:

..... $ 4,120,221

(1) 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 treatment program established within the district in 1989 Iowa Acts, chapter 316, section 8, subsection 1, paragraph "h".

(2) The district department, in cooperation with the chief judge of the judicial district, shall continue the implementation of a plan to divert low-risk offenders to the least restrictive sanction available.

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:

..... $ 83,576

*j. *For the department of corrections for the assistance and support of the judicial district departments of correctional services for use in implementing the requirements for inmate hard labor, the following amount, or so much thereof as is necessary:*

..... *$ 100,000**

2. The department of corrections shall continue to contract with a judicial district department of correctional services to provide for the rental of electronic monitoring equipment which shall be available statewide.

3. Each judicial district department of correctional services and the department of corrections shall continue the treatment alternatives to street crime programs established in 1989 Iowa Acts, chapter 225, section 9.

4. The governor's alliance on substance abuse shall consider federal grants made to the department of corrections for the benefit of each of the eight judicial district departments of correctional services as local government grants, as defined pursuant to federal regulations.

5. Each judicial district department of correctional services shall provide a report concerning the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1997.

6. It is the intent of the general assembly that each judicial district department of correctional services shall operate the community-based correctional facilities in a manner which provides for a residential population of at least 110 percent of the design capacity of the facility.

7. In addition to the requirements of section 8.39, 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 work load and performance measures upon which the transfers are based.

Sec. 9. JUDICIAL DEPARTMENT. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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, trial court supervisors, trial court technicians II, financial supervisors I and II, 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, reimbursement of the auditor of state for expenses incurred in completing audits of the offices of the clerks of the district court

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during the fiscal year beginning July 1, 1996, and maintenance, equipment, and miscellaneous purposes:

..... $ 90,815,119

a. 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.

b. 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.

c. It is the intent of the general assembly that counties installing new telephone systems shall provide those systems to all judicial department offices within the county at no cost.

d. Of the funds appropriated in this subsection, not more than $1,897,728 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.

e. The funds appropriated in this subsection shall not be used to expand the applications of the Iowa court information system for purposes other than those for which the system is currently used. The judicial department shall focus efforts upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts. The judicial department shall report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1997, concerning the completion of the department's communication and information management system.

f. It is the intent of the general assembly that the offices of the clerks of the district court operate in all ninety-nine counties and be accessible to the public as much as is reasonably possible in order to address the relative needs of the citizens of each county.

g. The judicial department shall use a portion of the funds appropriated in this subsection for educating and training the appropriate court personnel in alternative dispute resolution techniques.

h. In addition to the requirements for transfers under section 8.39, the judicial department shall not change the appropriations from the amounts appropriated to the department in this Act, unless notice of the revisions is given prior to their effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the changes and details concerning the work load and performance measures upon which the changes are based.

i. The judicial department shall provide a report semiannually to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative fiscal bureau specifying the amounts of fines, surcharges, and court costs collected using the Iowa court information system. The report shall demonstrate and specify how the Iowa court information system is used to improve the collection process.

A report required by this paragraph shall be made by January 15, 1997, for the counties added to the Iowa court information system during the 1995-1996 fiscal year, and by January 15, 1998, for the additional counties added to the system by this Act, indicating whether the counties have reduced uncollected court fines and fees by 50 percent as a result of being added to the system.

j. Of the funds appropriated in this subsection, the judicial department shall use not more than $108,999 for an additional 3.00 district court judges as provided in this paragraph:

(1) Beginning January 1, 1997, one additional district court judge is authorized and shall be assigned to a judicial election district in the fifth judicial district as determined by the chief judge of the fifth judicial district.

(2) Beginning June 1, 1997, one additional district court judge is authorized and shall be assigned to a judicial election district in the fifth judicial district as determined by the chief judge of the fifth judicial district.

(3) Beginning June 1, 1997, one additional district court judge is authorized and shall be assigned to a judicial election district in the second judicial district as determined by the chief judge of the second judicial district.

k. Of the funds appropriated in this subsection, the judicial department shall use $297,833 for an additional 4 juvenile court officers, 3 juvenile court specialists, and 3 clerical workers.

l. Of the funds appropriated in this subsection, the judicial department shall use $140,000 to increase the salary of all associate juvenile judges and associate probate judges.

m. Of the funds appropriated in this subsection, the judicial department shall use $174,000 for an additional 4.75 FTEs for the expansion of the court-appointed special advocate program.

n. The judicial department shall provide a report to the general assembly by January 1, 1997, concerning the amounts received and expended from the enhanced court collections fund created in section 602.1304 during the fiscal year beginning July 1, 1995, and ending June 30, 1996, and the plans for expenditures during the fiscal year beginning July 1, 1996, and ending June 30, 1997.

2. For the juvenile victim restitution program:

..... $ 155,396

Sec. 10. COURT TECHNOLOGY AND MODERNIZATION FUND – DISTRIBUTION. Of the moneys collected and deposited in the court technology and modernization fund established in section 602.8108, $468,800 deposited in the fund in the fiscal year beginning July 1, 1996, shall be expended for the implementation of a records management program in the clerk of court offices using imaging and CD-ROM technology.

Sec. 11. ENHANCED COURT COLLECTIONS FUND – DISTRIBUTION. Of the moneys collected and deposited in the enhanced court collections fund created in section 602.1304, the first $857,500 deposited in the fund in the fiscal year beginning July 1, 1996, shall be expended for use by the Iowa court information system.

Sec. 12. JUDICIAL RETIREMENT FUND. There is appropriated from the general fund of the state to the judicial retirement fund for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the state's contribution to the judicial retirement fund established in section 602.9104, in the amount of 23.7 percent of the basic salaries of the judges covered under chapter 602, article 9:

..... $ 3,726,422

Sec. 13. INDIGENT DEFENSE COSTS. The supreme court shall submit a written report for the preceding fiscal year no later than January 1, 1997, indicating the amounts collected pursuant to section 815.9A, relating to recovery of indigent defense costs. The report shall include the total amount collected by all courts, as well as the amounts collected by each judicial district. The supreme court shall also submit a written report quarterly indicating the number of criminal and juvenile filings which occur in each judicial district for purposes of estimating indigent defense costs. A copy of each report shall be provided to the public defender, the department of management, and the legislative fiscal bureau. The judicial department shall continue to assist in the development of an automated data system for use in the sharing of information utilizing the generic program interface for legislative and executive branch uses.

Sec. 14. AUTOMATED DATA SYSTEM. The department of corrections, judicial district departments of correctional services, board of parole, and the judicial department shall continue to 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. The department of corrections, in consultation and cooperation with the judicial district departments of correctional services, the board of parole, and the judicial department, shall provide a report concerning the development of the automated data system to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1997.

Sec. 15. CORRECTIONAL INSTITUTIONS - VOCATIONAL TRAINING. The state prison industries board and the department of corrections shall continue the implementation of a plan to enhance vocational training opportunities within the correctional institutions listed in section 904.102, as provided in 1993 Iowa Acts, chapter 171, section 12. The plan shall provide for increased vocational training opportunities within the correctional institutions, including the possibility of approving community college credit for inmates working in prison industries. The department of corrections shall provide a report concerning the implementation of the plan to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1997.

It is the intent of the general assembly that each correctional facility make all reasonable efforts to maintain vocational education programs for inmates and to identify available funding sources to continue these programs. The department of corrections shall submit a report to the general assembly by January 1, 1997, concerning the efforts made by each correctional facility in maintaining vocational education programs for inmates.

Sec. 16. APPROPRIATIONS TO THE DEPARTMENT OF CORRECTIONS - MONEYS ENCUMBERED - PRIORITIES.

1. Notwithstanding any other provision of law to the contrary, moneys appropriated to the department of corrections pursuant to 1995 Iowa Acts, chapter 207, sections 4, 5, and 6, shall be considered encumbered pursuant to section 8.33, and shall not revert to the general fund of the state at the end of the fiscal year commencing July 1, 1995. As used in this section, unless the context otherwise requires, "encumbered funds" means the moneys appropriated to the department of corrections pursuant to 1995 Iowa Acts, chapter 207, sections 4, 5, and 6, which would otherwise revert to the general fund of the state after the end of the fiscal year in which the moneys were appropriated, but for the prohibition contained in this section.

2. The department of corrections shall use encumbered funds in the fiscal year commencing July 1, 1996, to fund up to an additional 50 FTEs for the employment of correctional officers in the correctional institutions specified in section 904.102, and to purchase surveillance cameras and other necessary surveillance or safety equipment for use in correctional institutions. The full-time equivalent positions provided in this section for the employment of correctional officers and the funding provided for the purchase of equipment are in addition to any full-time equivalent positions or equipment funded in section 6 of this Act. The department of corrections shall use its discretion in distributing the additional correctional officers and equipment throughout the correctional facilities. The department of corrections shall file a report with the department of management concerning correctional officer positions filled and critically needed safety equipment purchased from encumbered funds provided under this section. If the department is able to fund an additional 50 FTEs for the employment of correctional officers pursuant to this section and to purchase all critically needed safety equipment, any remaining funds shall be unencumbered and shall revert to the general fund of the state at the end of the fiscal year commencing July 1, 1996.

Sec. 17. STATE AGENCY PURCHASES FROM PRISON INDUSTRIES.

1. As used in this section, unless the context otherwise requires, "state agency" means the

government of the state of Iowa, including but not limited to all executive departments, agencies, boards, bureaus, and commissions, the judicial department, the general assembly and all legislative agencies, institutions within the purview of the state board of regents, and any corporation whose primary function is to act as an instrumentality of the state.

2. State agencies are hereby encouraged to purchase products from Iowa state industries, as defined in section 904.802, when purchases are required and the products are available from Iowa state industries.

Sec. 18. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, for the purposes designated, and for not more than the following full-time equivalent positions:

1. For salaries, support, maintenance, and miscellaneous purposes:

..... $ 10,681,867
..... FTEs 189.00

2. For court-appointed attorney fees for indigent adults and juveniles, notwithstanding section 232.141 and chapter 815:

..... $ 17,475,074

Sec. 19. IOWA LAW ENFORCEMENT ACADEMY. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, 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:

..... $ 1,068,418
..... FTEs 24.00

It is the intent of the general assembly that the Iowa law enforcement academy use its own equipment for copying and printing to the maximum extent possible to reduce the costs for these services.

2. For salaries, support, maintenance, and miscellaneous purposes to provide statewide coordination of the drug abuse resistance education (D.A.R.E.) program:

..... $ 30,000

3. The Iowa law enforcement academy may annually select at least five automobiles of the department of public safety, division of highway safety, uniformed force, and radio communications, prior to turning over the automobiles to the state vehicle dispatcher to be disposed of by public auction and the Iowa law enforcement academy may 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, uniformed force, and radio communications.

Sec. 20. DEPARTMENT OF PUBLIC DEFENSE. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

..... $ 3,910,339
..... FTEs 221.26

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 1997, within 60 days after the closing of the fiscal year, the military division may incur up to an additional $500,000 in expenditures from the surplus prior to transfer of the surplus pursuant to section 8.57.

2. EMERGENCY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	523,971
.....	FTEs	14.60

Sec. 21. DEPARTMENT OF PUBLIC SAFETY. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

.....	$	2,171,438
.....	FTEs	38.80

2. a. For the division of criminal investigation and bureau of identification including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	$	9,392,619
.....	FTEs	190.00

b. In addition to the funds appropriated in paragraph "a", for overtime costs for employees of the division of criminal investigation and bureau of identification:

.....	$	100,000

The department of public safety, with the approval of the department of management, may employ no more than two special agents and four gaming enforcement officers for each additional riverboat regulated after March 31, 1996. One additional gaming enforcement officer, up to a total of four per boat, may be employed for each riverboat that has extended operations to 24 hours and has not previously operated with a 24-hour schedule. Positions authorized in this paragraph are in addition to the full-time equivalent positions authorized in this subsection.

3. a. For the division of narcotics enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	$	2,519,162
.....	FTEs	41.00

b. For the division of narcotics enforcement for undercover purchases:

.....	$	139,202

4. For the state 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 18 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	$	1,458,161
.....	FTEs	31.80

5. For the capitol security division, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18

percent of the salaries for which the funds are appropriated and for not more than the following full-time equivalent positions:

..... $ 1,207,304
..... FTEs 27.00

6. An employee of the department of public safety who retires after July 1, 1996, but prior to June 30, 1997, 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. The provisions of this paragraph shall not operate to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

7. For costs associated with the training of volunteer fire fighters:

..... $ 875,000

8. For the state medical examiner, for the purpose of establishing an office of the state medical examiner within the department of public safety, and for not more than the following full-time equivalent positions:

..... $ 332,500
..... FTEs 4.00

Any fees collected by the department of public safety for autopsies performed by the office of the state medical examiner shall be deposited in the general fund of the state.

Sec. 22. HIGHWAY SAFETY PATROL FUND. There is appropriated from the highway safety patrol fund created in section 80.41 to the division of highway safety, uniformed force, and radio communications of the department of public safety, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, workers' compensation costs, 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 18 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 34,396,129
..... FTEs 566.00

It is the intent of the general assembly that, of the funds appropriated in this subsection, the division shall expend the amount necessary to provide the state match for adding twelve state troopers through the federal community-oriented policing services program. It is the intent of the general assembly that once federal moneys for this program end, the division shall present proposals to the governor and the general assembly for continued funding of the state troopers described in this paragraph and for consideration of reducing the number of state troopers through attrition, by the same number as the number of troopers added through the federal program.

2. The division of highway safety, uniformed force, and radio communications may expend an amount proportional to the costs that are reimbursable from the highway safety patrol fund created in section 80.41. Spending for these costs may occur from any unappropriated funds in the state treasury upon a finding by the department of management that all of the amounts requested and approved are reimbursable from the highway safety patrol fund. Upon payment to the highway safety patrol fund, the division of highway safety, uniformed force, and radio communications shall credit the payments necessary to reimburse the state treasury.

3. For payment to the department of personnel for expenses incurred in administering the merit system on behalf of the division of highway safety, uniformed force, and radio communications:

..... $ 66,293

Sec. 23. DEPARTMENT OF CORRECTIONS - CORRECTIONAL FACILITY. The department of corrections shall construct a 750-bed medium security correctional facility for men. Bonds shall be issued under the provisions of sections 16.177 and 602.8108A to finance the construction of the facility. The cost of constructing the facility, exclusive of financing costs, shall not exceed $36,000,000.

Notwithstanding any provisions of section 18.6 to the contrary, the department of corrections may consider the prison construction projects authorized by 1995 Iowa Acts, chapter 202, section 9, and this section, as one project for the purposes of bidding, negotiating, and entering into professional services contracts for the authorized prison construction.

Sec. 24. DEPARTMENT OF CORRECTIONS - FORT MADISON CORRECTIONAL FACILITY - CELLHOUSE 17 RENOVATION. The department of corrections shall renovate cellhouse 17 at the Fort Madison correctional facility. Bonds shall be issued under the provisions of sections 16.177 and 602.8108A to finance the renovation of the facility. The cost of planning, developing, and renovating cellhouse 17, exclusive of financing costs, shall not exceed $6,500,000.

*Sec. 25. NEW SECTION. 13.32 VETERANS ADVOCATE.

*The attorney general shall appoint an attorney to the office of veterans advocate. The veterans advocate is to be housed in the office of the attorney general. The advocate shall be an honorably discharged member of the armed forces of the United States. The advocate's term of office is for four years. The term begins and ends in the same manner as set forth in section 69.19.**

*Sec. 26. NEW SECTION. 13.33 DUTIES OF VETERANS ADVOCATE.

The veterans advocate shall do all of the following:

1. Assist the commission of veterans affairs created in section 35A.2 in the carrying out of its duties.

2. Assist the veterans of the state in obtaining the benefits to which they are entitled.

3. Assist the veterans of the state in gaining admission to the Iowa veterans home in a timely manner.

*4. Provide assistance to the county commissions of veterans affairs created in chapter 35B in the carrying out of their duties.**

Sec. 27. NEW SECTION. 13.34 LEGAL SERVICES FOR PERSONS IN POVERTY GRANT PROGRAM.

1. For the purposes of this section, "eligible individual" means an individual or household with an annual income which is less than one hundred twenty-five percent of the poverty guidelines established by the United States office of management and budget. The attorney general shall contract with an eligible nonprofit organization to provide legal assistance to eligible individuals in poverty. The contract shall be awarded within thirty days after May 30, 1996. The contract may be terminated by the attorney general after a hearing upon written notice and for good cause.

2. A nonprofit organization must comply with all of the following to be eligible for a contract under this section:

a. Be a nonprofit organization incorporated in this state.

b. Has lost or will lose funding due to a reduction in federal funding for the legal services corporation for federal fiscal year 1995-1996.

c. Employ attorneys admitted to practice before the Iowa supreme court and the United States district courts.

d. Employ attorneys and staff qualified to address legal problems experienced by eligible individuals.

3. The contracting nonprofit organization shall do all of the following:

a. Offer direct representation of eligible individuals in litigation and administrative cases, in accordance with priorities established by the organizations board.

*Item veto; see message at end of the Act

b. Offer technical support to eligible individuals.

c. Involve private attorneys through volunteer lawyer projects to represent eligible individuals.

d. Utilize, to the fullest extent feasible, existing resources of accredited law schools within this state to provide consulting assistance to attorneys in the practice of law in their representation of persons in poverty.

e. Assist, to the fullest extent feasible, accredited law schools within this state in enhancing the schools' expertise in the practice of law representing persons in poverty so that all attorneys within the state will have a resource available to provide training and experience in the practice of law representing persons in poverty.

f. Cooperate, to the fullest extent feasible, with existing informational and referral networks among persons in poverty, providers of assistance to persons in poverty, and others concerned with assistance to persons in poverty.

4. The contracting nonprofit organization is not a state agency for the purposes of chapters 19A, 20, and 669.

5. An individual is eligible to obtain legal representation and legal assistance from the contracting nonprofit organization if the eligible individual meets all of the following criteria:

a. The eligible individual is a resident of this state.

b. The eligible individual is financially unable to acquire legal assistance, in accordance with criteria established by the organization's board.

Sec. 28. Section 37.10, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Each commissioner shall be an honorably discharged soldier, sailor, marine, airman, or coast guard member and be a resident of the ~~city~~ county in which the memorial hall or monument is located ~~or live within the county if the memorial hall or monument is located outside of a city or is a joint memorial as provided in this chapter~~.

Sec. 29. Section 602.1304, subsection 2, paragraph c, Code Supplement 1995, is amended to read as follows:

c. Moneys in the collections fund shall be used by the judicial department for the Iowa court information system; records management equipment, services, and projects; electronic legal research equipment, systems, and projects; and the study, development, and implementation of other technological improvements, innovations, and projects that would improve the administration of justice. The moneys in the collection fund may also be used for capital improvements necessitated by the installation or connection with the Iowa court information system, the Iowa communications network, and other technological improvements approved by the department.

Sec. 30. Section 602.6201, subsection 10, Code Supplement 1995, 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 ~~eight~~ eleven during the period commencing July 1, ~~1995~~ 1996.

Sec. 31. Section 602.8108, subsection 3, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding provisions of this subsection to the contrary, all moneys collected from the drug abuse resistance education surcharge provided in section 911.2 shall be remitted to the treasurer of state for deposit in the general fund of the state and the amount deposited is appropriated to the Iowa law enforcement academy for use by the drug abuse resistance education program.

Sec. 32. Section 602.8108A, subsection 1, Code Supplement 1995, is amended to read as follows:

602.8108A PRISON INFRASTRUCTURE FUND.

1. The Iowa prison infrastructure fund is created and established as a separate and distinct fund in the state treasury. Notwithstanding any other provision of this chapter to the contrary, the first eight million dollars and, beginning July 1, 1997, the first nine million five hundred thousand dollars, of moneys remitted to the treasurer of state from fines, fees, costs, and forfeited bail collected by the clerks of the district court in criminal cases, including those collected for both scheduled and nonscheduled violations, collected in each fiscal year commencing with the fiscal year beginning July 1, 1995, shall be deposited in the fund. Interest and other income earned by the fund shall be deposited in the fund. If the treasurer of state determines pursuant to 1994 Iowa Acts, chapter 1196, that bonds can be issued pursuant to this section and section 16.177, then the moneys in the fund are appropriated to and for the purpose of paying the principal of, premium, if any, and interest on bonds issued by the Iowa finance authority under section 16.177. Except as otherwise provided in subsection 2, amounts in the funds shall not be subject to appropriation for any purpose by the general assembly, but shall be used only 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 department of corrections including the automatic disbursement of funds 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 subject to any limitations contained in any applicable bond proceedings. Any amounts remaining in the fund at the end of each fiscal year shall be transferred to the general fund of the state.

Sec. 33. Section 904.701, subsection 3, Code Supplement 1995, is amended to read as follows:

3. For purposes of this section, "hard labor" means physical or mental labor which is performed for a period of time which shall average, as nearly as possible, forty hours each week, and may include useful and productive work, chain gangs, menial labor, ~~substance abuse or sex offender~~ treatment or education programs, any training necessary to perform any work required, and, if possible, work providing an inmate with marketable vocational skills. "Hard labor" does not include labor which is dangerous to an inmate's life or health, is unduly painful, or is required to be performed under conditions that would violate occupational safety and health standards applicable to such labor if performed by a person who is not an inmate.

Sec. 34. Section 911.2, unnumbered paragraph 1, Code 1995, is amended to read as follows:

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 thirty percent of the fine or forfeiture imposed. An additional drug abuse resistance education surcharge of five dollars shall be assessed by the court if the violation arose out of a violation of an offense provided for in chapter 321J or chapter 124, division IV. 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.

Sec. 35. Section 912.14, Code 1995, is amended to read as follows:

912.14 VICTIM COMPENSATION FUND.

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 709.10 and this chapter. In addition, the department may use moneys from the fund for the purposes of section 236.15 and for the award of funds to programs that provide services and support to victims of domestic abuse or sexual assault as provided in chapter 236. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 36. Section 912.6, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. In the event of a victim's death, reasonable charges incurred for health care for the victim's spouse, children, parents, siblings, or persons related by blood or affinity to the victim not to exceed three thousand dollars per survivor.

*Sec. 37. *LAW ENFORCEMENT TRAINING SUMMIT - STUDY.*

1. The Iowa league of cities and the Iowa state association of counties are requested to convene a law enforcement training summit during the 1996 legislative interim to examine modifications and alternatives to Iowa's current regulations concerning law enforcement training and resources provided for the training. It is requested that participants in the summit include the Iowa police executive forum, Iowa chiefs of police association, Iowa sheriffs and deputies association, and other interested groups concerned with law enforcement training. A report containing the recommendations of the summit is requested to be provided to the studies committee of the legislative council.

*2. The legislative council is requested to create a study committee to receive the report and recommendations of the law enforcement training summit and to determine whether changes should be made to Iowa's laws regarding law enforcement training in Iowa.**

Sec. 38. INTERIM STUDY COMMITTEE. The legislative council is requested to authorize an interim study committee concerning the enforcement of activities on excursion gambling boats.

**Sec. 39. *LOCAL CORRECTIONS INFRASTRUCTURE AND CRIME PREVENTION TASK FORCE - REPORT - STUDY.*

1. a. If money is appropriated for this purpose, the office of the attorney general shall establish and chair a state task force on local corrections infrastructure and crime prevention. The state task force shall include representation from the division of criminal and juvenile justice planning of the department of human rights, the department of corrections, the department of education, and the university of northern Iowa's criminology program.

b. The office of the attorney general, in consultation with the state task force, shall implement a public planning process to assist in the formation of a local task force in each judicial election district and to assist the task force in developing recommendations and proposals for corrections, juvenile justice, and school-based infrastructure projects. The membership of each local task force shall include, but is not limited to, representation from the department of corrections, county sheriffs, police chiefs, district judges, juvenile court judges, juvenile court officers, county supervisors, city council members, criminal and juvenile justice planning advisory council members, where applicable, juvenile services providers, community-based correctional program employees, county attorneys, and local school officials. Each local task force shall submit a report of its recommendations and proposals to the office of the attorney general for consideration by the state task force. The report shall take into consideration ongoing local or state operational expenses related to any facility to be remodeled or constructed under the recommendations of the report. Each local task force shall also develop its recommendations in coordination with other state and local planning initiatives.

c. Upon receipt of the reports of each local task force, the state task force shall review the recommendations and proposals in each report, make its own recommendations and proposals based on these reports, and compile a report containing the recommendations and proposals of each local task force and the state task force which is requested to be submitted to the studies committee of the legislative council by December 1, 1996.

2. The legislative council is requested to create a study committee to receive the report submitted by the state task force on local corrections infrastructure and crime prevention. The study committee shall review the report and make recommendations concerning recommendations and proposals for corrections, juvenile justice, and school-based infrastructure projects, to include consideration of establishing a grant program and funding mechanism for these

*Item veto; see message at end of the Act

*projects. The study committee shall submit a report of its findings and recommendations to the general assembly by January 1, 1997.**

**Sec. 40. TASK FORCE IMPLEMENTATION. There is appropriated from the general fund of the state to the department of justice, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purposes designated:*

For retaining an independent consultant to provide technical assistance and staffing associated with the development of the programs of the state task force on local corrections infrastructure and crime prevention as enacted by this Act:

..... *$ 150,000**

Sec. 41. EFFECTIVE DATES.

1. Section 1, subsections 3 and 4 of this Act, relating to Iowa competition law or antitrust actions and to civil consumer fraud actions, being deemed of immediate importance, take effect upon enactment.
2. Section 16 of this Act, pertaining to the encumbrance of certain moneys appropriated to the department of corrections in the fiscal year commencing July 1, 1995, being deemed of immediate importance, takes effect upon enactment.
3. Section 23 of this Act, authorizing the construction of a 750-bed medium security correctional facility for men, being deemed of immediate importance, takes effect upon enactment.
4. Section 32 of this Act, dealing with the Iowa prison infrastructure fund, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 1996, except the items which I hereby disapprove and which are designated as Section 1, subsection 1, unnumbered and unlettered paragraph 2 in its entirety; Section 6, subsection 3 in its entirety; Section 7, subsection 8 in its entirety; Section 8, subsection 1, paragraph j in its entirety; Sections 25 and 26 in their entirety; Section 37 in its entirety; and Sections 39 and 40 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 Mr. Secretary:

I hereby transmit House File 2472, an Act relating to and making appropriations to the justice system, creating a drug abuse resistance education surcharge, and providing effective dates.

House File 2472 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, unnumbered and unlettered paragraph 2, and Sections 25 and 26, in their entirety. These items would establish and fund a new office within the Attorney General's office to assist with veteran-related issues. The proposed duties of the office are among the services already performed by the Commission on Veterans Affairs and the county Commissions of Veterans Affairs. We should be doing all we can to support our veterans and to assure they receive the assistance they deserve. It appears, however, that this new office would merely duplicate services provided by existing agencies, and for that reason should not be approved. As a result of this action, the $50,000 appropriated for this purpose will remain unspent and will revert to the general fund at the end of the fiscal year that begins on July 1, 1996, and ends on June 30, 1997.

* Item veto; see message at end of the Act

I am unable to approve the item designated as Section 6, subsection 3, in its entirety. This item would require the Department of Corrections to study and report on the need for a super-maximum security facility. Funding is provided in this bill to remodel Cellhouse 17 in Fort Madison making more maximum security prison space available to house some of our most dangerous offenders. Until the impact of the Fort Madison Cellhouse remodeling is done and can be properly evaluated, it would be premature to plan for the development of a super-max facility.

I am unable to approve the item designated as Section 7, subsection 8, in its entirety. This item would appropriate $278,000 for prison-related costs that is in addition to funding provided for the same purposes elsewhere in the bill. The funding otherwise provided is at a level consistent with my budget recommendations and is adequate to cover the department's needs.

I am unable to approve the item designated as Section 8, subsection 1, paragraph j, in its entirety. This item would provide $100,000 more for Corrections' programs than was recommended in my budget. The funding otherwise provided in the bill is adequate to cover the costs of the programs.

I am unable to approve the item designated as Section 37, in its entirety. This item would direct the Iowa League of Cities and the Iowa State Association of Counties to review and make recommendations relating to law enforcement training programs. This process would duplicate efforts already being made by the Iowa Law Enforcement Academy to review the training programs and to make recommendations for necessary changes. I have been assured that all organizations having an interest in the programs will be consulted in the course of the ILEA's review.

I am unable to approve the items designated as Sections 39 and 40, in their entirety. These items would establish a multi-layered task force to review crime and corrections issues and provide funding in the amount of $150,000 to support it. The process proposed in the bill is cumbersome and costly, and would not produce the best recommendations within the given time frame.

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 2472 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1217

COMPENSATION FOR PUBLIC EMPLOYEES

H.F. 2497

AN ACT relating to the compensation and benefits for public officials and employees and making appropriations.

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

Section 1. STATE COURTS – JUSTICES, JUDGES, AND MAGISTRATES.

1. The salary rates specified in subsection 2 are effective for the fiscal year beginning July 1, 1996, with the pay period beginning June 28, 1996, 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 judicial department from the salary adjustment fund or if the appropriation is not sufficient, from the funds appropriated to the judicial department pursuant to any Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the judicial positions indicated during the pay periods beginning June 28, 1996, and for subsequent pay periods.

a. Chief justice of the supreme court:
..... $ 104,400

b. Each justice of the supreme court:
..... $ 100,600

c. Chief judge of the court of appeals:
..... $ 100,500

d. Each associate judge of the court of appeals:
..... $ 96,700

e. Each chief judge of a judicial district:
..... $ 95,800

f. Each district judge except the chief judge of a judicial district:
..... $ 92,000

g. Each district associate judge:
..... $ 80,100

h. Each judicial magistrate:
..... $ 20,300

i. Each judge who retires after July 1, 1994, and who is assigned and who is appointed a senior judge by the state supreme court:
..... $ 5,200

Sec. 2. SALARY RATE LIMITS. Persons receiving the salary rates established under section 1 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 3. APPOINTED STATE OFFICERS. The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 4 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; the chief justice of the state supreme court shall establish the salary for the state court administrator; the ethics and campaign disclosure board shall establish the salary of the executive director; 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 4 of this Act.

The governor, in establishing salaries as provided in section 4 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 4 of this Act and who is a full-time permanent employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law. However, this provision does not exclude the reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 4. STATE OFFICERS - SALARY RATES AND RANGES. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 1996, with the pay period beginning June 28, 1996, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 3 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 are salary ranges 1 through 5:

SALARY RANGES	Minimum	Maximum
a. Range 1	$ 8,500	$ 25,800
b. Range 2	$ 31,300	$ 51,900
c. Range 3	$ 42,800	$ 60,600
d. Range 4	$ 51,600	$ 69,300
e. Range 5	$ 60,600	$ 78,000

2. The following are range 1 positions: There are no range 1 positions.

3. The following are range 2 positions: administrator of the arts division of the department of cultural affairs, administrators of the division of persons with disabilities, the division on the status of women, the division on the status of African-Americans, the division for deaf services, and the division of Latino affairs of the department of human rights, administrator of the division of professional licensing and regulation of the department of commerce, and executive director of the commission of veterans affairs.

4. The following are range 3 positions: administrator of the division of emergency management of the department of public defense, administrator of criminal and juvenile justice planning of the department of human rights, administrator of the division of community action agencies of the department of human rights, and chairperson and members of the employment appeal board of the department of inspections and appeals.

5. The following are range 4 positions: superintendent of banking, superintendent of credit unions, drug abuse prevention coordinator, administrator of the alcoholic beverages division of the department of commerce, state public defender, and chairperson and members of the board of parole.

6. The following are range 5 positions: consumer advocate, job service commissioner, labor commissioner, industrial commissioner, administrator of the historical division of the department of cultural affairs, administrator of the public broadcasting division of the department of education, and commandant of the veterans home.

7. The following are salary ranges 6 through 9:

SALARY RANGES	Minimum	Maximum
a. Range 6	$ 46,800	$ 69,300
b. Range 7	$ 64,100	$ 78,600
c. Range 8	$ 68,700	$ 91,300
d. Range 9	$ 76,700	$ 108,700

8. The following are range 6 positions: director of the department of human rights, director of the Iowa state civil rights commission, executive director of the college student aid commission, director of the department for the blind, and executive director of the ethics and campaign disclosure board.

9. The following are range 7 positions: director of the department of cultural affairs, director of the department of personnel, executive director of the department of elder affairs, director of the department of general services, director of the department of commerce, director of the law enforcement academy, and director of the department of inspections and appeals.

10. The following are range 8 positions: the administrator of the state racing and gaming commission of the department of inspections and appeals, director of public health, commissioner of public safety, commissioner of insurance, executive director of the Iowa finance authority, 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 chairperson of the utilities board. The other members of the utilities board shall receive an annual salary within a range of not less than ninety percent but not more than ninety-five percent of the annual salary of the chairperson of the utilities board.

11. The following are range 9 positions: director of the department of education, director of human services, director of the department of economic development, executive director of the state board of regents, director of the state department of transportation, lottery commissioner, the state court administrator, secretary of the state fair board, and the director of the department of management.

12. If a department of workforce development is established by an Act of the Seventy-sixth General Assembly, 1996 Session, which operates at anytime during the fiscal year beginning July 1, 1996, the director of the department shall be compensated as a range 9 position.

Sec. 5. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1996, with the pay period beginning June 28, 1996, 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 public employment relations board from the salary adjustment fund, or if the appropriation is not sufficient from funds appropriated to the public employment relations board pursuant to any other Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

a. Chairperson of the public employment relations board:
..... $ 61,100

b. Two members of the public employment relations board:
..... $ 56,800

Sec. 6. COLLECTIVE BARGAINING AGREEMENTS FUNDED – GENERAL FUND. There is appropriated from the general fund of the state to the salary adjustment fund for the fiscal year beginning July 1, 1996, and ending June 30, 1997, for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, including the state board of regents, the amount of $27,023,500, or so much thereof as may be necessary, to fully fund the following annual pay adjustments, expense reimbursements, and related benefits:

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.

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 professional social services bargaining unit.

9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.

10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.

11. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.

12. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.

13. The annual pay adjustments, related benefits, and expense reimbursements referred to in sections 8 and 9 of this Act for employees not covered by a collective bargaining agreement.

Sec. 7. SALARY ADJUSTMENT FUND - NONREVERSION. Notwithstanding section 8.33, any unencumbered and unobligated moneys remaining from the moneys appropriated to the salary adjustment fund pursuant to 1995 Iowa Acts, chapter 211, section 7, shall not revert to the general fund of the state but shall be used for the purposes specified in section 6 of this Act.

Sec. 8. NONCONTRACT STATE EMPLOYEES - GENERAL.

1. a. For the fiscal year beginning July 1, 1996, the maximum salary levels of all pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 1996, shall be increased by 2.5 percent for the pay period beginning June 28, 1996.

b. In addition to the increases specified in this subsection, for the fiscal year beginning July 1, 1996, employees may receive a merit increase or the equivalent of a merit increase.

c. On December 6, 1996, full-time employees paid at or above their maximum salary range shall receive an additional $300 in compensation and part-time employees shall receive an additional $150 in compensation. The compensation shall not be added to base salary. Full-time employees are employees who work at least 32 hours per week.

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 shall be increased 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 covered by 581 IAC 4.5(17).

4. The pay plans for the bargaining eligible employees of the state shall be increased 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. 9. STATE EMPLOYEES - STATE BOARD OF REGENTS. Funds from the appropriation in section 6 of this Act shall be allocated to the state board of regents for the purposes of providing increases for state board of regents employees covered by section 6 of this Act and for employees not covered by a collective bargaining agreement as follows:

1. For regents merit system employees and merit supervisory employees to fund for the fiscal year beginning July 1, 1996, increases comparable to those provided for similar contract-covered employees in this Act.

2. For faculty members and professional and scientific employees to fund for the fiscal year beginning July 1, 1996, percentage increases comparable to those provided for contract-covered employees in section 6, subsection 6, of this Act.

Sec. 10. APPROPRIATIONS FROM ROAD FUNDS.

1. There is appropriated from the road use tax fund to the salary adjustment fund for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:
..... $ 436,700

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:
..... $ 2,713,800

3. Except as otherwise provided in this Act, the amounts appropriated in subsections 1 and 2 shall be used to fund the annual pay adjustments, expense reimbursements, and related benefits for public employees as provided in this Act.

Sec. 11. SPECIAL FUNDS – AUTHORIZATION. 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. 12. GENERAL FUND SALARY MONEYS. Funds appropriated from the general fund of the state in this Act relate only to salaries supported from general fund appropriations of the state except for employees of the state board of regents. The funds appropriated from the general fund of the state for employees of the state board of regents shall exclude general university indirect costs and general university federal funds.

Sec. 13. FEDERAL FUNDS APPROPRIATED. All federal grants to and the federal receipts of the agencies affected by this Act which are received and may be expended for purposes of this Act are appropriated for those purposes and as set forth in the federal grants or receipts.

Sec. 14. USE OF SURPLUS INSURANCE FUNDS. Notwithstanding any contrary provision of House File 2416,* if enacted by the Second Regular Session of the Seventy-sixth General Assembly, the executive council may expend moneys from surplus funds in the health insurance reserve operating or terminal liability account to decrease state employee health insurance premium costs for the fiscal period beginning August 1996 through August 1997.

Sec. 15. LEGISLATIVE STUDY OF JUDICIAL SALARIES. The legislative council may establish an interim study of compensation of justices and judges of the judicial department of this state focused on the ability to recruit and retain qualified candidates in the judicial department. The recommendations of the study shall be submitted to the governor and general assembly in January 1997.

Sec. 16. REPORT ON PROJECTED COSTS OF SALARY INCREASES FOR FISCAL YEARS 1998 AND 1999. The legislative fiscal bureau shall prepare a report to the chairpersons and ranking members of the committees on appropriations which projects the total costs of all salary increases including the annualization of salaries for the fiscal years 1998 and 1999. The report shall include salary costs from all funds including the general fund of the state and the restricted funds. The report shall be submitted not later than April 1, 1997.

Approved May 30, 1996

*Chapter 1211 herein

CHAPTER 1218

APPROPRIATIONS - TRANSPORTATION, INFRASTRUCTURE, AND CAPITAL PROJECTS

H.F. 2421

AN ACT relating to and making appropriations to the state department of transportation including allocation and use of moneys from the general fund, road use tax fund, and primary road fund, making appropriations for capital projects from the rebuild Iowa infrastructure fund, providing for certain procedures for revocation or suspension of drivers licenses for certain drug-related offenses, construction projects for the commission of veterans affairs, county fairs, recreational trails, and nonreversion of certain appropriations, and providing an effective date.

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

DIVISION I
STATE DEPARTMENT OF TRANSPORTATION

Section 1. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. a. For providing assistance for the restoration, conservation, improvement, and construction of railroad main lines, branch lines, switching yards, and sidings as required in section 327H.18, for use by the railway finance authority as provided in chapter 327I:
..... $ 1,229,000

b. For airport engineering studies and improvement projects as provided in chapter 328:
..... $ 2,400,000

2. For planning and programming, for salaries, support, maintenance, and miscellaneous purposes:
..... $ 258,000

Sec. 2. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. For the payment of costs associated with the production of motor vehicle licenses, as defined in section 321.1, subsection 43:
..... $ 1,295,000

2. For salaries, support, maintenance, and miscellaneous purposes:

a. Operations and finance:
..... $ 4,128,882

b. Administrative services:
..... $ 853,160

c. Planning and programming:
..... $ 400,150

d. Motor vehicles:
..... $ 21,938,160

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:
..... $ 35,000

4. Unemployment compensation:
..... $ 17,000

5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation:
..... $ 77,000

6. For payment to the general fund of the state for indirect cost recoveries:
..... $ 96,000
7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:
..... $ 32,480
8. For automating the oversize vehicle permitting system authorized under chapter 321E in order to improve communication between carriers and the department regarding changing road conditions, including construction zones:
..... $ 125,000
9. For joining the I-35 corridor coalition:
..... $ 150,000
This appropriation is contingent upon appointment of the membership of the Iowa delegation in accordance with the following:
a. Four shall be legislative members of the general assembly. One member shall be appointed by the speaker of the house of representatives, one member shall be appointed by the minority leader of the house of representatives, one member shall be appointed by the majority leader of the senate, and one member shall be appointed by the minority leader of the senate.
b. Two shall be appointed by the governor.

Sec. 3. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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 the following full-time equivalent positions:
a. Operations and finance:
..... $ 25,363,118
..... FTEs 280.00
b. Administrative services:
..... $ 5,240,840
..... FTEs 96.00
c. Planning and programming:
..... $ 7,594,850
..... FTEs 174.00
d. Project development:
..... $ 52,060,000
..... FTEs 1,185.00
It is the intent of the general assembly that no more than $331,064 from the highway beautification fund, plus an allocation for salary adjustment be expended for salaries and benefits for no more than 9.00 FTEs.
e. Maintenance:
..... $ 98,214,000
..... FTEs 1,646.00
f. Motor vehicles:
..... $ 851,840
..... FTEs 549.00
*g. *For construction, reconstruction, and maintenance of the state highway system as appropriated for in chapter 313:*
..... $ *300,000,000*
*It is the intent of the general assembly, that if additional moneys become available to the primary road fund, the state transportation commission may expend the funds pursuant to section 313.4.**
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 equipment:
..... $ 3,120,000

*Item veto; see message at end of the Act

It is the intent of the general assembly that no more than $3,150,248 from the highway materials and equipment revolving fund, plus an allocation for salary adjustment be expended for salaries and benefits for no more than 89.00 FTEs.

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:
..... $ 665,000

4. Unemployment compensation:
..... $ 328,000

5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation:
..... $ 1,463,000

6. For disposal of hazardous wastes from field locations and the central complex:
..... $ 1,000,000

7. For payment to the general fund for indirect cost recoveries:
..... $ 704,000

8. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:
..... $ 199,520

9. For payment of a special assessment levied by the city of Clive:
..... $ 167,000

10. a. For replacement and updating the exhaust system at the Ames laboratory building:
..... $ 200,000

b. For field garage facilities in Anamosa and Southeast Des Moines:
..... $ 1,500,000

c. For completion of electrical, plumbing, and HVAC renovations at the Ames north annex (former St. Cecilia school property):
..... $ 510,000

The provisions of section 8.33 do not apply to the funds appropriated in subsection 10 which shall remain available for expenditure for the purposes designated until June 30, 1999. Unencumbered or unobligated funds remaining on June 30, 1999, from funds appropriated in subsection 10 shall revert to the fund from which appropriated on August 30, 1999.

Sec. 4. LEGISLATIVE OVERSIGHT.

1. The department shall work with the legislative fiscal bureau to develop a process to provide quarterly reports of the highway construction program and highway expenditures to the joint appropriations subcommittee on transportation, infrastructure, and capitals.

2. The department shall provide the members of the joint appropriations subcommittee on transportation, infrastructure, and capitals with a report regarding the implementation of recommendations from the governor's blue ribbon road use tax fund task force by November 1, 1996. The department shall include input from department employees who are members of a statewide employee organization on the effects of implementation of these recommendations on job-related activities and employee displacement.

Sec. 5. DIRECTIVES TO STATE DEPARTMENT OF TRANSPORTATION.

1. The state department of transportation shall establish a maintenance standard, equivalent to the department's "c" classification for maintenance, on state highways located between population centers of ten thousand or more persons.

2. The state department of transportation shall consider the location of the Iowa communication network's underground facilities and other telecommunication underground facilities when engineering road construction and repair projects and, where possible, shall engineer projects to minimize relocation of Iowa communications network underground facilities and other telecommunication underground facilities.

3. The state department of transportation shall take affirmative action to resolve the safety issues associated with access on highway 218, located between Ainsworth and Riverside, by students to schools located in the Highland community school district.

DIVISION II
CAPITAL PROJECTS
BOARD OF REGENTS

Sec. 6.

1. There is appropriated from the rebuild Iowa infrastructure fund of the state to the state board of regents for the fiscal period beginning July 1, 1996, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for the projects designated in subsection 2:

a. 1996-97 FY ..... $ 51,000,000
b. 1997-98 FY ..... $ 8,340,000
c. 1998-99 FY ..... $ 6,800,000

The state board of regents shall determine the amounts to be allocated to each project for each fiscal year of the fiscal period beginning July 1, 1996, and ending June 30, 1999, based upon project needs. However, the total appropriated funds for a project for all fiscal years of that fiscal period shall not exceed the amount listed in subsection 2 for that project.

2. The state board of regents is authorized to undertake, plan, construct, equip, and otherwise carry out the following projects at the institutions of higher learning under the jurisdiction of the board in the following appropriated amounts:

a. For construction and renovation of the biological sciences complex at the state university of Iowa:

..... $ 14,900,000

b. For construction and renovation of the engineering building at the state university of Iowa:

..... $ 14,140,000

c. For construction of the national advanced driving simulator building at the state university of Iowa:

..... $ 4,300,000

Funds provided for the construction of the facility to house the national advanced driving simulator in fiscal years beginning July 1, 1996, and July 1, 1997, shall only be expended upon receiving notification from the national highway traffic safety administration that the United States congress has authorized the construction of the national advanced driving simulator, that federal funds have been appropriated to begin construction, and that delivery of the motion base, graphics system, and integrating software will take place in substantial compliance with the United States department of transportation's acquisition schedule as set forth in the cooperative agreement between the state university of Iowa and the national highway traffic safety administration.

d. For construction and renovation of the intensive livestock research facilities at Iowa state university of science and technology:

..... $ 15,300,000

e. For Phase I construction of the engineering teaching and research complex at Iowa state university of science and technology:

..... $ 11,000,000

f. For construction of the school of music classroom building/performing arts center at the university of northern Iowa:

..... $ 6,500,000

3. Effective July 1, 1996, the state board of regents is authorized to enter into contracts for the full cost of carrying out the projects listed in subsection 2, for which appropriations are made in subsection 1, for the fiscal years beginning July 1, 1996, July 1, 1997, and July 1, 1998. The state shall not be obligated for costs associated with contracts identified in this section in excess of funds appropriated by the general assembly.

4. a. Notwithstanding section 8.33, funds appropriated in subsection 1, paragraph "a", for the fiscal year beginning July 1, 1996, which remain unexpended as of June 30, 1997, shall be available for expenditure through June 30, 2000.

b. Notwithstanding section 8.33, funds appropriated in subsection 1, paragraph "b", for the fiscal year beginning July 1, 1997, which remain unexpended as of June 30, 1998, shall be available for expenditure through June 30, 2000.

c. Notwithstanding section 8.33, funds appropriated in subsection 1, paragraph "c", for the fiscal year beginning July 1, 1998, which remain unexpended as of June 30, 1999, shall be available for expenditure through June 30, 2000.

d. Unencumbered or unobligated funds remaining on June 30, 2000, from any funds appropriated in subsection 1 shall revert on August 30, 2000.

5. The state board of regents may use any available resources for planning the renovation of Lang hall at the university of northern Iowa.

DEPARTMENT OF CORRECTIONS

Sec. 7. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of corrections for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For connection of the Clarinda correctional facility with the Iowa communications network:

..... $ 150,000

2. For annual payment relating to the financial arrangement for the construction of expansion in prison capacity as provided in 1990 Iowa Acts, chapter 1257, section 24:

..... $ 3,179,500

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 8. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be allocated to an Iowa project that has received a national endowment for the humanities award for a museum and discovery center:

..... $ 500,000

Allocation of moneys pursuant to this section shall be contingent upon a two-to-one matching contribution of private moneys.

It is the intent of the general assembly that an additional $500,000 shall be appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, 1997, for completion of the project in this section.

Notwithstanding section 8.33, unencumbered or unobligated moneys remaining on June 30, 1997, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund on August 31, 1997.

DEPARTMENT OF EDUCATION

*Sec. 9. *There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of education for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:*

1. For southwestern community college for construction of a rural heritage center:

..... $ *500,000*

Funding for the rural heritage center shall be contingent upon receipt of matching contributions from any other source. The matching contributions may be in the form of real property to

*Item veto; see message at end of the Act

house the center and shall be valued at the property's fair market value. It is the intent of the general assembly that an additional $500,000 shall be appropriated for the fiscal year beginning July 1, 1997.

2. For improvement and maintenance of institutional roads on community college campuses:

..... $ *600,000*

*Notwithstanding section 8.33, unencumbered or unobligated moneys remaining on June 30, 1997, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund on August 31, 1997.**

DEPARTMENT OF GENERAL SERVICES

Sec. 10. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of general services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the following purpose:

To provide for the renovation and repair of the soldiers and sailors monument of the civil war and the Allison monument located on the state capitol complex:

..... $ 200,000

Of the appropriation in this section, $50,000 shall be used for renovation and repair of the Allison monument located on the state capitol complex. An effort shall be made by the department of education to match this appropriation from the citizens and the school children of Iowa as occurred when the monument was initially built.

Notwithstanding section 8.33, unencumbered or unobligated moneys remaining on June 30, 1998, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund on August 31, 1998.

Sec. 11. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of general services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the following purpose:

To provide for the planning, siting, and construction of a world war II veterans memorial:

..... $ 200,000

1. The moneys appropriated in this section may be used to match nonstate funds for the planning, siting, and construction of the memorial. The state match shall be $2 of state money for each $3 of nonstate money.

2. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining on June 30, 1998, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund on August 31, 1998.

Sec. 12. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of general services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For major maintenance needs including health, life, and fire safety and for compliance with the federal Americans with Disabilities Act for state-owned buildings and facilities:

..... $ 6,500,000

2. For critical and deferred maintenance at Terrace Hill:

..... $ 150,000

As a condition of receiving this appropriation, private matching funds must be contributed on a dollar-for-dollar basis.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2001, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund of the state on August 31, 2001.

*Item veto; see message at end of the Act

Sec. 13.

1. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of general services for the fiscal period beginning July 1, 1996, and ending June 30, 1999, the following amounts, or so much thereof as is necessary, to be used for the projects in the amounts and for the fiscal years as designated in subsection 2:

a. For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 20,700,000

b. For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 14,600,000

c. For the fiscal year beginning July 1, 1998, and ending June 30, 1999:
..... $ 3,900,000

2. a. For exterior state capitol building restoration:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 9,300,000

(2) For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 7,600,000

b. For interior state capitol building restoration:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 2,800,000

(2) For the fiscal year beginning July 1, 1998, and ending June 30, 1999:
..... $ 2,300,000

c. For renovation of the old historical building:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 5,400,000

(2) For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 4,100,000

*(3) *For the fiscal year beginning July 1, 1998, and ending June 30, 1999:*
..... $ *1,600,000**

d. For renovation of the Lucas tunnel:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 100,000

(2) For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 400,000

e. For renovation of the Lucas state office building:

(1) For the fiscal year beginning July 1, 1996, and ending June 30, 1997:
..... $ 3,100,000

(2) For the fiscal year beginning July 1, 1997, and ending June 30, 1998:
..... $ 2,500,000

It is the intent of the general assembly that the first and second floors of the Lucas state office building shall be used primarily by the general assembly and other legislative agencies.

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2001, from the funds appropriated in this section shall revert to the rebuild Iowa infrastructure fund of the state on August 31, 2001.

DEPARTMENT OF HUMAN SERVICES

Sec. 14. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of human services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For training, maintenance, and upgrades of computer software:
..... $ 818,000

*Item veto; see message at end of the Act

2. For the development costs of the "X-PERT" knowledge-based computer software package for public assistance benefit eligibility determination, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 790,000

Moneys appropriated in this section shall be considered encumbered for the purposes of section 8.33.

DEPARTMENT OF NATURAL RESOURCES

Sec. 15. There is appropriated from the marine fuel tax receipts deposited in the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of funding capital projects traditionally funded from marine fuel tax receipts for the purposes specified in section 452A.79:

..... $ 1,800,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1998, from the funds appropriated in this section, shall revert to the general fund of the state on August 31, 1998.

Sec. 16. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of natural resources for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the following purpose:

For the rehabilitation, preservation, and continued use of state park facilities, including low-head dams and historic buildings, appurtenant structures, and utilities built by the civilian conservation corps (CCC) or the works progress administration (WPA):

..... $ 3,000,000

All rehabilitation and preservation of CCC or WPA buildings funded by this appropriation shall conform to the United States secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings. Where feasible, the department shall encourage the use of youth employment for rehabilitation and preservation efforts provided for in this section.

Notwithstanding section 8.33, unencumbered or unobligated moneys remaining on June 30, 1999, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure fund on August 31, 1999.

DEPARTMENT OF PUBLIC DEFENSE

Sec. 17. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of public defense for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For maintenance and repair of national guard armories and facilities:

..... $ 567,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1997, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure fund of the state on August 31, 1997.

DEPARTMENT OF PUBLIC SAFETY

Sec. 18. There is appropriated from the rebuild Iowa infrastructure fund of the state to the department of public safety for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To purchase terminal equipment and pay other costs associated with upgrade of the existing Iowa online warrants and articles (IOWA) system to provide faster data transmission capabilities to existing subscribers, and in cooperation with the department of public defense to establish comparable data transmission service to the emergency management office in each county of the state:

..... $ 300,000

2. For costs associated with the maintenance of the automated fingerprint information system (AFIS):

..... $ 222,155

STATE DEPARTMENT OF TRANSPORTATION

Sec. 19. There is appropriated from the rebuild Iowa infrastructure fund of the state to the state department of transportation for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For acquiring, constructing, and improving recreational trails within the state:

..... $ 1,000,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1997, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure fund of the state on August 31, 1997.

COMMISSION OF VETERANS AFFAIRS

Sec. 20. There is appropriated from the rebuild Iowa infrastructure fund of the state to the commission of veterans affairs for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For records automation:

..... $ 85,373

2. For food preparation and dining room expansion:

..... $ 500,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1998, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure fund of the state on August 31, 1998.

Sec. 21. It is the intent of the general assembly that $1,400,000 shall be appropriated from the rebuild Iowa infrastructure fund to the commission of veterans affairs for fiscal year 1997-1998 for additional funding for food preparation and dining room expansion. However, the additional funding shall be contingent upon receiving notification from the United States department of veterans affairs that federal funds have also been appropriated to the commission for that expansion.

IOWA STATE FAIR FOUNDATION

Sec. 22. There is appropriated from the rebuild Iowa infrastructure fund of the state to the Iowa state fair foundation for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For renovation and restoration of the grandstand, the cattle barn, the horse barn, the swine barn, and for improvements to sewer, water, and electrical systems located on the state fairgrounds:

..... $ 5,000,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 1998, from the funds appropriated in this section, shall revert to the rebuild Iowa infrastructure fund of the state on August 31, 1998.

COUNTY FAIRS

Sec. 23. There is appropriated from the rebuild Iowa infrastructure fund of the state to the treasurer of state for the fiscal year beginning July 1, 1996, and ending June 30, 1997, for the purpose of allocating equally among the counties for eligible county fair societies in accordance with chapter 174, the following amount, to be used for the purpose designated:

For infrastructure repairs:

..... $ 495,000

DIVISION III
STATUTORY CHANGES

Sec. 24. Section 8.22A, subsection 5, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

a. The amount of lottery revenues for the following fiscal year to be available for disbursement following the deductions made pursuant to section 99E.10, subsection 1.

b. The amount of revenue for the following fiscal year from gambling revenues and from interest earned on the cash reserve fund and the economic emergency fund to be deposited in the rebuild Iowa infrastructure fund under section 8.57, subsection 5, paragraph "e".

Sec. 25. Section 8.57, subsection 5, paragraph c, Code Supplement 1995, is amended to read as follows:

c. Moneys in the fund in a fiscal year shall be used as directed by the general assembly for public ~~infrastructure-related expenditures~~ vertical infrastructure projects. For the purposes of this subsection, "vertical infrastructure" includes only land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails. "Vertical infrastructure" does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement. However, appropriations may be made for the fiscal years beginning July 1, 1997, and July 1, 1998, for the purpose of funding the completion of Part III of the Iowa communications network.

Sec. 26. Section 8.57, subsection 5, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Notwithstanding provisions to the contrary in sections 99D.17 and 99F.11, for the fiscal years beginning July 1, 1995, and July 1, 1996, not more than a total of sixty million dollars; **for the fiscal year beginning July 1, 1997, not more than fifty million dollars; for the fiscal year beginning July 1, 1998, not more than forty million dollars; and for the fiscal year beginning July 1, 1999,** and for each fiscal year thereafter *, *not more than thirty-two million, five hundred thousand dollars**; shall be deposited in the general fund of the state in any fiscal year pursuant to sections 99D.17 and 99F.11. The total moneys in excess of the moneys deposited in the general fund in a fiscal year shall be deposited in the infrastructure fund and shall be used as provided in this section, notwithstanding section 8.60.

Sec. 27. Section 8D.13, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 19. Access to the network shall be offered to the department of public safety and the department of public defense for the purpose of establishing and operating a shared data-only network providing law enforcement, emergency management, disaster service, emergency warning, and other emergency information dissemination services to

*Item veto; see message at end of the Act

federal, state, and local law enforcement agencies as provided in section 80.9, and local emergency management offices established under the authority of sections 29C.9 and 29C.10.

Sec. 28. NEW SECTION. 18A.12 STATE CAPITOL VIEW PRESERVATION.

The department of general services shall develop a state capitol view preservation plan. The purpose of the plan shall be to ensure that the most scenic views of the state capitol remain unobstructed by the erection of structures, including but not limited to buildings, towers, and monuments.

The plan shall include proposals for height and setback limitations of structures erected within the state capitol view, and shall include appropriate drawings, schematics, and aerial photographs necessary to establish the plan with sufficient clarity and definition.

The department shall negotiate implementation of the plan with the city of Des Moines with the goal of entering into a memorandum of understanding in relation to the plan. The department shall provide the governor and the capitol planning commission with quarterly reports regarding progress made on the capitol view preservation plan and execution of the memorandum of understanding.

Sec. 29. NEW SECTION. 35A.10 MULTIYEAR CONSTRUCTION PROGRAM – CONSTRUCTION, REPAIR, AND IMPROVEMENT PROJECTS.

1. The commission shall work with the department of general services to prepare and submit to the director of the department of management, as provided in section 8.23, a multiyear construction program including estimates of the expenditure requirements for the construction, repair, or improvement of buildings, grounds, or equipment at the commission of veterans affairs building at Camp Dodge and the Iowa veterans home in Marshalltown.

2. The commandant and the commission shall have plans and specifications prepared by the department of general services for authorized construction, repair, or improvement projects in excess of twenty-five thousand dollars. An appropriation for a project shall not be expended until the department of general services has adopted plans and specifications and has completed a detailed estimate of the cost of the project, prepared under the supervision of a registered architect or registered professional engineer.

3. The director of the department of general services shall, in writing, let all contracts for authorized improvements in excess of twenty-five thousand dollars in accordance with chapter 18. The director of the department of general services shall not authorize payment for construction purposes until satisfactory proof has been furnished by the proper officer or supervising architect that the parties have complied with the contract.

Sec. 30. Section 174.9, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Each eligible society which is a member of the association of Iowa fairs and which conducts a county fair shall be entitled to receive aid from the state ~~if it files~~ as provided in this chapter. In order to be eligible for state aid, a society must file with the ~~state fair board~~ treasurer of state on or before November 1 of each year, a ~~sworn~~ statement which shall show:

Sec. 31. Section 174.9, subsection 4, Code 1995, is amended to read as follows:

4. A copy of the published financial statement published as required by law, together with proof of such publication and a certified statement showing an itemized list of premiums awarded, and such other information as the ~~state fair board~~ treasurer of state may require.

Sec. 32. Section 174.10, Code Supplement 1995, is amended to read as follows:

~~1. The appropriation which is made biennially for state aid to the foregoing societies shall be available and applicable to incorporated societies of a purely agricultural nature which were entitled to draw eight hundred fifty dollars or more state aid in 1926, or societies located in counties that have no other fair or agricultural society, and which were in existence and drew state aid in 1926, except that in a county where there are two definitely separate county extension offices, two agricultural societies may receive state aid. The provisions of section~~

~~174.1 as to ownership of property shall not apply to societies under this section.~~

~~2. In counties having two incorporated agricultural societies conducting county fairs, but not having two definitely separate county extension offices, the state aid shall be prorated between the two societies or, if~~

1. Each county shall receive an equal share of any moneys appropriated to support one or more societies conducting one or more county fairs in that county, if the society or societies are eligible for the state aid. Moneys shall be paid directly to each eligible society.

2. The association of Iowa fairs shall provide the treasurer of state with a list of each society in a county which is a member of the association and conducts a fair in that county as provided in this chapter. If a county has more than one fair, the association shall list the name of each society conducting a fair in that county for three or more years. The treasurer of state shall not authorize payment of state aid to a society, unless the society complies with section 174.9 and the name of the society appears on the association's list.

3. If a county has more than one fair eligible for state aid, the amount of state aid for that county shall be divided equally among the eligible societies in that county.

4. If no society in a county qualifies to receive state aid, that county's share shall be divided equally among the counties with societies eligible for state aid, as provided in this section.

5. If an official county fair is designated by election, the total amount of state aid for that county shall be paid to that society determined to be conducting the official county fair. The board of supervisors, upon receiving a petition which meets the requirements of section 331.306, shall submit to the registered voters of the county at the next general election following submission of the petition or at a special election if requested by the petitioners at no cost to the county, the question of which fair shall be designated as the official county fair. Notice of the election shall be given as provided in section 49.53. The fair receiving a majority of the votes cast on the question shall be designated the official county fair. ~~To qualify as the official county fair, the sponsoring society need not meet the conditions provided in subsection 1.~~

Sec. 33. Section 174.12, Code 1995, is amended to read as follows:

174.12 PAYMENT OF STATE AID.

The ~~director~~ department of revenue and finance shall issue a warrant to ~~any~~ a society for the amount due ~~as~~ in state aid, less ~~one~~ five hundred dollars, as provided ~~the secretary of the state~~ in this chapter. The ~~fair board certifies~~ treasurer of state must certify to the ~~director~~ department that ~~such~~ the society ~~has complied with the law relative thereto and that a named~~ is eligible under this chapter to receive the amount ~~is~~ due ~~the society~~ provided in section 174.10. The ~~director~~ department shall issue a ~~like~~ warrant to the society for ~~one~~ the remaining five hundred dollars, ~~provided the~~ if all of the following apply:

1. The secretary of the state fair board certifies to the department that ~~such~~ the society had an accredited delegate in attendance at the annual convention for the election of members of the state fair board as provided in section 173.2.

2. A district director of the association of Iowa fairs representing the district in which the county is located, and the director of the Iowa state fair board representing the congressional district in which the county is located, certify to the department that the society had an accredited delegate in attendance at the district meeting.

Any state aid moneys remaining due to the failure of a society to comply with the provisions of this section shall be distributed equally among the societies which have qualified for state aid under this section.

Sec. 34. Section 306C.18, subsection 4, Code 1995, is amended to read as follows:

4. The fee for both types of permits shall be ~~fifty~~ one hundred dollars for the initial fee and ~~ten~~ fifteen dollars for each annual renewal. The fees collected for the above permits shall be credited to a special account entitled the "highway beautification fund" and all salaries and expenses incurred in administering this chapter shall be paid from this fund or from specific appropriations for this purpose, except that surveillance of, and removal of, advertising devices performed by regular maintenance personnel are not to be charged against the account.

*Sec. 35. *Section 307.10, subsection 1, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:*

1. a. Develop and coordinate an updated comprehensive transportation policy for the state by January 15, 1997. The policy shall be submitted to the general assembly for approval, modification, or rejection. Future revisions to the policy shall be submitted to the general assembly for its approval.

*b. A comprehensive transportation plan which is based upon the updated comprehensive transportation policy shall be submitted to the governor and the general assembly annually on January 15.**

Sec. 36. Section 312.2, subsection 18, Code 1995, is amended by striking the subsection.

**Sec. 37. *Section 465B.4, subsection 1, Code 1995, is amended to read as follows:*

*1. Funds appropriated by the general assembly. There shall be appropriated from the rebuild Iowa infrastructure fund of the state to the state department of transportation, beginning July 1, 1996, and each fiscal year thereafter, one million dollars to be used for the purposes of this chapter.**

Sec. 38. Section 602.8108, subsection 2, Code 1995, is amended to read as follows:

2. Except as otherwise provided, the clerk of the district court shall report and submit to the state court administrator, not later than the fifteenth day of each month, the fines and fees received during the preceding calendar month. Except as provided in ~~subsection~~ subsections 4 and 5, the state court administrator shall deposit the amounts received with the treasurer of state for deposit in the general fund of the state. The state court administrator shall report to the legislative fiscal bureau within thirty days of the beginning of each fiscal quarter the amount received during the previous quarter in the account established under this section.

Sec. 39. Section 602.8108, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The state court administrator shall allocate all of the fines and fees attributable to commercial vehicle violation citations issued by motor vehicle division personnel of the state department of transportation to the treasurer of state for deposit in the road use tax fund. However, the fines and fees to be deposited under this subsection, shall not be deposited in the road use tax fund unless and until the deposit to the Iowa prison infrastructure fund provided for in section 602.8108A has been made.

Sec. 40. 1994 Iowa Acts, chapter 1199, section 10, as amended by 1995 Iowa Acts, chapter 220, section 31, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The provisions of section 8.33 do not apply to the funds appropriated in this section, and unobligated or unencumbered funds on June 30, 1996, shall remain available for expenditure for the purposes designated until June 30, 1999. Unencumbered or unobligated funds remaining on June 30, 1999, from funds appropriated in this section shall revert to the fund from which appropriated on August 30, 1999.

Sec. 41. NONREVERSION. Notwithstanding section 8.33 and the reversion date of August 31, 1996, provided in 1995 Iowa Acts, chapter 220, section 14, unobligated or unencumbered funds appropriated to the department of public defense in 1995 Iowa Acts, chapter 220, section 14, subsection 2, to match federal funds for completion of the addition and renovation of the armory in Fairfield shall revert to the rebuild Iowa infrastructure fund of the state on August 31, 1998.

**Sec. 42. *STATE GENERAL FUND BUDGET INCLUSIONS. For the fiscal year beginning July 1, 1997, and each fiscal year thereafter, the department of personnel, the auditor of state, the attorney general's office, the department of inspections and appeals, the department of management, and the department of revenue and finance shall request appropriations from*

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*the general fund of the state that are currently appropriated or reimbursed from the road use tax fund, primary road fund, motor vehicle use tax receipts, or from motor fuel taxes.**

Sec. 43. SOYDIESEL DEMONSTRATION PROJECTS.

1. The state department of transportation shall conduct a soydiesel demonstration project by operating diesel-fueled vehicles with soydiesel fuel for a period of one year. For purposes of this section, "soydiesel fuel" means a mixture of diesel fuel and processed soybean oil, if at least 5 percent of the mixed fuel by volume is processed soybean oil. The department shall evaluate the performance of the vehicles, including the rate of repairs and comments from persons operating and maintaining the vehicles.

2. The department shall report the findings of the demonstration project and any recommendations to the general assembly, to the chairpersons and ranking members of the senate and house of representatives standing committees on agriculture and to the renewable fuels and coproducts advisory committee, by October 1, 1997.

3. Prior to the allocation under section 423.24, subsection 1, paragraph "b", one hundred thousand dollars shall be allocated to the state department of transportation for purposes of the demonstration project under this section. Notwithstanding section 8.33, funds allocated under this section shall remain available for expenditure until June 30, 1998. Unobligated or unencumbered funds remaining on June 30, 1998, shall be credited to the value-added agricultural products and processes financial assistance fund under section 15E.112.

Sec. 44. SOYDIESEL - NONREVERSION. Notwithstanding 1994 Iowa Acts, chapter 1119, section 32, subsection 2, paragraph "d", as amended by 1995 Iowa Acts, chapter 216, section 34, moneys remaining unexpended or unobligated on June 30, 1996, shall not be credited to the value-added agricultural products and processes financial assistance fund, but shall be allocated to the state department of transportation for the purposes of continuing the soydiesel demonstration project as provided for in this Act.

**Sec. 45. VERTICAL INFRASTRUCTURE DEFINITION TASK FORCE. The department of general services shall coordinate a vertical infrastructure definition task force for the purpose of reviewing and providing recommendations to further refine the definition of vertical infrastructure as it is contained in section 8.57, subsection 5, paragraph "c". The task force shall consist of the following members:*

1. The director of the department of general services or the director's designee, who shall be the chairperson of the task force.

2. A member who is a consulting engineer, appointed by the governor.

3. A representative from the association of business and industry.

4. A representative from the master builders.

5. A representative from the Iowa chapter, national electrical association.

6. A representative from Iowa state university.

7. Two members from the general assembly, who shall be the chairpersons of the joint appropriations subcommittee on transportation, infrastructure, and capitals or the chairpersons' designees.

*The task force shall make recommendations to the general assembly for proposed changes to the definition of vertical infrastructure by December 15, 1997.**

**Sec. 46. INFRASTRUCTURE STUDY. The legislative council is requested to study the issue of creating a board to evaluate and prioritize expenditure of moneys from the rebuild Iowa infrastructure fund and to study the issue of establishing a financing mechanism to provide local governments with assistance to finance infrastructure improvements and to provide a dedicated funding stream to be allocated to the rebuild Iowa infrastructure fund. The purpose of the study is to provide recommendations regarding members of the board and a process for determining expenditures and to recommend a financing mechanism and a dedicated funding source to provide infrastructure assistance to local governments. Consideration*

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*shall be given to providing for the participation of the department of general services, the department of management, and the Iowa state university of science and technology's department of construction engineering in the study. Results of the study shall be provided to the legislative council by January 31, 1997.**

Sec. 47. LOCAL INFRASTRUCTURE, BONDING AND STATE FINANCIAL ASSISTANCE NEEDS INTERIM STUDY. The legislative council is requested to establish an interim committee to study the issue of local infrastructure and associated bonding and state financial assistance needs. The committee shall assess the state of local infrastructure and the resources which local governments have available to assist in providing for long-term infrastructure needs including a study of the approval requirements for local bond referendums.

Sec. 48. STATE GOVERNMENT - SPACE ALLOCATION STUDY. The department of general services, in consultation with the department of management, and the legislative council shall study and make an assessment of the space allocation needs for all state agencies and entities in all areas of state government. The study shall make a determination of the feasibility of eliminating or reducing leased office space and of relocating various areas of state government outside of the Des Moines metropolitan area. The goal of this relocation effort shall be to provide at least fifty percent of the projected off-complex space needs in areas located outside of the Des Moines metropolitan area. The relocation shall only be considered in areas that would provide connections with the Iowa communications network. The fifty-percent relocation calculation shall not include the state department of transportation complex located in Ames.

Sec. 49. REBUILD IOWA INFRASTRUCTURE FUND - CONTINGENCY APPROPRIATION. If the rebuild Iowa infrastructure fund does not receive an appropriation from the operation of section 8.57, subsection 5, paragraph "e", in an amount equivalent to at least $48,400,000, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, moneys in an amount equivalent to the difference shall be appropriated from the moneys transferred to the general fund of the state pursuant to section 8.55, subsection 2, for the fiscal year beginning July 1, 1996.

Sec. 50. LEGISLATIVE FISCAL BUREAU ESTIMATES. The legislative fiscal bureau shall provide yearly estimates of the annual operating costs for operation of proposed buildings to be constructed from funds provided from the rebuild Iowa infrastructure fund. The estimates shall be presented to the legislative fiscal committee and to the joint appropriations subcommittee on transportation, infrastructure, and capitals.

Sec. 51. ACCESS IOWA HIGHWAYS - INTENT - REPORT.

1. INTENT. It is the intent of the general assembly to formulate an access Iowa plan which shall designate portions of the commercial and industrial network of highways as access Iowa highways. The goal of the access Iowa plan shall be to enhance the existing Iowa economy and ensure its continuing development and growth in the national and global competitive marketplace by providing for early completion of the construction of the most important portions of the Iowa highway system. These portions of the system shall be those that are essential for support of intrastate transportation and commerce and essential for ensuring Iowans direct access to the nation's system of interstate highways and transportation services.

The general assembly's past actions are consistent with the access Iowa plan. The general assembly has set general policy guidelines for the state transportation commission's planning and programming development, directed that road service be equalized throughout the state, determined that a commercial and industrial network of highways would benefit Iowa transportation services, directed the commission to focus at least part of their legislatively provided resources on the commercial and industrial network, and directed that the commission consider equalization of accessibility for economic development as one of the factors in

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establishing its plan and program priorities for the commercial and industrial network. These actions recognize that interstate commerce and national economic development are furthered and supported by the national system of interstate and defense highways and the national highway system, and that Iowa commerce and economic development are supported by Iowa's commercial and industrial network of highways.

2. ACCESS IOWA HIGHWAY DESIGNATION. The state department of transportation shall designate portions of the commercial and industrial network of highways as access Iowa highways and shall expedite and accelerate development of access Iowa highways. When designating those portions of the commercial and industrial network as access Iowa highways, the department shall consider the direct and priority linkages between economic centers within the state with populations of 20,000 or more and the enhancement of intrastate mobility and Iowa regional accessibility and national accessibility.

3. REPORT. The state department of transportation shall provide a report to the general assembly by January 15, 1997, designating which portions of the commercial and industrial network of highways the department determines to be access Iowa highways. The department shall list the highway improvements necessary to provide modern and safe four-lane highway service on access Iowa highways. The report shall include program changes and options needed to enable the early, rapid, expedited, and accelerated completion of the development of access Iowa highways, including funding and other support necessary to ensure the early completion of the construction of the access Iowa highways.

DIVISION IV
PHYSICAL INFRASTRUCTURE ASSISTANCE PROGRAM

Sec. 52. NEW SECTION. 15E.175 PHYSICAL INFRASTRUCTURE ASSISTANCE PROGRAM.

1. The Iowa department of economic development shall establish a physical infrastructure financial assistance program to provide financial assistance for business or community physical infrastructure development or redevelopment projects. Physical infrastructure projects that create the necessary infrastructure for economic success throughout Iowa, that provide the opportunity for the creation of quality, high-wage jobs, and that involve substantial capital investment may be eligible for financial assistance under the program provided, however, that the project could not be assisted through or eligible for financial assistance from other existing private, local, or state funds or programs. Physical infrastructure development or redevelopment projects include, but are not limited to, projects involving any mode of transportation infrastructure, public works and utilities such as sewer, water, power or telecommunications, physical improvements which mitigate, prevent or eliminate environmental contaminants, and any other project deemed appropriate by the department.

2. A physical infrastructure assistance fund is created within the state treasury under the control of the Iowa department of economic development.

a. The fund shall include any moneys appropriated to the fund by the general assembly, payments of interest earned, recaptures of awards, repayments of moneys loaned or expended from the physical infrastructure assistance program, and any other moneys designated by the department for placement in the fund.

b. The fund shall be used for the following:

(1) To provide reimbursement to the department of natural resources for activities related to physical infrastructure assistance projects under this section.

(2) To provide financial assistance for qualifying projects.

(3) To provide funding for any other purpose consistent with this section and deemed appropriate by the department.

c. Section 8.33 shall not apply to the physical infrastructure assistance fund. Notwithstanding section 12C.7, interest earned on moneys in the fund shall be credited to the fund.

3. The department shall establish procedures and guidelines for the physical infrastructure assistance program and shall proceed in accordance with the following:

a. Consult with and coordinate with the state department of transportation, the department of natural resources, and any other appropriate state agency which is responsible for the development or redevelopment of physical infrastructure in this state to ensure that activities conducted pursuant to this section are consistent with the policies and plans of other state agencies and are coordinated with other physical infrastructure projects.

b. Provide financial assistance in the form of a loan, forgivable loan, loan guarantee, cost-share, indemnification of costs, or any combination of financial assistance deemed by the department to be most efficient in facilitating the physical infrastructure project.

c. Enter into contracts and to sue and be sued. However, the department shall not in any manner directly or indirectly pledge the credit of the state of Iowa.

d. Authorize payment of costs, commissions, attorney fees, consultant fees, and other reasonable expenses from the fund. Expenses may include costs relating to carrying out the duties necessary for insuring or guaranteeing loans, co-sharing or indemnifying costs under the physical infrastructure financial assistance program, and for the recovery of loans insured or guaranteed, costs co-shared or indemnified, or the management of property acquired in connection with such loans or costs.

e. Adopt administrative rules necessary to carry out the provisions of this section.

Sec. 53. NEW SECTION. 455B.433 PHYSICAL INFRASTRUCTURE ASSISTANCE – FUNDING – LIABILITY.

1. The department of natural resources shall work in conjunction with the Iowa department of economic development to identify environmentally contaminated sites which qualify for the physical infrastructure assistance program under section 15E.175. The department shall provide an assessment of the site and shall provide any emergency response activities which the department deems necessary. The department may take any further action, including remediation of the site, that the department deems to be appropriate and which promotes the purposes of the physical infrastructure assistance program.

2. The department shall be reimbursed from the physical infrastructure assistance fund under section 15E.175 for any costs incurred pursuant to this section. **Notwithstanding the limitations of chapter 455G, any costs incurred on a site contaminated by a leaking underground storage tank may be reimbursed from the Iowa comprehensive petroleum underground storage tank fund.**

3. A person shall not have standing pursuant to section 455B.111 to commence a citizen suit which is based upon property that is part of the physical infrastructure assistance program pursuant to section 15E.175.

Sec. 54. There is appropriated from the rebuild Iowa infrastructure fund of the state to the Iowa department of economic development for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be deposited in the physical infrastructure assistance fund created in section 15E.175:

..... $ 2,000,000

Sec. 55. There is appropriated from the rebuild Iowa infrastructure fund of the state to the Iowa department of economic development for the fiscal years beginning July 1, 1996, and ending June 30, 1998, the following amounts, or so much thereof as is necessary, to be deposited in the physical infrastructure assistance fund created in section 15E.175 and used only in accordance with subsection 3:

1. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount:

..... $ 3,900,000

2. For the fiscal year beginning July 1, 1997, and ending June 30, 1998, the following amount:

..... $ 6,100,000

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3. The moneys appropriated in this section shall be used only for providing assistance in the form of loan guarantees, irrevocable letters of credit, and indemnification for liability agreements entered into prior to October 15, 1996. **Moneys appropriated in this section shall not be allocated by the Iowa department of economic development unless the legislative fiscal committee has approved the allocation.**

Sec. 56. Notwithstanding the allocation of moneys pursuant to section 455B.423, subsection 2, the first two hundred thousand dollars of moneys allocated to the hazardous substance remedial fund for the fiscal year beginning July 1, 1996, and ending June 30, 1997, shall be transferred to the physical infrastructure assistance fund created under section 15E.175.

DIVISION V

Sec. 57. Section 232.52, subsection 2, paragraph a, subparagraph (4), Code Supplement 1995, is amended to read as follows:

(4) The suspension or revocation of the motor vehicle license or operating privilege of the child, for a period of one year, for the commission of ~~one or more~~ delinquent acts which are a violation of ~~section~~ any of the following:

(a) Section 123.46~~, section~~.

(b) Section 123.47 regarding the purchase or attempt to purchase of alcoholic beverages~~, or chapter~~.

(c) Chapter 124~~, or two~~.

(d) Section 126.3.

(e) Chapter 453B.

(f) Two or more ~~delinquent acts which are a violation~~ violations of section 123.47 regarding the possession of alcoholic beverages ~~for a period of one year~~.

SUBPARAGRAPH DIVIDED. The child may be issued a temporary restricted license or school license if the child is otherwise eligible.

Sec. 58. Section 321.205, unnumbered paragraph 2, Code 1995, is amended by striking the paragraph.

Sec. 59. Section 321.209, subsection 8, Code 1995, is amended by striking the subsection.

Sec. 60. Section 321.212, subsection 1, paragraph d, Code 1995, is amended to read as follows:

d. The department shall revoke a motor vehicle license ~~under section 321.209, subsection 8,~~ according to an order issued pursuant to section 901.5, subsection 10, for one hundred eighty days. If the person has not been issued a motor vehicle license, the issuance of a motor vehicle license shall be delayed for one hundred eighty days after the person is first eligible. If the person's operating privileges have been suspended or revoked at the time the person is convicted, the one-hundred-eighty-day revocation period shall not begin until all other suspensions or revocations have terminated.

Sec. 61. Section 321.213, Code Supplement 1995, is amended to read as follows:

321.213 LICENSE SUSPENSIONS OR REVOCATIONS DUE TO VIOLATIONS BY JUVENILE DRIVERS.

Upon the entering of ~~an~~ a dispositional order ~~at the conclusion of an adjudicatory hearing~~ suspending or revoking the motor vehicle license or operating privileges of the juvenile under section ~~232.47 that the child violated a provision of this chapter or chapter 124, 126, 321A, 321J, or 453B for which the penalty is greater than a simple misdemeanor~~ 232.52, subsection 2, paragraph "a", the clerk of the juvenile court ~~in the adjudicatory hearing~~ shall forward a copy of the adjudication and the dispositional order to the department. Notwithstanding section 232.55, a final adjudication in a juvenile court that the child violated a provision of this chapter~~, chapter 124, a drug offense under section 126.3,~~ or chapter 321A, or 321J~~, or 453B~~

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constitutes a final conviction for purposes of section 321.189, subsection 8, paragraph "b", and sections 321.193, 321.194, 321.200, 321.209, 321.210, 321.215, 321.555, 321A.17, 321J.2, 321J.3, and 321J.4. ~~However, suspensions for violations of chapter 124, section 126.3, or chapter 453B shall be in accordance with section 321.213A.~~

Sec. 62. Section 321.213A, Code Supplement 1995, as amended by 1996 Iowa Acts, Senate File 2080,* section 20, is amended to read as follows:

321.213A LICENSE SUSPENSION FOR JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL OFFENSES.

Upon the entering of ~~an~~ a dispositional order ~~at the conclusion of a dispositional hearing under section 232.50, where the child has been adjudicated to have committed a delinquent act, which would be a first or subsequent violation of section 123.46, section 123.47 involving the purchase or attempt to purchase alcoholic beverages, chapter 124, section 126.3, chapter 453B, or a second or subsequent violation of section 123.47 regarding the possession of alcoholic beverages,~~ under section 232.52, subsection 2, paragraph "a", the clerk of the juvenile court ~~in the dispositional hearing~~ shall forward a copy of the adjudication and the dispositional order suspending or revoking the motor vehicle license or operating privileges of the juvenile to the department. The department shall suspend the license or operating privilege of the child for one year. The child may receive a temporary restricted license or permit, if eligible, as provided in section 321.215.

Sec. 63. Section 321.215, subsection 1, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

However, a temporary restricted license shall not be issued to a person whose license is revoked ~~under section 321.205 for a drug or drug-related offense or~~ pursuant to a court order issued under section 901.5, subsection 10, or under section 321.209, subsections 1 through 5 or subsection 7, ~~or 8~~ or to a juvenile whose license has been suspended ~~under section 321.213A~~ or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3. 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.

Sec. 64. Section 321.215, subsection 2, unnumbered paragraph 1, Code Supplement 1995, as amended by 1996 Iowa Acts, Senate File 2266,** section 17, is amended to read as follows:

Upon conviction and the suspension or revocation of a person's motor vehicle license under section ~~321.205 for a drug or drug-related offense;~~ 321.209, subsection ~~5,~~ or 6, ~~or 8~~; section 321.210; 321.210A; or 321.513; or upon revocation pursuant to a court order issued under section 901.5, subsection 10; or upon the denial of issuance of a motor vehicle license under section 321.560, based solely on offenses enumerated in section 321.555, subsection 1, paragraph "c", or section 321.555, subsection 2; or a juvenile, whose license has been suspended ~~under section 321.213A~~ or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3, a person may petition 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 petition shall include a current certified copy of the petitioner's official driving record issued by the department. The application may be granted only if all of the following criteria are satisfied:

Sec. 65. Section 321.215, subsection 2, paragraph d, Code Supplement 1995, is amended to read as follows:

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

*Chapter 1034 herein
**Chapter 1152 herein

or 321.513 or revoked ~~under section 321.209, subsection 8, or suspended or revoked under section 321.205 for a drug or drug-related offense~~ pursuant to a court order issued under section 901.5, subsection 10.

Sec. 66. Section 321.491, unnumbered paragraph 7, Code 1995, is amended by striking the paragraph.

Sec. 67. Section 321A.17, subsection 5, Code Supplement 1995, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation ~~under section 321.205 for a drug or drug-related offense, section 321.209, subsection 8,~~ pursuant to a dispositional order issued under section 232.52, subsection 2, paragraph "a", or under section 321.210, subsection 1, paragraph "d", or section 321.210A, 321.213A, 321.213B, 321.216B, or 321.513, following a period of suspension under section 321.194, or following a period of revocation pursuant to a court order issued under section 901.5, subsection 10, or under section 321J.2A, is not required to maintain proof of financial responsibility under this section.

Sec. 68. Section 901.5, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10. In addition to any sentence imposed pursuant to chapter 902 or 903, the court shall order the state department of transportation to revoke the defendant's driver's license or motor vehicle operating privilege for a period of one hundred eighty days, or to delay the issuance of a motor vehicle license for one hundred eighty days after the person is first eligible if the defendant has not been issued a motor vehicle license, and shall send a copy of the order in addition to the notice of conviction required under section 124.412, 126.26, or 453B.16, to the state department of transportation, if the defendant is being sentenced for any of the following offenses:

a. A controlled substance offense under section 124.401, 124.401A, 124.402, or 124.403.

b. A drug or drug-related offense under section 126.3.

c. A controlled substance tax offense under chapter 453B.

If the person's operating privileges are suspended or revoked at the time of sentencing, the order shall provide that the one hundred eighty-day revocation period shall not begin until all other suspensions or revocations have terminated. Any order under this section shall also provide that the department shall not issue a temporary restricted license to the defendant during the revocation period, without further order by the court.

Sec. 69. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VI

Sec. 70. REPEAL. Section 312.2A, Code 1995, is repealed.

Sec. 71. RETROACTIVITY, EFFECTIVE DATE, AND APPLICABILITY PROVISIONS.

1. Sections 10, 11, and 44 of this Act, being deemed of immediate importance, take effect upon enactment.

2. Section 25 of this Act, takes effect July 1, 1997.

3. Section 26 of this Act, amending section 8.57, subsection 5, Code Supplement 1995, by adding new paragraph "e", being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1995.

4. Sections 38 and 39 of this Act amending section 602.8108 are effective July 1, 1997.

Sec. 72. EFFECTIVE DATE. Section 41, being deemed of immediate importance, takes effect upon enactment.

Approved May 30, 1996, except the items which I hereby disapprove and which are designated as Section 3, subsection 1, paragraph g in its entirety; Section 9, subsections 1 and 2 in their entirety; Section 13, subsection 2, paragraph c, subparagraph 3 in its entirety; that portion of Section 13, subsection 2, paragraph e which is herein bracketed in ink and initialed by me; those portions of Section 26 which are herein bracketed in ink and initialed by me; Section 35 in its entirety; Section 37 in its entirety; Section 42 in its entirety; Sections 45, 46, 47, 48, and 49 in their entirety; that portion of Section 53, subsection 2 which is herein bracketed in ink and initialed by me; that portion of Section 55, subsection 3 which is herein bracketed in ink and initialed by me; and Section 56 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 Mr. Secretary:

I hereby transmit House File 2421, an Act relating to and making appropriations to the state department of transportation including allocation and use of moneys from the general fund, road use tax fund, and primary road fund, making appropriations for capital projects from the rebuild Iowa infrastructure fund, providing for certain procedures for revocation or suspension of drivers licenses for certain drug-related offenses, construction projects for the commission of veterans affairs, county fairs, recreational trails, and nonreversion of certain appropriations, and providing an effective date.

House File 2421 is among the most significant actions of the Second Session of the Seventy-Sixth General Assembly. It implements one of the cornerstones of my budget and program recommendations: the creation of a large-scale vertical infrastructure fund, supported by two dedicated funding streams. These dedicated funding streams consist of interest from reserves, and gambling receipts above a certain threshold level. With adoption of this concept, Iowa is clearly positioned to become the best-managed state in the nation.

Unfortunately, the General Assembly went beyond what is prudent from a budgeting standpoint, and adopted language that would increase the amount of resources diverted into the Rebuild Iowa Infrastructure Fund in each of the next three years. I believe this is a dangerous budgeting practice. Many financial commitments have already been enacted that will be phased in over the next several years. Unfortunately, as was clearly evidenced this session, the future budget impact of these past commitments tends to be ignored in the legislative process as budget decisions are made in any given year. I cannot approve the creation of yet another such commitment which could jeopardize the state's financial well-being. I will sign that portion of the legislation that dedicates a steady stream of revenue to the Rebuild Iowa Infrastructure Fund, resulting in about $75 million per year being available for infrastructure projects.

I am also disappointed the General Assembly failed to adopt my recommendation to create a board to set policy and recommend projects for infrastructure funding. Lacking a rational plan or process for prioritizing projects, the result is porkbarrel spending and use of infrastructure funds for clearly inappropriate purposes. This year, the General Assembly shifted more than $5 million of ongoing general fund spending into the Rebuild Iowa Infrastructure Fund, including 17 staff from the Department of Human Services. These are funds that, instead, should have been used to address Iowa's critical infrastructure needs.

House File 2421 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 3, subsection 1, paragraph g, in its entirety. This item makes a specific appropriation for the state highway system. The section is redundant because the standing appropriation in Iowa Code Section 313.4 already provides on an ongoing basis funding for the construction, reconstruction and maintenance of the state highway system.

I am unable to approve the items designated as Section 9, subsections 1 and 2, in their entirety. These items would provide funding for capital improvements at community colleges, including the construction of a rural heritage center and for maintenance and improvement of institutional roads. It would be inappropriate to create a precedent of funding community college infrastructure needs from the Rebuild Iowa Infrastructure Fund. Moreover, in the case of institutional roads, another funding source already exists to address these needs.

I am unable to approve the item designated as Section 13, subsection 2, paragraph c, subparagraph 3, in its entirety. This item would appropriate $1.6 million for the construction of a tunnel between the Old Historical Building and the State Capitol. Because the plan for the reconfiguration of space in the Capitol has not been finally determined, it is unclear at this time whether the tunnel will be needed.

I am unable to approve the designated portion of Section 13, subsection 2, paragraph e, which states the intent of the General Assembly to use the first and second floors of the Lucas state office building primarily for the Legislature and staff. Current plans indicate that all of the first floor, but a portion of the second floor of the Lucas building will be needed for these purposes. I urge the Department of General Services to continue to work with the General Assembly to assure that space needs are met.

I am unable to approve the designated portions of Section 26. These items would divert gambling receipts to the Rebuild Iowa Infrastructure Fund. I support the concept of dedicating gambling proceeds to the infrastructure fund; in fact it was my proposal to do so. However, I cannot support ever-increasing levels of funding in future years, thereby placing the budget again on automatic pilot. The result of my action will be to assure a steady flow of funds from gambling receipts above $60 million to address infrastructure needs. When combined with the dedication of interest earnings on the state's reserve funds, about $75 million per year will be available in this fund, representing a significant commitment by any measure. After an infrastructure board has been created and has developed a long-range plan, future general assemblies could increase the level of spending for infrastructure needs, depending on the state's fiscal condition.

I am unable to approve the item designated as Section 35, in its entirety. This item would subject the Department of Transportation's transportation policy and plan to approval, modification or rejection by the General Assembly. This would be an unacceptable level of intrusion by the Legislature in a matter that is the responsibility of the transportation commission.

I am unable to approve the item designated as Section 37, in its entirety. This item would make a standing $1 million appropriation for bicycle trails from the Rebuild Iowa Infrastructure Fund. Elsewhere in this bill I have signed a provision to provide $1 million for this purpose in fiscal year 1997. I believe an annual decision is appropriate so that current needs and current resources can be taken into account.

I am unable to approve the item designated as Section 42, in its entirety. This item would require agencies of state government receiving indirect cost reimbursement from the Road Use Tax Fund, Primary Road Fund, motor vehicle use tax receipts and motor fuel taxes, to

instead request a general fund appropriation beginning in fiscal year 1998. This amounts to a $7.1 million built-in increase in the general fund budget for fiscal year 1998. Moreover, it is appropriate for these agencies to be reimbursed for the indirect costs associated with providing services to the entities supported from these sources.

I am unable to approve the item designated as Section 45, in its entirety. This item creates a vertical infrastructure definition task force, and specifies its membership. A definition is already included in the bill; therefore, a task force for this purpose is unnecessary.

I am unable to approve the item designated as Section 46, in its entirety. This item requests the legislative council to study the issue of creating a board to evaluate and prioritize the expenditure of money from the Rebuild Iowa Infrastructure Fund and to study the issue of creating a financing mechanism to assist local governments with local infrastructure needs. I will instead be asking the Fisher Commission to review the question of board membership. In addition, the concept of using the state infrastructure fund for local infrastructure needs is not appropriate and, therefore, should not be encouraged through such a study.

I am unable to approve the item designated as Section 47, in its entirety. This item requests the legislative council to create an interim committee to undertake a study relating to changes in the approval requirements for local bonding referendums. I do not support an effort to reduce the approval requirements for local bonding referendums. Other options to deal with local infrastructure needs should be explored.

I am unable to approve the item designated as Section 48, in its entirety. This item would require the Department of General Services to study the feasibility of relocating various areas of state government until 50 percent of the projected off-complex space needs are in areas outside Des Moines. The concept behind this requirement is laudable. However, the language has been crafted without the benefit of data about current space arrangements, and needs to be more thoroughly thought out before such a requirement is imposed.

I am unable to approve the item designated as Section 49, in its entirety. This item would provide a contingent general fund appropriation in the event that revenues to the Rebuild Iowa Infrastructure Fund are insufficient to finance all of the projects contained in the bill. It would be inappropriate to further burden the general fund for what is already a major commitment to infrastructure. Because of other item vetoes in this bill, it is estimated that all remaining projects will be fully funded without this general fund appropriation.

I am unable to approve the designated portion of Section 53, subsection 2. This item would allow the Department of Economic Development to be reimbursed from the Iowa comprehensive petroleum underground storage tank fund for any costs incurred on a site contaminated by a leaking underground storage tank. The language is overly broad in that it would allow reimbursement for costs unrelated to environmental clean-up, and could expose the fund to potentially unlimited liability.

I am unable to approve the designated portion of Section 55, subsection 3. This item would subject all loan guarantees, irrevocable letters of credit and indemnification for liability agreements provided under the physical infrastructure assistance fund to approval by the legislative fiscal committee. This is an unacceptable level of involvement by the General Assembly in the administration of government.

I am unable to approve the item designated as Section 56, in its entirety. This item would earmark the first $200,000 from the hazardous substances remedial fund into the physical infrastructure assistance fund. The other appropriations in this bill, totaling $10 million, should be sufficient to carry out the purposes of the fund.

For the above reasons, I 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 2421 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1219

MISCELLANEOUS APPROPRIATIONS AND RELATED MATTERS - ECONOMIC DEVELOPMENT APPROPRIATIONS
S.F. 2470

AN ACT relating to public levy, expenditure, and regulatory matters by making standing and other appropriations, and providing technical provisions, studies of runaway youth, physician utilization, and retirement system issues, and providing a penalty and effective dates.

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

DIVISION I
REVERSIONS

Section 1. Section 8.62, Code 1995, is amended to read as follows:

8.62 USE OF REVERSIONS.

1. For the purposes of this section, "operational appropriation" means an appropriation from the general fund of the state providing for salary, support, administrative expenses, or other personnel-related costs.

2. Notwithstanding the provisions of section 8.33 or any other provision of law to the contrary, if on June 30 of ~~the~~ a fiscal ~~years ending in 1995 and 1996~~ year, a balance of an operational appropriation remains unexpended or unencumbered, not more than fifty percent of the balance may be encumbered by the agency to which the appropriation was made and used as provided in this section and the remaining balance shall be deposited in the cash reserve fund created in section 8.56. Moneys encumbered under this section shall only be used by the agency during the succeeding fiscal year for employee training and for technology enhancement. Unused moneys encumbered under this section shall be deposited in the cash reserve fund on June 30 of the succeeding fiscal year.

3. On or before June 30, ~~1996 and 1997~~ of the fiscal year following the fiscal year in which funds were encumbered under this section, an agency encumbering funds under this section shall report to the joint appropriations subcommittee which recommends funding for the agency, the legislative fiscal bureau, the department of management, and the legislative fiscal committee of the legislative council detailing how the moneys were expended. Moneys shall not be encumbered under this section from an appropriation which received a transfer from another appropriation pursuant to section 8.39.

4. This section is repealed on September 1, ~~1997~~ 1999.

Sec. 2. 1996 Iowa Acts, House File 2114,* section 2, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys appropriated in this section which remain unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure in the succeeding fiscal year.

* Chapter 1207 herein

Sec. 3. EFFECTIVE DATE. Section 2 of this division of this Act, amending 1996 Iowa Acts, House File 2114,* section 2, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
EDUCATION PROVISIONS

Sec. 4. Section 261.12, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The amount of a tuition grant to a qualified full-time student for the summer semester or trimester equivalent shall be one-half the amount of the tuition grant the student receives under subsection 1.

Sec. 5. Section 261.12, subsection 2, Code Supplement 1995, is amended to read as follows:

2. The amount of a tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours for the fall, ~~and~~ spring, and summer semesters, or the trimester or quarter equivalent, shall be equal to the amount of a tuition grant that would be paid to a full-time student times a number which represents the number of hours in which the part-time student is actually enrolled divided by twelve semester hours, or the trimester or quarter equivalent.

Sec. 6. Section 261.13, Code 1995, is amended to read as follows:

261.13 ANNUAL GRANT.

A tuition grant may be made annually for ~~both~~ the fall, ~~and~~ spring, and summer 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 private institution that the student is admitted and in attendance. If the student discontinues attendance before the end of any 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 private institution to the state.

Sec. 7. Section 279.51, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, ~~1990~~ 1996, and each succeeding fiscal year, the sum of ~~eight~~ fourteen million ~~seven~~ five hundred twenty thousand dollars. ~~For each fiscal year beginning on or after July 1, 1995, there is appropriated the sum which was appropriated for the fiscal year commencing July 1, 1994.~~

Sec. 8. Section 279.51, subsection 1, paragraphs b, c, d, e, and f, Code Supplement 1995, are amended to read as follows:

b. For the fiscal year beginning July 1, ~~1990~~ 1996, ~~four million six hundred twenty-five thousand dollars,~~ and for each succeeding fiscal year ~~thereafter~~, ~~six~~ seven million ~~one~~ six hundred ~~twenty-five~~ seventy thousand dollars of the funds appropriated shall be allocated to the child development coordinating council established in chapter 256A for the purposes set out in subsection 2 of this section and section 256A.3.

c. For each of the fiscal years during the fiscal period beginning July 1, ~~1994~~ 1996, and ending June 30, 1998, two million eight hundred thousand dollars of the funds appropriated shall be allocated for the school-based youth services education program established in subsection 3. For each of the fiscal years during the fiscal period beginning July 1, 1994, and ending June 30, 1998, twenty thousand dollars of the funds allocated ~~under~~ in this paragraph

* Chapter 1207 herein

shall be expended for staff development, research, and the development of strategies for coordination with community-based youth organizations and agencies. A school that received a grant during the fiscal year beginning July 1, 1993, is ineligible to receive a grant under this paragraph. Subject to the approval of the state board of education, the allocation made in this paragraph may be renewed for additional four-year periods of time.

d. For the fiscal year beginning July 1, ~~1990~~ 1996, ~~three million dollars,~~ and for each fiscal year thereafter, ~~four~~ three million five hundred thousand 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. The grant allocations made in this paragraph may be renewed for additional periods of time. 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.

~~e. Additional funds available under this subsection as a result of additional growth provided to the appropriation in subsection 1 shall be distributed equally between paragraphs "b" and "d".~~

~~f.~~ e. ~~For~~ Notwithstanding paragraph "c", for each of the fiscal years during the fiscal period beginning July 1, 1994, and ending June 30, 1998, fifty thousand dollars of the funds ~~appropriated~~ allocated in paragraph "c" shall be granted to each of the four schools that received grants under subsection 3 during the fiscal year beginning July 1, 1993, to allow for expansion and to include identified minimum services if the school submits a program plan pursuant to subsection 3.

Sec. 9. Section 279.51, subsection 1, paragraph g, Code Supplement 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

g. Notwithstanding section 256A.3, subsection 6, of the amount appropriated in this subsection for the fiscal year beginning July 1, 1996, and for each succeeding fiscal year, two and one-fourth percent may be used for administrative costs. Any reduction of an allocation under this subsection as necessary to fund the provisions of this paragraph shall be made from the allocation in paragraph "b".

Sec. 10. Section 279.51, subsection 1, unnumbered paragraphs 3 and 4, Code Supplement 1995, are amended by striking the unnumbered paragraphs.

DIVISION III
CLAIMS AGAINST THE STATE

Sec. 11. CLAIMS APPROPRIATION. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to the following persons the indicated amount in full settlement of the claim filed by the person against the state of Iowa:

1. To Gordon Eklund for claim number G95-1326, relating to an agricultural land credit refund:
..... $ 22,697.00

2. To William Broeker for claim number G95-2940, relating to a license refund:
..... $ 114.00

3. To Ann and Bill Broeker for claim number G95-2941, relating to a license refund:
..... $ 85.36

4. To Clyde Dalbey for a claim relating to an individual income tax refund:
..... $ 1,922.39

5. To Cecil Travis of Ankeny for a claim relating to a mobile home use tax refund:
..... $ 420.00

Sec. 12. DISAPPROVAL OF CLAIMS. The general assembly disapproves of all other claims submitted and considered by the claims committees of the senate and house of representatives as of April 22, 1996.

Sec. 13. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
LOTTERY TRANSFER

Sec. 14. EXCESS LOTTERY REVENUES - FISCAL YEAR 1994-1995. Of the lottery revenues received during the fiscal year beginning July 1, 1994, which remain in the lottery fund following the transfers made pursuant to 1995 Iowa Acts, chapter 220, section 16, the following amounts are appropriated for use during the fiscal period beginning July 1, 1996, and ending June 30, 1998, as follows:

*1. *To the Iowa agricultural development authority to support the establishment of an agri-entrepreneurship education project to provide beginning agriculturists with an opportunity to gain experience in owning or operating agriculture-related businesses through enterprenuership** loans to future farmers of America chapters or other organizations administering secondary education-related agricultural programs:*

..... $ *100,000**

2. To the department of education for contracting with the Iowa alliance for arts education to execute the local arts comprehensive educational strategies program:

..... $ 125,000

*3. *To the department of natural resources, to be combined with local matched funding of two dollars for every one state dollar, for repair and replacement costs associated with the spillway at Hickory Grove lake:*

..... $ *150,000*

4. *To the department of elder affairs for transfer to the Hawkeye area agency on aging to be used for a grant for a summer youth program:*

..... $ *10,000*

5. *To the department of cultural affairs to be used for restoration of the Louis Sullivan building in Algona:*

..... $ *25,000*

6. *To the department of agriculture and land stewardship for support of the Iowa cooperative foundation:*

..... $ *100,000*

The moneys appropriated in this subsection shall be utilized for purposes of providing information, technical assistance, coordination, and legal advice to groups of farmers who desire to create a value-added cooperative. The primary goal shall be to assist the successful development of such cooperatives while minimizing the risks to the farmers involved.

7. *To the state board of regents for an addition to the Iowa lakeside laboratory for costs of fixing a sewage line, expanding a phone system, and installing a natural gas pipeline:*

..... $ *70,000*

8. *To the department of economic development, in consultation with the department of cultural affairs, to be used for community grants related to historical and cultural preservation, including projects involving railroads, and related to the Iowa Sesquicentennial:*

..... $ *250,000*

Not more than $50,000 shall be provided for any community grant.

9. *To the department of natural resources to be used for grants to communities for purchase or replacement of playground equipment:*

..... $ *250,000*

10. *To the department of transportation to be used for a grant to Boone county for costs associated with paving of Arboretum road:*

..... $ *50,000*

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* Item veto; see message at end of the Act

** According to enrolled Act

11. To the department of natural resources, to be combined with local matching funding of two dollars for every one state dollar, for the costs of dredging at Crystal lake in Hancock county:

..... $ *200,000*

12. To the department of natural resources for purposes of continuing natural lake preservation efforts:

..... $ *100,000*

The department shall award the amount transferred in this subsection to a city as defined in section 362.2. The department shall award the amount on a matching basis with the department contributing one dollar for each one dollar dedicated by the city, or the city acting in conjunction with a county, regardless of the source from which the city or county obtains the money, for the continuation of natural lake preservation efforts, if the city or county has previously received state funding for such purposes. However, the city, or the city and county, must have dedicated at least $100,000 of local funds in order to qualify for the award. The city must also be located in a county having a population of less than 12,000.

13. To the department of education for continuation of a grant to Southeast Polk community school district to implement an interagency coalition strategy combining education, health, and social services in addressing the problems of children and families through school-linked services:

..... $ *60,000*

14. To the department of human services to be used for grants as provided in this subsection:

..... $ *100,000*

The funds appropriated in this subsection shall be used for grants to community or regional groups to develop at least five regional demonstration projects for youth between the ages of 13 and 17, to develop specific vocational skills through work-based learning experiences, with job placement as the ultimate goal. The programs shall include activities which assist the participant in developing basic academic, training, personal, interpersonal, and other occupational skills. Grants shall be awarded in a manner so that the projects are geographically representative of the state and are located in both rural and urban areas.

15. To the department of natural resources to be used for grants to assist local communities with removal of waste tires from facilities located within a city's limits:

..... $ *150,000*

16. To the community grant fund established under section 232.190, to be allocated by the division of criminal and juvenile justice planning of the department of human rights for a grant to an urban facility whose primary function is to provide shelter services for runaways ages 11 through 17:

..... $ *150,000*

17. To the department of cultural affairs for a grant to be combined with local match funding of one dollar for every one state dollar to be used for the Heartland Discovery Center:

..... $ *100,000*

18. To the department of natural resources for purposes of creating, improving, or enhancing recreational opportunities directly related to the restoration and development of lake Ahquabi and related facilities:

..... $ *100,000*

19. To the department of economic development for a grant for completion of the Cherokee area rural economic development center in Cherokee:

..... $ *150,000**

Notwithstanding section 8.33, moneys appropriated in accordance with this section shall not revert to the lottery fund at the close of the fiscal year beginning July 1, 1996, but shall remain available for expenditure for the purposes designated. Unless otherwise provided in this section, moneys appropriated in this section which remain unobligated or unexpended for the purpose designated shall revert at the close of the succeeding fiscal year.

* Item veto; see message at end of the Act

Sec. 15. EXCESS LOTTERY REVENUES - FISCAL YEAR 1995-1996. Notwithstanding 1995 Iowa Acts, chapter 220, section 15, of the lottery revenues remaining after $42,200,000 is transferred and credited to the general fund of the state during the fiscal year beginning July 1, 1995, the following amounts shall be transferred and appropriated in descending priority order for use during the fiscal period beginning July 1, 1995, and ending June 30, 1998, as follows:

1. To the treasurer of state for the continued 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 maintain the world food prize foundation in Iowa and the foundation is structured to include representation that reflects environmental concerns and sustainable agriculture.

2. To the department of natural resources for a grant to the city of Sioux City for expenses associated with the Perry creek flood control and greenway project:

..... $ 100,000

3. To the department of cultural affairs for design and construction of a gothic house visitors center in Eldon, Iowa:

..... $ 200,000

4. To the department of natural resources to be used for a grant to a city with a population of more than 200,000 to be used for costs associated with the development of the Riverview Nature Island environmental education project:

..... $ 50,000

5. To the Iowa department of public health for the period beginning July 1, 1996, and ending June 30, 1998, to be used for purposes of supporting a program to assist counties in testing private wells and waters of the state for pollution caused by confinement feeding operations:

..... $ 50,000

From moneys appropriated in this subsection, the department shall support testing programs administered by counties which may submit an application to the department to participate in the state assistance program, as provided by the department. The county shall perform testing within a test area. As used in this subsection, "test area" means an area within a two-mile radius of any structure used to store manure which is part of a confinement feeding operation. Iowa state university of science and technology shall adopt necessary standards, protocols, and criteria for testing by counties. The program shall be administered within each participating county by the county's board of health or the board's designee. The testing may be performed with volunteer assistance. However, all testing shall be performed under the supervision of a county official. The samples of the testing shall be analyzed by the state hygienic laboratory at the state university of Iowa. All moneys available under this subsection shall only be used for the following purposes:

a. Analyzing test samples by the state hygienic laboratory.

b. Performing tests by counties. However, not more than $50 of the moneys available to a county under this subsection shall be used to pay for administering testing by the county within any test area, including labor and equipment costs, regardless of the number of tests performed by the county within the test area.

6. To the department of cultural affairs to be used for trail development at Blood Run national historic landmark:

..... $ 75,000

7. To the department of economic development for operation and support of the Dows welcome center:

..... $ 5,000

8. To the state department of transportation for the city of Durant to construct a curb on highway 927:
..... $ 100,000

9. To the department of economic development for operation and support of the north and south gateway welcome centers on I-35:
..... $ 20,000

10. To the department of cultural affairs for the restoration of the Heisermann memorial library in West Union:
..... $ 100,000

Funds under this subsection shall be available upon a local match of two dollars for each one dollar of state moneys.

11. For the renovation of historical electric cars and the payment of renovation expenses incurred by the Mason City-Clear Lake electric trolley railroad historical society conditioned upon $75,000 in local matching funds being raised:
..... $ 100,000

12. To the department of education for allocation to Hawkeye community college for purposes of renovating the Martin Luther King building for use as an urban center with classrooms to prepare students for the workplace or to pursue postsecondary education:
..... $ 100,000

13. To the department of economic development for a grant to America's agricultural/industrial heritage landscape, inc. for purchase, continued rehabilitation, and development of tourist information services at the national heritage orientation center and public market:
..... $ 100,000

It is the intent of the general assembly that the project funded under this subsection which is located at the former Chicago great western railway freight station shall continue to serve as a pilot project for comprehensive regional economic development through agricultural heritage tourism.

14. To the department of cultural affairs for a grant to be combined with local match funding of one dollar for every one state dollar to be used for an area science center in Iowa City:
..... $ 25,000

15. To the department of cultural affairs for a grant to be combined with local match funding of two dollars for every one state dollar to be used for costs associated with establishment of the Iowa fire fighters memorial:
..... $ 50,000

16. To the department of commerce for the insurance division to continue the senior health insurance information program:
..... $ 75,000

17. To the department of elder affairs for the older Iowans' legislature:
..... $ 15,000

18. To the department of natural resources for testing of animal feeding operations and their structures, in accordance with this subsection:
..... $ 185,000

The department of natural resources shall utilize the moneys appropriated in this subsection to perform testing of animal feeding operations and their structures, including confinement feeding operations and confinement feeding operation structures all as defined in section 455B.161, and manure management and disposal systems used by such operations. The operations and their structures or systems must have been constructed or installed on or before July 1, 1985. The testing shall be for the purpose of determining the extent to which operations and their structures and manure management and disposal systems contribute to point and nonpoint contamination of the state's groundwater and surface water. A person owning or operating an animal feeding operation may cooperate with the department in carrying out this subsection. The identity of the animal feeding operations shall be confidential and not subject to chapter 22. The findings of the testing shall not be used in a case or

proceeding brought against a person based upon a violation of state law. The department shall report its findings and recommendations to the general assembly not later than January 15, 1998.

Notwithstanding section 8.33, moneys transferred and appropriated in accordance with this section shall not revert at the close of the fiscal years beginning July 1, 1995, and July 1, 1996, but shall remain available for expenditure for the purposes designated. Unless otherwise provided in this section, moneys transferred in this section which remain unobligated or unexpended for the purpose designated shall revert at the close of the fiscal year beginning July 1, 1997, and ending June 30, 1998.

Sec. 16. LOTTERY REVENUE TRANSFER - FISCAL YEAR 1996-1997. Notwithstanding the requirement in section 99E.10, subsection 1, to transfer lottery revenue remaining after expenses are deducted, notwithstanding the requirement under section 99E.20, subsection 2, for the commissioner to certify and transfer a portion of the lottery fund to the CLEAN fund, and notwithstanding the appropriations and allocations in section 99E.34, all lottery revenues received during the fiscal year beginning July 1, 1996, and ending June 30, 1997, after deductions as provided in section 99E.10, subsection 1, and as appropriated under any Act of the Seventy-sixth General Assembly, 1996 Session, shall not be transferred to and deposited into the CLEAN fund but shall be transferred and credited to the general fund of the state.

*[1]*Sec. 17. Section 99E.10, subsection 1, Code 1995, is amended by adding the following new unnumbered paragraph:*

*NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision, in determining the amount of lottery revenues to be transferred in a specific month as provided by law, not more than one million five hundred thousand dollars may be retained by the lottery fund.**[1]

Sec. 18. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V
TECHNICAL AMENDMENTS

Sec. 19. Section 88B.4, subsection 4, as enacted by 1996 Iowa Acts, House File 2308,*[2] section 4, is amended to read as follows:

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

Sec. 20. Section 147.1, subsection 3, Code Supplement 1995, as amended by 1996 Iowa Acts, Senate File 2013,*[3] section 4, is amended to read as follows:

3. "Licensed" or "certified" when applied to a physician and surgeon, podiatric physician, osteopath, osteopathic physician and surgeon, physician assistant, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, or social worker means a person licensed under this subtitle, excluding chapters ~~152B,~~ 152C~~,~~ and 152D.

Sec. 21. Section 321.34, subsection 27, paragraph b, as enacted by 1996 Iowa Acts, House File 514,*[4] section 4, is amended to read as follows:

b. The special Iowa heritage fee for letter number designated plates is thirty-five dollars. The special fee for personalized Iowa heritage plates is twenty-five dollars which shall be paid in addition to the special fee of thirty-five dollars. ~~The special fee~~ The annual special Iowa

*[1] Item veto; see message at end of the Act
*[2] Chapter 1074 herein
*[3] Chapter 1036 herein
*[4] Chapter 1088 herein

heritage fee is ten dollars for letter number designated registration plates and is fifteen dollars for personalized registration plates which shall be paid in addition to the regular annual registration fee.

Sec. 22. Section 321.34, subsection 28, paragraphs a and b, as enacted by 1996 Iowa Acts, House File 514,*[1] section 4, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. An owner referred to in subsection 18, upon written application to the department, may order special registration plates with an education emblem. The education emblem shall be designed by the department in cooperation with the department of education.

Sec. 23. Section 321.34, subsection 28, paragraph c, as enacted by 1996 Iowa Acts, House File 514,*[1] section 4, is amended to read as follows:

~~c.~~ b. The special school transportation fee for letter number designated education plates is thirty-five dollars. The fee for personalized education plates is twenty-five dollars, which shall be paid in addition to the special school transportation fee of thirty-five dollars. The annual special school transportation fee is ten dollars for letter number designated registration plates and is fifteen dollars for personalized registration plates which shall be paid in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "d", the treasurer of state shall transfer monthly from those revenues to the school budget review committee in accordance with section 257.31, subsection ~~16~~ 17, the amount of the special school transportation fees collected in the previous month for the education plates.

Sec. 24. Section 321.34, subsection 28, paragraph d, as enacted by 1996 Iowa Acts, House File 514,*[1] section 4, is amended by striking the paragraph.

Sec. 25. Section 321.166, subsection 2, Code 1995, as amended by 1996 Iowa Acts, Senate File 2266,*[2] section 7, is amended to read as follows:

2. Every registration plate or pair of plates shall display a registration plate number which shall consist of alphabetical or numerical characters or a combination thereof and the name of this state, which may be abbreviated. Every registration plate issued by the county treasurer shall display the name of the county including any plate issued pursuant to section 321.34, except Pearl Harbor, and purple heart registration plates issued prior to January 1, 1997, and collegiate, fire fighter, and congressional medal of honor registration plates. Special truck registration plates shall display the word "special".

Sec. 26. Section 321.457, subsection 2, paragraph f, Code 1995, as amended by 1996 Iowa Acts, House File 2066,*[3] section 1, is amended to read as follows:

f. A motor vehicle or combination of vehicles may be operated upon the highways of this state, irrespective of the length and weight limitations imposed by the laws of this state, if the motor vehicle or combination of vehicles is operated within the corporate limits of a city abutting a border of this state and such operations have been approved by ordinance of the city council and if the length and weight of the motor vehicle or combination of vehicles is in conformity with the laws relating to length and weight of the abutting state. If a city council has authorized such operation upon highways within the corporate limits, then the limit of travel for such motor vehicles or combination of vehicles within the state is extended to the commercial zones as described by federal regulations concerning interstate commerce, 49 C.F.R. § 1048.101 and to the interstate system as provided in 23 U.S.C. § 127 and 49 U.S.C. § 31112(c), as amended by ~~1995~~ Pub. L. No. 104-59.

Sec. 27. Section 422.5, subsection 1, paragraph j, subparagraph (2), subparagraph subdivision (b), if enacted by 1996 Iowa Acts, Senate File 2449,*[4] is amended to read as follows:

*[1] Chapter 1088 herein
*[2] Chapter 1152 herein
*[3] Chapter 1004 herein
*[4] Chapter 1197, §14 herein

(b) This subparagraph shall not affect the amount of the taxpayer's checkoff to the Iowa election campaign fund under section 56.18, the checkoff for the fish and game fund in section ~~107.16~~ 456A.16, the credits from tax provided in sections 422.10, 422.11A, and 422.12 and the allocation of these credits between spouses if the taxpayers filed separate returns or separately on combined returns.

Sec. 28. Section 533.4, subsection 1, Code 1995, as amended by 1996 Iowa Acts, Senate File 376,* section 1, is amended to read as follows:

1. Receive from its members, nonmembers as prescribed by rule where the credit union is serving predominantly low-income members, other credit unions, and federal, state, county, and city governments, ~~as~~ payments on shares or as deposits. Rules adopted allowing nonmember deposits in credit unions serving predominantly low-income members shall be designed solely to meet the needs of the low-income members.

Sec. 29. Section 542B.27, as enacted by 1996 Iowa Acts, House File 2318,** section 2, is amended to read as follows:

542B.27 CIVIL PENALTY.

1. ~~a.~~ In addition to any other penalties provided for in this section, the board may by order impose a civil penalty upon a person who is not ~~registered~~ licensed under this chapter as a professional engineer or a land surveyor and who does any of the following:

~~(1)~~ a. Engages in or offers to engage in the practice of professional engineering or land surveying.

~~(2)~~ b. Uses or employs the words "professional engineer" or "land surveyor", or implies authorization to provide or offer professional engineering or land surveying services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is a professional engineer or land surveyor or is engaged in the practice of professional engineering or land surveying.

~~(3)~~ c. Presents or attempts to use the certificate of ~~registration~~ licensure or the seal of a professional engineer or land surveyor.

~~(4)~~ d. Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of ~~registration~~ licensure.

~~(5)~~ e. Falsely impersonates any ~~registered~~ licensed professional engineer or land surveyor.

~~(6)~~ f. Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of ~~registration~~ licensure.

~~(7)~~ g. Knowingly aids or abets an ~~unregistered~~ unlicensed person who engages in any activity identified in this ~~paragraph~~ subsection.

~~b.~~ 2. A civil penalty imposed shall not exceed one thousand dollars for each offense. Each day of a continued violation constitutes a separate offense.

~~c.~~ 3. In determining the amount of a civil penalty to be imposed, the board may consider any of the following:

~~(1)~~ a. Whether the amount imposed will be a substantial economic deterrent to the violation.

~~(2)~~ b. The circumstances leading to the violation.

~~(3)~~ c. The severity of the violation and the risk of harm to the public.

~~(4)~~ d. The economic benefits gained by the violator as a result of noncompliance.

~~(5)~~ e. The interest of the public.

~~d.~~ 4. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted in the same manner as provided in section 542B.22.

~~e.~~ 5. The board, in connection with a proceeding under this ~~subsection~~ section, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

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* Chapter 1012 herein

** Chapter 1055 herein

~~f.~~ 6. A person aggrieved by the imposition of a civil penalty under this ~~subsection~~ section may seek judicial review in accordance with section 17A.19.

~~g.~~ 7. If a person fails to pay a civil penalty within thirty days after entry of an order under ~~paragraph "a"~~ subsection 1, or if the order is stayed pending an appeal within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney's fees and costs.

~~h.~~ 8. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 30. NEW SECTION. 554.8116 SECURITIES INTERMEDIARY AS PURCHASER FOR VALUE.

A securities intermediary that receives a financial asset and establishes a security entitlement to the financial asset in favor of an entitlement holder is a purchaser for value of the financial asset. A securities intermediary that acquires a security entitlement to a financial asset from another securities intermediary acquires the security entitlement for value if the securities intermediary acquiring the security entitlement establishes a security entitlement to the financial asset in favor of an entitlement holder.

Sec. 31. Section 607A.3, subsection 2A, as enacted by 1996 Iowa Acts, Senate File 2207,* section 1, is amended to read as follows:

2A. "~~Disabled~~ Person with a disability" means a person who is not physically able to operate a motor vehicle or use public transportation without assistance due to a physical disability.

Sec. 32. Section 607A.8, Code 1995, as amended by 1996 Iowa Acts, Senate File 2207,* section 2, is amended to read as follows:

607A.8 FEES AND EXPENSES FOR JURORS.

Grand jurors and petit jurors in all courts shall receive ten dollars as compensation for each day's service or attendance, including attendance required for the purpose of being considered for service, reimbursement for mileage expenses at the rate specified in section 602.1509 for each mile traveled each day to and from their residences to the place of service or attendance, and reimbursement for actual expenses of parking, as determined by the clerk. A juror who is ~~disabled~~ a person with a disability may receive reimbursement for the costs of alternate transportation from the ~~disabled~~ juror's residence to the place of service or attendance. A juror shall not receive reimbursement for mileage expenses or actual expenses of parking when the juror travels in a vehicle for which another juror is receiving reimbursement for mileage and parking expenses.

Sec. 33. Section 910A.9A, Code Supplement 1995, as amended by 1996 Iowa Acts, Senate File 2080,** section 67, is amended to read as follows:

910A.9A NOTIFICATION BY DEPARTMENT OF HUMAN SERVICES.

The department of human services shall notify a victim registered with the department, regarding a juvenile adjudicated delinquent for a violent crime, committed to the custody of the department of human services, and placed at the state training school at Eldora or Toledo, ~~or regarding a person determined to be a sexually violent predator under chapter 709C, and committed to the custody of the department of human services,~~ of the following:

1. The date on which the juvenile ~~or sexually violent predator~~ is expected to be temporarily released from the custody of the department of human services, and whether the juvenile ~~or sexually violent predator~~ is expected to return to the community where the registered victim resides.

2. The juvenile's ~~or the sexually violent predator's~~ escape from custody.

3. The recommendation by the department to consider the juvenile ~~or sexually violent predator~~ for release or placement.

* Chapter 1163 herein

** Chapter 1034 herein

4. The date on which the juvenile ~~or sexually violent predator~~ is expected to be released from a facility pursuant to a plan of placement.

Sec. 34. 1996 Iowa Acts, Senate File 2348,*[1] section 15, subsection 1, is amended to read as follows:

1. Except as provided in subsection 2, this Act takes effect on January 1, 1997. However, until January 1, 1998, a person holding an inventory of packaged agricultural liming material on January 1, 1997, may continue to sell that inventory as labeled under chapter 201 as the chapter existed on December 31, ~~1997~~ 1996.

Sec. 35. INSTITUTE REFERENCE. The reference to the "institute of public leadership" in 1996 Iowa Acts, House File 2477,*[2] section 12, subsection 3, paragraph "a", if enacted, means the Iowa institute for public leadership.

Sec. 36. 1996 Iowa Acts, House File 2306,*[3] section 1, subsection 2, is amended to read as follows:

2. This section applies to ~~artificial lakes~~ Big Creek lake from May 24, 1996, through September 2, 1996, both dates inclusive.

Sec. 37. VERTICAL INFRASTRUCTURE TASK FORCE. Notwithstanding the membership specified for the vertical infrastructure definition task force as created in 1996 Iowa Acts, House File 2421, if enacted,*[4] a representative from the national electrical contractors association, Iowa chapter, shall be a member of the task force rather than a representative from the Iowa chapter, national electrical association.

Sec. 38. 1996 Iowa Acts, Senate File 2080,*[5] section 62, is repealed.

Sec. 39. 1996 Iowa Acts, Senate File 2351,*[6] section 3, amending section 15.343, subsection 1, paragraph "c", Code Supplement 1995, is repealed.

Sec. 40. EFFECTIVE DATE. Section 554.8116, as enacted in this Act, takes effect July 1, 1997.

DIVISION VI
STATE APPROPRIATIONS FOR FY 1995-1996

*[7]*Sec. 41. STATE HYGIENIC LABORATORY. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used by the state hygienic laboratory at the state university of Iowa for the purpose designated:*

For conducting analyses of test samples for alcohol or illegal controlled substances:

..... $ *200,000*[7]

Sec. 42. SENATE FILE 13.*[8] There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For expenditures relating to the establishment of a prospective minor parents decision-making assistance program in accordance with chapter 135L, as enacted by 1996 Iowa Acts, Senate File 13:*[8]

..... $ 200,000

Sec. 43. STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM – VOLUNTARY BENEFIT PROGRAMS. There is appropriated from the general fund of the state to the statewide fire and police retirement system established in chapter 411, for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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*[1] Chapter 1096 herein
*[2] Chapter 1215 herein
*[3] Chapter 1116 herein
*[4] Chapter 1218, §45 herein item vetoed by Governor
*[5] Chapter 1034 herein
*[6] Chapter 1180 herein
*[7] Item veto; see message at end of the Act
*[8] Chapter 1011 herein

For implementation of voluntary benefit programs as provided in 1996 Iowa Acts, Senate File 2245, if enacted:*

..... $ 75,000

It is the intent of the general assembly that the statewide fire and police retirement system shall reimburse the general fund of the state for the appropriation provided by this section from contributions to the voluntary benefit fund, as established in 1996 Iowa Acts, Senate File 2245, if enacted.*

Sec. 44. RELOCATION. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For relocation of offices and other transition costs associated with renovation of the Lucas state office building and the old historical building:

..... $ 300,000

Sec. 45. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 1995, and ending June 30, 1996, to supplement the appropriation made in 1995 Iowa Acts, chapter 207, section 16, subsection 2, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For court-appointed attorney fees for indigent adults and juveniles, as specified in law by the general assembly:

..... $ 6,400,000

Sec. 46. DEPARTMENT OF HUMAN SERVICES – LOCAL PURCHASE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For replacement of federal social services block grant funding allocated in 1995 Iowa Acts, chapter 208, section 10, subsection 3, paragraphs "d" and "g", and subsequently reduced by the federal government, for local administrative costs and other local services and for local purchase of services for persons with mental illness or mental retardation or other developmental disability:

..... $ 1,600,000

Sec. 47. DEPARTMENT OF HUMAN SERVICES – SPECIAL AUTHORIZATION. Notwithstanding sections 8.33 and 8.62, and any other provision of law to the contrary, not more than $2,200,000 of moneys appropriated to the department of human services for the fiscal year beginning July 1, 1995, and ending June 30, 1996, which remain unobligated or unexpended shall not revert to the fund from which appropriated but shall remain available in the succeeding fiscal year for use as follows:

1. For the adolescent tracking and monitoring program, $1,200,000.
2. For upgrading computer hardware, $1,000,000.

If the actual amount of moneys available pursuant to this section is less than $2,200,000, the department shall prorate the actual amount based upon the relative amounts allocated in subsections 1 and 2.

Sec. 48. NONREVERSION. Notwithstanding section 8.33, unobligated moneys remaining on June 30, 1996, from moneys appropriated pursuant to this division of this Act shall not revert but shall be available for expenditure for the following fiscal year for the purposes for which appropriated.

* Chapter 1187 herein

DIVISION VII
STATE APPROPRIATIONS FOR FY 1996-1997

Sec. 49. PUBLIC EMPLOYEES' RETIREMENT SYSTEM – DEFINED CONTRIBUTION OPTION. There is appropriated from the Iowa public employees' retirement fund to the Iowa public employees' retirement system for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For costs associated with studies and reports required in 1996 Iowa Acts, Senate File 2245, if enacted:*

..... $ 60,000

2. For costs associated with the development of a proposal for establishing a defined contribution option under the Iowa public employees' retirement system in accordance with the provisions of this subsection:

..... $ 25,000

The Iowa public employees' retirement system, in consultation with the public retirement systems committee established in section 97D.4, shall develop a proposal concerning various alternatives for establishing a defined contribution option for members of the Iowa public employees' retirement system. On or before September 1, 1997, the system shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains a proposal, or proposals, for establishing a defined contribution option. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

Sec. 50. VALUE-ADDED AGRICULTURAL PRODUCTS. Notwithstanding contrary provisions of sections 15E.111 and 15E.112 and related eligibility requirements for participation in the value-added agricultural products and processes financial assistance program, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the department of economic development shall allocate not more than $700,000 from the value-added agricultural products and processes financial assistance fund for use in planning, marketing, or constructing a new state-of-the-art beef processing facility to be located in southwest Iowa.

Sec. 51. COMMUNICATIONS SERVICES REGULATION. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For consulting services to assist the utilities board with implementation of 1995 Iowa Acts, chapter 199, to assist in the regulatory transition of the communications industry, and for implementation of the federal Telecommunications Act of 1996, Pub. L. No. 104-104:

..... $ 120,000

The utilities division shall recover the moneys appropriated in this section pursuant to the assessment procedures in section 476.10.

Sec. 52. PHYSICIAN UTILIZATION STUDY. There is appropriated from the general fund of the state to the insurance division of the department of commerce for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For a study of physician utilization in accordance with this section:

..... $ 25,000

1. As part of the study, the commissioner of insurance shall conduct a review of existing research and literature regarding the utilization of various types of physicians, as defined in section 135.1, in individual, small group, and managed care settings. The study shall determine the costs and effectiveness of including under individual and small group health care

* Chapter 1187 herein

reforms certain forms of treatment and methodologies utilized by types of physicians which are not currently included under the reforms.

2. The commissioner of insurance shall submit a final report and recommendations, including proposed rules changes, to the general assembly on or before January 2, 1997.

*[1]*Sec. 53. E911 COMMUNICATIONS COUNCIL. There is appropriated from the general fund of the state to the E911 communications council for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For the implementation, support, and maintenance of the E911 communications council established pursuant to section 34A.15 as enacted by this Act:

..... $ *70,000*[*1]*

Sec. 54. GOVERNOR. There is appropriated from the general fund of the state to the office of the governor for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For use of the office of the governor:

..... $ 25,000

The appropriation in this section is in addition to any other appropriation made for the use of the office of the governor.

Sec. 55. WORKFORCE DEVELOPMENT FUND. There is appropriated from the workforce development fund account, as established in 1996 Iowa Acts, Senate File 2351,[*2] section 1, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, to the workforce development fund created in section 15.343, the following amount for the purposes of the workforce development fund:

..... $ 3,152,000

Sec. 56. DEPARTMENT OF INSPECTIONS AND APPEALS.

1. The investigations division of the department of inspections and appeals is authorized 1.00 FTE for the fiscal year beginning July 1, 1996, and ending June 30, 1997. This authorization of 1.00 FTE is in addition to the number of full-time equivalent positions authorized the investigations division in 1996 Iowa Acts, House File 2416,[*3] section 8, subsection 4.

2. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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 excursion boat gambling laws, and for not more than the following full-time equivalent position:

..... $ 39,804
..... FTEs 1.00

The appropriation and full-time equivalent position authorization provided in this subsection is in addition to the appropriation and full-time equivalent position authorization provided in 1996 Iowa Acts, House File 2416,[*3] section 10.

Sec. 57. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. The department of agriculture and land stewardship shall utilize not more than $82,000 of the moneys appropriated to the department's administrative division in 1996 Iowa Acts, Senate File 2446,[*4] section 1, subsection 1, if enacted, for the acquisition of laboratory equipment, including but not limited to a rapid fat analyzer and a nitrogen protein combustion analyzer.

Sec. 58. DEPARTMENT OF HUMAN SERVICES CONTINGENT REDUCTION. Notwithstanding contrary provisions of section 8.41, subsection 3, as enacted by 1996 Iowa Acts, House File 2256,[*5] if during the fiscal year beginning July 1, 1996, the department of human

*[1] Item veto; see message at end of the Act
*[2] Chapter 1180 herein
*[3] Chapter 1211 herein
*[4] Chapter 1214 herein
*[5] Chapter 1105 herein

services receives federal funding for child day care assistance which is unanticipated and has not been budgeted, the funding shall be used as provided in 1996 Iowa Acts, Senate File 2442,* section 6, if enacted, and the appropriation in that section is, reduced by up to an equivalent amount, to the extent that federal funding for child day care is not jeopardized by the reduction of the appropriation in that section.

Sec. 59. GROUP FOSTER CARE TARGET. Notwithstanding 1996 Iowa Acts, Senate File 2442,* section 10, subsection 2, paragraph "a", if enacted, the amount allocated as the statewide expenditure target under section 242.143** for group foster care maintenance and services is $23,601,280.

Sec. 60. 1996 Iowa Acts, House File 2472,*** section 21, subsection 2, paragraph b, unnumbered paragraph 2, if enacted, is amended to read as follows:

The department of public safety, with the approval of the department of management, may employ no more than two special agents and four gaming enforcement officers for each additional riverboat regulated after March 31, 1996, and one special agent for each racing facility which becomes operational during the fiscal year beginning July 1, 1996. One additional gaming enforcement officer, up to a total of four per boat, may be employed for each riverboat that has extended operations to 24 hours and has not previously operated with a 24-hour schedule. Positions authorized in this paragraph are in addition to the full-time equivalent positions authorized in this subsection.

DIVISION VIII
OTHER STATUTORY PROVISIONS

Sec. 61. NEW SECTION. 8A.2 INNOVATION ZONES.

1. The purpose of this section is to enable local jurisdictions to establish community partnerships to redirect existing public funds to achieve improved outcomes for children and their families. The state and local jurisdictions shall negotiate new relationships in the decategorization of funding appropriated and available to local jurisdictions which share the risk related to and responsibility for achieving improved outcomes.

2. An innovation zone board is created within the council on human investment. The staff of the council on human investment shall act as staff to the board. The board shall select a chairperson, annually, from its membership. A simple majority of the members of the board shall constitute a quorum. On or before June 30, 1997, the board shall do all of the following:

a. Issue a request for applications to be submitted by local jurisdictions to participate in innovation zones in order to develop new, community-based strategies which are cross-system in focus, to improve outcomes for children and their families.

b. Select from the requests received, at least three jurisdictions to develop and implement innovation zone plans. The board shall establish criteria for selection of the jurisdictions. Selection criteria shall include a component which measures the comprehensiveness of the plan and the capacity of the jurisdiction to implement the plan.

c. Provide technical assistance, if requested, to assist selected jurisdictions in developing and implementing the innovation zone plans, including but not limited to assistance in providing information regarding state and federal funding directed to the local jurisdiction for use in implementation of the plans.

d. Negotiate with local jurisdictions the state and local jurisdiction duties in implementing the innovation zone plans. The negotiations shall include methods to evaluate the performance of the innovation zones. The board shall coordinate and respond to any requests from a local jurisdiction relating to waiver of existing rules or regulations, the pooling and redirecting of existing state funds, and the seeking of federal waivers.

e. Provide for maximum flexibility and creativity in the designing and implementation of innovation zone plans with an emphasis on the plans' potential for improving outcomes for children and their families.

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* Chapter 1213 herein
** Section 232.143 probably intended
*** Chapter 1216 herein

f. Review and approve or disapprove any provision in an innovation zone plan submitted which requires the waiver or superseding of any state rule relating to local jurisdiction actions or expenditure of funds for services provided to children and their families.

g. Report provisions included in a local jurisdiction's innovation zone plan which require the waiver or superseding of a state law or rule to the general assembly for review and necessary action.

3. A local jurisdiction seeking to develop and implement an innovation zone plan shall do all of the following:

a. Define the geographic service area of the local jurisdiction.

b. Establish a local jurisdiction innovation zone governing body which shall develop and implement the innovation zone plan. The governing body shall be representative of the local jurisdiction.

c. Develop a budget for the development and implementation of the innovation zone plan which includes a commitment of ongoing local funding and which also involves the commitment of other private and public resources to the innovation zone.

d. Negotiate the specific requirements of the innovation zone plan and implementation of the plan including the specific duties of the state and local jurisdictions. The plans may include provisions for local jurisdiction actions or expenditure of funds under the plan which involve waiver of state rules relating to services to children and their families.

4. The innovation zone board shall include all of the following members:

a. The directors, or their designees, of the department of human services, the department of human rights, the department of education, the Iowa department of public health, the department of employment services, the department of management, and any other state departments or agencies, as necessary, as determined by the board.

b. Four members of the general assembly shall serve as ex officio, nonvoting members. The legislative members shall be appointed by the majority leader of the senate, by the minority leader of the senate, by the speaker of the house, and by the minority leader of the house of representatives. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled by the original appointing authority and in the manner of the original appointments. Legislative members shall serve terms of two years and shall receive compensation pursuant to section 2.12.

c. Additional members, which the governor shall appoint, who are not affiliated with a state agency but who are members of the general public with expertise or interest in children and family issues.

5. For the purposes of this section, "local jurisdiction" or "jurisdiction" means one or more cities, counties, or school districts or a combination of any of these entities.

Sec. 62. NEW SECTION. 28E.41 EMERGENCY SERVICES - CONTRACTS FOR MUTUAL AID.

1. A city fire department, benefited fire district, or township fire department may enter into contracts providing for mutual aid regarding emergency services provided by such department or district. The contracts that are agreed upon may provide for compensation from the parties and other terms that are agreeable to the parties and may be for an indefinite period as long as they include a sixty-day cancellation notice by any party. The contracts agreed upon shall not be entered into for the purpose of reducing the number of employees of any party.

2. A city fire department, benefited fire district, or township fire department may provide assistance to any other such department or district in the state at the time of a significant emergency such as a fire, earthquake, flood, tornado, hazardous material incident, or other such disaster. The chief or highest ranking fire officer of an assisting department or district may render aid to a requesting department or district as long as the chief or officer is acting in accordance with the policies and procedures set forth by the governing board of the assisting department or district.

3. The chief or highest ranking officer of the city fire department, benefited fire district, or township fire department of the district within which the incident occurs shall maintain

control of the incident in accordance with the provisions of chapter 102. The chief or highest ranking officer of the department or district giving mutual aid shall be in charge of the assisting departmental or district personnel.

*Sec. 63. Section 34A.3, subsection 1, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The board of supervisors of each county shall establish a joint 911 service board not later than January 1, 1989. Each political subdivision ~~of the state having a public safety agency serving territory~~ within the county is entitled to voting membership on the joint 911 service board. Each ~~private~~ public safety agency operating within the area is entitled to ~~nonvoting~~ voting membership on the board. ~~A township which does not operate its own public safety agency, but contracts~~ Each private safety agency under contract with a political subdivision within the county for the provision of public safety services~~, is not entitled to membership on the joint 911 service board, but its contractor is entitled to membership according to the contractor's status as a public or private safety agency~~ is entitled to voting membership on the board. The board of supervisors of the county establishing the board is also entitled to voting membership on the board. The joint 911 service board shall develop an enhanced 911 service plan encompassing at minimum the entire county, unless an exemption is granted by the administrator permitting a smaller E911 service area. The administrator may grant a discretionary exemption from the single county minimum service area requirement based upon an E911 joint service board's or other E911 service plan operating authority's presentation of evidence which supports the requested exemption if the administrator finds that local conditions make adherence to the minimum standard unreasonable or technically infeasible, and that the purposes of this chapter would be furthered by granting an exemption. The minimum size requirement is intended to prevent unnecessary duplication of public safety answering points and minimize other administrative, personnel, and equipment expenses. An E911 service area must encompass a geographically contiguous area. No exemption shall be granted from the contiguous area requirement. The administrator may order the inclusion of a specific territory in an adjoining E911 service plan area to avoid the creation by exclusion of a territory smaller than a single county not serviced by surrounding E911 service plan areas upon request of the joint 911 service board representing the territory. The E911 service plan operating authority shall submit the plan on or before January 1, 1994, to all of the following:*

Sec. 64. NEW SECTION. 34A.15 E911 COMMUNICATIONS COUNCIL ESTABLISHED – DUTIES.

1. An E911 communications council is established. The council consists of the following eleven members:

a. One person appointed by the commissioner of public safety.

b. One person appointed by the Iowa state sheriffs' and deputies' association.

c. One person appointed by the Iowa association of chiefs of police and peace officers.

d. One person appointed by the Iowa emergency medical services association.

e. One person appointed by the Iowa association of professional firefighters.

f. One person appointed by the Iowa firemen's association.

g. One person appointed by the Iowa chapter of the national emergency number association.

h. One person appointed by the Iowa chapter of the association of public safety communications officials-international, inc.

i. One person appointed by the Iowa emergency management directors association.

j. Two persons appointed by the Iowa telephone association, with one person appointed to represent telephone companies having fifteen thousand or more customers and one person appointed to represent telephone companies having less than fifteen thousand customers.

2. The council shall coordinate the development of and mediate disputes relating to E911 systems and service in this state. The council shall oversee the planning, implementation, and operation of E911 communications services. The council shall mediate issues relating to

* Item veto; see message at end of the Act

addressing, call routing, E911 database, E911 network, equipment, and surcharge collection which arise between and among E911 service boards, telephone companies, and other providers and users of E911 communications services.

3. The authority of the council is limited to the issues specifically identified in this section and does not preempt the authority of the utilities board, created in section 474.1, to act on issues within the jurisdiction of the utilities board.

Sec. 65. Section 159.29, subsection 2, unnumbered paragraph 1, Code 1995, 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, ~~1996~~ 1998.

*Sec. 66. *Section 232.2, Code Supplement 1995, is amended by adding the following new subsection:*

*NEW SUBSECTION. 6A. "Chronic runaway" means a child who is reported to law enforcement as a runaway more than once in any month or three or more times in a year.**

*Sec. 67. *Section 232.19, subsection 1, paragraph c, Code 1995, is amended to read as follows:*

*c. By a peace officer ~~for the purpose of reuniting a child with the child's family or removing the child to a shelter care facility~~ or a juvenile court officer, when the peace officer or juvenile court officer has reasonable grounds to believe the child has run away from the child's parents, guardian, or custodian, for the purposes of determining whether the child shall be reunited with the child's parents, guardian, or custodian, placed in shelter care, or, if a chronic runaway, placed in a runaway assessment and treatment center under section 232.196.**

*Sec. 68. *NEW SECTION. 232.195 RUNAWAY TREATMENT PLAN.*

*A county, multicounty, or nonprofit organization may develop a runaway treatment plan to address problems with chronic runaway children in the area served by the organization. The organization shall submit the plan to the department of human rights, division of criminal and juvenile justice planning for approval for funding. The plan shall identify the problems with chronic runaway children and specific solutions to be implemented, including the development of a runaway assessment and treatment center and may include a request for funding. The division may award funds appropriated for implementation of the runaway treatment plan to shelter care homes which are licensed or approved by the department of human services.**

*Sec. 69. *NEW SECTION. 232.196 RUNAWAY ASSESSMENT AND TREATMENT CENTER.*

1. As part of a county, multicounty, or nonprofit organization's runaway treatment plan under section 232.195, the organization may establish a runaway assessment and treatment center. A center shall be operated by an entity which is licensed or approved by the department to operate a shelter care home. A center shall provide services to assess a child who is referred to the center for being a chronic runaway and intensive family counseling designed to address any problem causing the child to run away.

2. a. If a child is a chronic runaway and is not sent home with the child's parent, guardian, or custodian, the child may be placed in a runaway assessment and treatment center by a peace officer, juvenile court officer, or the child if the officer, juvenile court officer, or the child believes it to be in the child's best interest after consulting with the child's parent, guardian, or custodian.

b. Within forty-eight hours of being placed in the center the child shall be assessed by a center counselor to determine the reasons why the child is a chronic runaway and whether child in need of assistance or family in need of assistance proceedings are appropriate. As soon as practicable following the assessment, the child and the child's parent, guardian, or custodian

* Item veto; see message at end of the Act

shall be provided the opportunity for counseling sessions to identify the underlying causes of the runaway behavior and to develop a plan to address those causes.

c. A child shall be released from a runaway assessment and treatment center to the child's parent, guardian, or custodian not later than forty-eight hours after being placed in the center unless the child is placed in shelter care under section 232.21 or an order is entered under section 232.78. A child whose parent, guardian, or custodian failed to attend counseling or who fails to take custody of the child at the end of placement in the center may be the subject of a child in need of assistance petition or such other order as the juvenile court finds to be in the child's best interest.

*3. The department of human services may establish a special category within rules applicable to a juvenile shelter care home licensed or approved by the department which provides for operation of a runaway assessment and treatment center by such a home. Any rules applicable to the special category shall be jointly developed by the department of human services and the division of criminal and juvenile justice planning of the department of human rights.**

Sec. 70. NEW SECTION. 279.8A TRAFFIC AND PARKING.

The board may make necessary rules to provide for the policing, control, and regulation of traffic and parking of vehicles and bicycles on school grounds. 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; and assessment, enforcement, and collection of reasonable penalties for the violation of the rules.

Rules made under this section may be enforced under procedures adopted by the board. Penalties may be imposed for violation of the rules, including, but not limited to, a reasonable monetary penalty. The rules made under this section may also be enforced by the impoundment of vehicles and bicycles for violation of the rules. The board shall establish procedures for the determination of controversies in connection with the imposition of penalties. The procedures must require giving notice of the violation and the penalty prescribed and providing the opportunity for an administrative hearing.

The board may contract with a city or county to enforce rules made under this section by ordinance of the city or county, and shall consult with local government transportation officials to ensure that rules made pursuant to this section are not in conflict with city or county parking and traffic ordinances.

Sec. 71. Section 356.7, as enacted by 1996 Iowa Acts, Senate File 2352,** section 1, is amended to read as follows:

356.7 CHARGE FOR ROOM AND BOARD – LIEN.

1. The county sheriff may charge a prisoner who is eighteen years of age or older for the room and board provided to the prisoner while in the custody of the county sheriff. Moneys collected by the sheriff under this section shall be credited to the county general fund and distributed as provided in this section. If a prisoner fails to pay for the room and board, the sheriff may file a room and board reimbursement lien as provided in subsection 2. The county attorney may file the room and board reimbursement lien on behalf of the sheriff and the county. This section does not apply to prisoners who are paying for their room and board by court order pursuant to sections 356.26 through 356.35.

2. The sheriff or the county attorney, on behalf of the sheriff, may file a room and board reimbursement lien with the clerk of the district court which shall include all of the following information, if known:

a. The name and date of birth of the person whose property or other interests are subject to the lien.

b. The present address of the residence and principal place of business of the person named in the lien.

c. The criminal proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number.

* Item veto; see message at end of the Act

** Chapter 1081 herein

d. The name and address of the sheriff or the name and address of the county attorney who is filing the lien on behalf of the sheriff.

e. A statement that the notice is being filed pursuant to this section.

f. The amount of room and board reimbursement the person has been ordered to pay or is likely to be ordered to pay.

3. The filing of a room and board reimbursement lien in accordance with this section creates a lien in favor of the sheriff in any personal or real property identified in the lien to the extent of the interest held in that property by the person named in the lien.

4. This section does not limit the right of the sheriff to obtain any other remedy authorized by law.

5. Of the moneys collected and credited to the county general fund as provided in this section, sixty percent of the moneys collected shall be used for the following purposes:

a. Courthouse security equipment and law enforcement personnel costs.

b. Infrastructure improvements of a jail including new or remodeling costs.

c. Infrastructure improvements of juvenile detention facilities, including new or remodeling costs.

The sheriff may submit a plan or recommendations to the county board of supervisors for the use of the funds as provided in this subsection or the sheriff and board may jointly develop a plan for the use of the funds. Subject to the requirements of this subsection, funds may be used in the manner set forth in an agreement entered into under chapter 28E.

The county board of supervisors shall review the plan or recommendations submitted by the sheriff during the normal budget process of the county.

Sec. 72. Section 602.8107, subsection 2, paragraph d, Code Supplement 1995, is amended to read as follows:

d. Court costs, including correctional fees assessed pursuant to sections 356.7 and 904.108, court-appointed attorney fees, or public defender expenses.

Sec. 73. Section 476.1D, subsection 10, Code Supplement 1995, is amended to read as follows:

10. The board, at the request of a long distance telephone company, shall classify such company as a competitive long distance telephone company if more than half of the company's revenues from its Iowa intrastate telecommunications services and facilities are received from services and facilities that the board has determined to be subject to effective competition, or if more than half of the company's revenues from its Iowa intrastate telecommunications services and facilities are received from intralata interexchange services and facilities. For purposes of this subsection, "intralata interexchange services" means those interexchange services that originate and terminate within the same local access transport area.

PARAGRAPH DIVIDED. The board shall promptly notify the director of revenue and finance that a long distance telephone company has been classified as a competitive long distance telephone company. Upon such notification by the board, the director of revenue and finance shall assess the property of such competitive long distance telephone company, which property is first assessed for taxation in this state on or after January 1, 1996, in the same manner as all other property assessed as commercial property by the local assessor under chapters 427, 427A, 427B, 428, and 441. As used in this section, "long distance telephone company" means an entity that provides telephone service and facilities between local exchanges, but does not include a cellular service provider or a local exchange utility holding a certificate issued under section 476.29, subsection 12.

Sec. 74. Section 613.17, Code 1995, is amended to read as follows:

613.17 EMERGENCY ASSISTANCE IN AN ACCIDENT.

A person, who in good faith renders emergency care or assistance without compensation, shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident

or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness. For purposes of this section, if a volunteer fire fighter, a volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, a volunteer emergency medical technician, or a volunteer registered member of the national ski patrol system receives nominal compensation not based upon the value of the services performed, that person shall be considered to be receiving no compensation. The operation of a motor vehicle in compliance with section 321.231 by a volunteer fire fighter, volunteer operator, or attendant of an ambulance or rescue squad service, a volunteer paramedic, or volunteer emergency medical technician shall be considered rendering emergency care or assistance for purposes of this section. For purposes of this section, a person rendering emergency care or assistance includes a person involved in a workplace rescue arising out of an emergency or accident.

Sec. 75. Section 710.8, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person shall not harbor a runaway child with the intent of allowing the runaway child to remain away from home against the wishes of the child's parent, guardian, or custodian. However, the provisions of this subsection do not apply to a shelter care home which is licensed or approved by the department of human services.

Sec. 76. Section 904.108, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The director may charge an inmate a correctional fee for custodial expenses incurred or which may be incurred while the inmate is in the custody of the department. The custodial expenses may include, but are not limited to, board and room, medical and dental fees, education costs, clothing costs, and the costs of supervision, services, and treatment to the inmate. The correctional fee shall not exceed the actual cost of keeping the inmate in custody. The correctional fees shall be assessed as court costs and any correctional fees collected pursuant to this subsection shall be credited to the general fund of the state. The correctional fees shall be collected as other court costs pursuant to section 602.8107. This subsection does not limit the right of the director to obtain any other remedy authorized by law.

Sec. 77. REPEAL - INNOVATION ZONE BOARD. Section 8A.2, subsections 2 and 4, as enacted by this division of this Act, relating to the innovation zone board, are repealed June 30, 1998.

DIVISION IX
ECONOMIC DEVELOPMENT AND RELATED APPROPRIATIONS AND STATUTORY CHANGES

Sec. 78. There is appropriated from the general fund of the state and other designated funds to the department of economic development for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

a. General administration

For salaries, support, maintenance, miscellaneous purposes, and for providing that a business receiving moneys from the department for the purpose of job creation shall make available ten percent of the new jobs created for promise jobs program participants who are qualified for the jobs created and for not more than the following full-time equivalent positions:

..... $ 1,405,687

..... FTEs 23.75

The director shall coordinate efforts with the workforce coordinator and the department of workforce development if enacted by Senate File 2409,* to implement the intent of the general assembly regarding businesses receiving job creation moneys and shall report to the joint

* Chapter 1186 herein

appropriations subcommittee on economic development regarding the number of jobs to be created by each business, the number of qualified promise jobs participants applying with the business, and the number of promise jobs participants hired.

b. Film office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	199,341
.....	FTEs	2.00

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For salaries, support, maintenance, miscellaneous purposes, for not more than the following full-time equivalent positions, for allocating $495,000 to the heartland technology network, $150,000 to the graphic arts center, and $100,000 to the university of northern Iowa for operation of industrial technology programs at the Iowa plastics technology center located in Waverly, Iowa, for allocating $75,000 for the purposes of the regulatory assistance program, and for allocating $60,000, and up to a 0.50 full-time equivalent position to administer the heartland technology network, the graphic arts technology center, and the plastics technology center:

.....	$	3,890,775
.....	FTEs	17.75

b. Small business programs

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for the small business program, the small business advisory council, and targeted small business program:

.....	$	498,756
.....	FTEs	6.00

c. Federal procurement office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	96,492
.....	FTEs	3.00

Notwithstanding section 8.33, moneys remaining unencumbered or unobligated on June 30, 1997, shall not revert and shall be available for expenditure during the fiscal year beginning July 1, 1997, for the same purposes.

d. Strategic investment fund

For deposit in the strategic investment fund for salaries, support, for not more than the following full-time equivalent positions, and for allocating from the funds remaining unobligated in the Wallace technology transfer foundation fund on June 30, 1996, notwithstanding section 8.33, $200,000 for a study regarding the feasibility of establishing an Iowa-based airline:

.....	$	6,707,638
.....	FTEs	10.50

As a condition of any portion of the appropriation made under this lettered paragraph being used for awards from the community economic betterment account, the department shall provide that awards under the program of $500,000 or more must be to businesses able to pay at least 130 percent of the average county wage, shall review the wage cap in high wage counties and provide that it is tied to an appropriate inflator for determining eligibility for awards, and shall provide, in addition to all other existing requirements for awards from the community economic betterment account, that the remaining 10 percent of the funds shall be transferred by the department to other programs within the strategic investment fund and used for purposes other than the community economic betterment program if, after 90 percent of funds in the account have been obligated for the fiscal year, **either of** the following conditions have not been met:

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* Item veto; see message at end of the Act

*(1) *All projects approved have starting wages not less than 90 percent of the lesser of either the average county wage or the average regional wage, as compiled annually by the department for the community economic betterment program. For the purposes of this lettered paragraph, the average regional wage shall be compiled based upon the service delivery areas in section 84B.2, if enacted by 1996 Iowa Acts, Senate File 2409.**

(2) The average starting wage for the businesses for which the awards were made under the program shall exceed 100 percent of the statewide average wage.

Additionally, the department shall provide an annual report on the progress made by the department in making the community economic betterment program a self-sustaining, revolving loan program.

e. Targeted small business incubator

Moneys appropriated for fiscal year 1995-1996 and not expended by June 30, 1996, shall not revert but shall be held by the department for funding, with local matching funds, the targeted small business incubator in Des Moines for the fiscal year beginning July 1, 1996, and ending June 30, 1997.

f. Insurance economic development

There is appropriated from moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, to the department for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

..... $ 200,000

g. Value-added agriculture

There is appropriated from the moneys available to support value-added agricultural products and processes, four percent, or so much thereof as is necessary, of the total moneys available to support value-added agricultural products and processes pursuant to section 423.24 each quarter for administration of the value-added agricultural products and processes financial assistance program as provided in section 15E.111, including salaries, support, maintenance, miscellaneous purposes, and for not more than 2.00 FTEs.

3. COMMUNITY DEVELOPMENT DIVISION

a. Community assistance

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for administration of the community economic preparedness program, the Iowa community betterment program, and the city development boards:

..... $ 578,943
..... FTEs 8.50

There is also appropriated from the rural community 2000 program revolving fund established in section 15.287 to the community assistance program for the purposes of the community economic preparedness program:

..... $ 50,000

b. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

..... $ 413,530
..... FTEs 3.00

Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund of the state that remain unexpended on June 30 of the fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

c. Rural development program

For salaries, support, maintenance, miscellaneous purposes, for not more than the following full-time equivalent positions, for rural resource coordination, rural community leadership, rural innovations grant program, and the rural enterprise fund and for allocating

*Item veto; see message at end of the Act

$100,000 for the purposes of the microbusiness rural enterprise assistance program under section 15.114:

..... $ 711,181
..... FTEs 4.50

There is also appropriated from the rural community 2000 program revolving fund established in section 15.287 to the rural development program for the purposes of the program including the rural enterprise fund and collaborative skills development training:

..... $ 351,000

Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund of the state or through transfers from the Iowa community development loan fund or from the rural community 2000 program revolving fund that remain unexpended at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

d. Community development block grant and HOME

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:

..... $ 403,974
..... FTEs 18.75

e. Councils of governments

There is appropriated from the rural community 2000 program revolving fund established in section 15.287 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:

..... $ 178,000

*f. *Councils of governments*

For distributing on a per capita basis to each council of governments:

..... $ *50,000**

g. Housing development fund

For providing technical assistance to communities of all sizes and local financial institutions to help meet local housing needs and to provide and transfer matching funds for the HOME program:

..... $ 1,300,000

Notwithstanding section 8.33, moneys committed to grantees under contract from the housing development fund and moneys transferred for matching funds for the HOME program that remain unexpended or unobligated on June 30 of the fiscal year shall not revert to any fund but shall be available for obligation and expenditure for purposes of those programs during the succeeding fiscal year.

4. INTERNATIONAL DIVISION

a. International trade operations

For salaries, support, maintenance, miscellaneous purposes, for not more than the following full-time equivalent positions, and for allocating $100,000 to promote trade opportunities in Korea and the Pacific rim:

..... $ 1,027,950
..... FTEs 10.00

From among the full-time equivalent positions authorized by this paragraph, one position shall concentrate on the export sale of grain, one on the export sale of livestock, and one on the export sale of value-added agricultural products.

b. Foreign trade offices

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 595,250

* Item veto; see message at end of the Act

c. Export trade assistance 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 position:

..... $ 275,000
..... FTEs 0.25

d. Agricultural product advisory council

For support, maintenance, and miscellaneous purposes:

..... $ 1,300

e. For transfer to the partner state program which the department may use to contract with private groups or organizations which are the most appropriate to administer this program and 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 of the funds transferred:

..... $ 100,000

5. TOURISM DIVISION

a. Tourism operations

For salaries, support, maintenance, miscellaneous purposes, for not more than the following full-time equivalent positions, **and for allocating $100,000 for a grant program for annual community celebrations of Iowa's agricultural heritage,** provided that the appropriation shall not be used for advertising placements for in-state and out-of-state tourism marketing:

..... $ 825,212
..... FTEs 18.52

b. 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:

..... $ 2,737,000

The department shall not use the moneys appropriated in this lettered paragraph, unless the department develops 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.

c. Welcome center program

To provide tourism materials for welcome centers:

..... $ 100,000

Sec. 79. Notwithstanding section 15E.120, subsections 5, 6, and 7, and section 15.287, there is appropriated from the Iowa community development loan fund all the moneys available during the fiscal year beginning July 1, 1996, and ending June 30, 1997, to the department of economic development for the rural development program to be used by the department for the purposes of the program.

Sec. 80. Notwithstanding section 15.251, subsection 2, there is appropriated from the job training fund to the department of economic development for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For administration of chapter 260E, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 160,000
..... FTEs 2.40

*Item veto; see message at end of the Act

Appropriations to the department of economic development for administration of chapter 260E and the department of employment services for the target alliance program shall be funded on a proportional basis if receipts to the job training fund are insufficient to fund both appropriations in their entirety.

Sec. 81. Of all funds appropriated to or receipts credited to the job training fund created in section 260F.6, subsection 1, up to $125,000 for the fiscal year beginning July 1, 1996, and ending June 30, 1997, and not more than 1.30 of the full-time equivalent positions may be used for the administration of the Iowa small business new job training Act.

Sec. 82. Notwithstanding section 423.24, subsection 1, paragraph "b", subparagraph (1), there is appropriated for the fiscal year beginning July 1, 1996, and ending June 30, 1997, $100,000 of the total revenues collected pursuant to section 423.7 and deposited in the value-added agricultural products and processes financial assistance fund, pursuant to section 423.24, subsection 1, paragraph "b", subparagraph (1), to the Iowa cooperative extension service in agriculture and home economics at Iowa state university of science and technology for administration of the Iowa grain quality initiative.

*Sec. 83. *The Iowa seed capital corporation is authorized up to 5.00 FTEs. The seed capital corporation shall not make any new investments after June 30, 1997. The portfolio of investments held by the seed capital corporation on June 30, 1997, shall be transferred to a private entity for management of the investments.**

Sec. 84. There is appropriated from the general fund of the state to the Iowa state university of science and technology for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For funding and maintaining in their current locations the existing small business development centers, and for not more than the following full-time equivalent positions:

..... $ 1,216,245
..... FTEs 5.80

2. For funding the institute for physical research and technology, provided that $318,358 shall be allocated to the industrial incentive program in accordance with the intent of the general assembly, and for not more than the following full-time equivalent positions:

..... $ 4,124,607
..... FTEs 46.42

It is the intent of the general assembly that the incentive program focus on Iowa industrial sectors and seek contributions and in-kind donations from businesses, industrial foundations, and trade associations and that moneys for the institute for physical research and technology industrial incentive program shall only be allocated for projects which are matched by private sector moneys for directed contract research or for nondirected research. The match required of small businesses as defined in section 15.102, subsection 4, for directed contract research or for nondirected research shall be $1 for each $3 of state funds. The match required for other businesses for directed contract research or for nondirected research shall be $1 for each $1 of state funds. The match required of industrial foundations or trade associations shall be $1 for each $1 of state funds.

Iowa state university shall report annually to the joint appropriations subcommittee on economic development of the senate and house appropriations committees the total amounts of private contributions, the proportion of contributions from small businesses and other businesses, and the proportion for directed contract research and nondirected research of benefit to Iowa businesses and industrial sectors.

Notwithstanding section 8.33, moneys appropriated for any fiscal year which remain unobligated and unexpended at the end of the fiscal year shall not revert but shall be available for expenditure the following fiscal year.

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* Item veto; see message at end of the Act

Sec. 85. There is appropriated from the general fund of the state to the state university of Iowa for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For funding the advanced drug development program at the Oakdale research park and for not more than the following full-time equivalent positions:

..... $ 319,169

..... FTEs 2.85

The board of regents shall submit a report on the progress of regents institutions in meeting the strategic plan for technology transfer and economic development to the chairpersons of the joint appropriations subcommittee on economic development, the joint appropriations subcommittee on education, the majority leader and minority leader of the senate, the majority and minority leaders of the house of representatives, the secretary of the senate, the chief clerk of the house of representatives, and the legislative fiscal bureau by December 1, 1996.

Sec. 86. DEPARTMENT OF EMPLOYMENT SERVICES OR DEPARTMENT OF WORKFORCE DEVELOPMENT. As used in this section, references to the department of employment services shall include the department of workforce development if enacted by Senate File 2409.* There is appropriated from the general fund of the state, to the department of employment services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, for the purposes designated **, *including that the department of employment services, the department of personnel, and the department of management shall ensure that all nonsupervisory full-time equivalent positions authorized and funded for the department of employment services in this section will be utilized during the fiscal year beginning July 1, 1996, and ending June 30, 1997, and during future fiscal years, and will not be held vacant, to ensure that the backlog of cases in that department will be reduced as rapidly as possible***:

1. DIVISION OF LABOR SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions contingent upon the enactment of section 88 of this Act and the provision which requires moneys appropriated from the special employment security contingency fund to first be used to fully fund the appropriation of $296,000 to the division of labor services in subsection 1 of section 89 of this Act prior to funding the appropriation in section 89 of this Act to the division of industrial services:

..... $ 2,729,542

..... FTEs 89.50

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.

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,131,389

..... FTEs 33.00

3. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position for a workforce development coordinator and council:

..... $ 141,606

..... FTEs 1.00

4. For the workforce development initiative to be used to create model workforce development centers and provide an integrated management information system:

..... $ 275,000

5. For salaries, support, maintenance, miscellaneous purposes for collection of labor market information, and for not more than the following full-time equivalent positions:

..... $ 173,250

..... FTEs 3.20

* Chapter 1186 herein

** Item veto; see message at end of the Act

6. For salaries, support, maintenance, and miscellaneous purposes for the mentoring project for family investment program participants, and for not more than the following full-time equivalent positions:

..... $ 72,000
..... FTEs 1.50

7. a. Youth workforce programs

For purposes of the conservation corps, **including allocating $800,000 for a summer youth program for cities of over 150,000 in population,** salary, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,718,661
..... FTEs 2.40

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of the fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

b. Workforce investment program

For allocating $425,000 to the workforce development fund under section 15.343 for funding, to the extent possible, the currently existing high technology apprenticeship programs, under section 260C.44 at the community colleges, for the purposes of the workforce investment program, and for a competitive grant program by the department for projects that increase Iowa's pool of available labor via training and support services with priority given to projects which serve displaced homemakers or welfare recipients, including salaries and support, and not more than the following full-time equivalent position:

..... $ 903,000
..... FTEs 0.90

The department shall ensure that the workforce investment program is coordinated with services provided under the federal Job Training Partnership Act and that welfare recipients receive priority for services under both programs.

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended at the end of the fiscal year, shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

c. Labor management councils

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position:

..... $ 100,338
..... FTEs 0.50

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of the fiscal year shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year. The department shall not use moneys appropriated in this lettered paragraph for grants to grantees who do not facilitate the active participation of labor as members of labor management councils or who fail to make a good faith effort to either schedule meetings during nonworking hours or obtain voluntary agreements with employers to allow employees time off to attend labor management council meetings with no loss of pay or other benefits.

Sec. 87. Notwithstanding section 15.251, subsection 2, there is appropriated from the job training fund to the department of employment services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the target alliance program:

..... $ 30,000

Sec. 88. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. 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, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, for the purposes designated:

* Item veto; see message at end of the Act

DIVISION OF JOB SERVICE

Notwithstanding section 96.7, subsection 12, paragraph "c", for salaries, support, maintenance, conducting labor availability surveys, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,310,000
..... FTEs 141.54

*1. *The department of employment services shall provide services throughout the fiscal year beginning July 1, 1996, and ending June 30, 1997, in all communities in which workforce centers were operating on July 1, 1993. However, this provision shall not prevent the consolidation of multiple offices within the same city or the colocation of workforce centers with another public agency.*

*2. The division of industrial services shall not reduce the number of scheduled hearings of contested cases or eliminate the venue of such hearings, as established by the division for the period beginning January 1, 1996, and ending January 20, 1997. The division shall also establish a substantially similar schedule for such hearings for the period beginning January 20, 1997, and ending June 30, 1997. The division shall report to the legislative fiscal bureau concerning any modification of the established schedule, or any changes which the division determines are necessary in establishing the schedule for the period beginning January 20, 1997, and ending June 30, 1997.**

3. 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 paid by the losing party, except in cases where it would impose an undue hardship or be unjust under the circumstances.

Sec. 89. EMPLOYMENT SECURITY CONTINGENCY FUND. There is appropriated from the special employment security contingency fund to the department of employment services for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amounts, or so much thereof as is necessary, for the purposes designated and subject to the requirement that the appropriation to the division of labor services under this section be fully funded from the special employment security contingency fund prior to any amounts being used to fund the appropriation made to the division of industrial services under this section:

1. DIVISION OF LABOR SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 296,000

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 175,000

Any additional penalty and interest revenue may be used to accomplish the mission of the department.

Sec. 90. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 1996, and ending June 30, 1997, 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:

..... $ 777,164
..... FTEs 12.80

Sec. 91. There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal year beginning July 1, 1996, and ending June 30, 1997, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the housing improvement fund created in section 16.100 for purposes of the fund:

..... $ 400,000

*Item veto; see message at end of the Act

Sec. 92. There is allocated from the unobligated funds remaining in the Wallace technology transfer foundation fund, after the allocation in section 78, subsection 2, paragraph "d", of this Act, on June 30, 1996, $100,000 for deposit in the housing improvement fund created in section 16.100 for the purposes of the fund. Any funds remaining shall not revert to any fund, notwithstanding section 8.33. Unobligated funds remaining on June 30, 1997, shall revert to the general fund of the state.

Sec. 93. NEW SECTION. 15.113 ECONOMIC DEVELOPMENT ASSISTANCE - REPORT.

In order for the general assembly to have accurate and complete information regarding expenditures for economic development and job training incentives and to respond to the job training needs of Iowa workers, the department shall provide to the legislative fiscal bureau by January 15 of each year data on all assistance or benefits provided under the community economic betterment program, the new jobs and income program, and the Iowa industrial new jobs training Act during the previous calendar year. The department shall meet with the legislative fiscal bureau prior to submitting the data to assure that its form and specificity are sufficient to provide accurate and complete information to the general assembly. The department shall also contact other state agencies providing financial assistance to Iowa businesses and, to the extent practical coordinate the submission of the data to the legislative fiscal bureau.

Sec. 94. NEW SECTION. 15.114 MICROBUSINESS RURAL ENTERPRISE ASSISTANCE.

1. As used in this section:

a. "Department" means the department of economic development.

b. "Microbusiness" or "microbusiness enterprise" means a business producing services with five or fewer full-time equivalent employee positions and with assistance requirements of not more than twenty-five thousand dollars.

c. "Microbusiness organization" means a nonprofit corporation organized under chapter 504A which is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code and which has a principal mission of actively engaging in microbusiness development, training, technical assistance, and capital access for the start-up or expansion of microbusinesses.

2. The department shall contract with a microenterprise organization actively engaged in microbusiness enterprise to assist in the establishment of this program. In order to qualify for the contract, the microenterprise organization shall do all of the following:

a. Demonstrate a past performance of and a capacity to successfully engage in microbusiness development.

b. Have a statewide commitment to and focus on microbusiness development.

c. Provide training and technical assistance.

d. Demonstrate an ability to provide access to capital for start-up or expansion of a microbusiness.

e. Have established linkages with financial institutions.

f. Demonstrate an ability to provide follow-up technical assistance after a microbusiness start-up or expansion.

3. Moneys allocated pursuant to this section which remain unexpended or unobligated at the end of a fiscal year shall remain available to the department to support the assistance program or may be credited to the value-added agricultural products and processes financial assistance fund created in section 15E.112 and shall not revert notwithstanding section 8.33.

4. The department shall submit a report in accordance with section 7A.11 not later than November 1 of each year detailing the activities of the microenterprise organization and describing the success of the project.

Sec. 95. Section 15.313, subsection 2, Code 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. The entrepreneurs with disabilities program, which provides technical and financial assistance to help persons with disabilities become self-sufficient and create additional employment opportunities by establishing or expanding small business ventures.

NEW PARAGRAPH. h. The job opportunities for persons with disabilities program, which provides service and technical assistance to rehabilitation organizations or agencies that create, expand, or spin off business ventures for persons with disabilities.

Sec. 96. NEW SECTION. 15A.4 COMPETITIVE PROGRAMS - GOOD NEIGHBOR AGREEMENT - ADDITIONAL CONSIDERATION.

For any program providing financial assistance for economic development in which the assistance is provided on a competitive basis, a business which enters into a good neighbor agreement shall receive extra consideration of at least ten points or the equivalent. A good neighbor agreement is an enforceable contract between the business and a community group or coalition of community groups which requires the business to adhere to negotiated environmental, economic, labor, or other social and community standards.

A business which fails to abide by the good neighbor agreement shall repay all financial assistance received under the program.

Sec. 97. Section 15E.112, subsection 1, Code 1995, is amended to read as follows:

1. A value-added agricultural products and processes financial assistance fund is created within the state treasury under the control of the department. The fund shall consist of any money appropriated by the general assembly and any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund. ~~Until July 1, 2000, moneys shall be deposited in the fund as provided in section 423.24. Not more than one percent of the total moneys available to support value-added agricultural products and processes pursuant to section 423.24 during each quarter shall be used by the department for administration of the value-added agricultural products and processes financial assistance program, as provided in section 15E.111.~~ The assets of the fund shall be used by the department only for carrying out the purposes of section 15E.111.

Sec. 98. For the fiscal year beginning July 1, 1996, and ending June 30, 1997, section 15.343, subsection 2, paragraph "d", as amended in Senate File 2351, if enacted,* shall be available for the funding of innovative training and career opportunity programming for minorities, provided such funding is matched on a dollar-for-dollar basis by a participating community college.

Sec. 99. Notwithstanding sections 15.108, 15.224 through 15.230, 15.347, 15.348, and 239.22, the department of employment services shall administer the following programs: job training partnership Act, Iowa conservation corps, americorps, mentoring for promise jobs, food stamp employment and training, and the labor/management co-op programs.

Sec. 100. FEDERAL GRANTS. 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.

DIVISION X
SPECIAL REGISTRATION PLATES - SURVIVING SPOUSE

Sec. 101. The state department of transportation shall allow the surviving spouse of a person who was issued prisoner of war plates pursuant to section 321.34, subsection 8, to continue to use the special plates, subject to registration of the special plates in the surviving spouse's name and upon payment of the annual registration fee. If the surviving spouse remarries, the surviving spouse shall return the special plates to the department and the department shall issue regular registration plates to the surviving spouse.

* Chapter 1180, §5 herein

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

DIVISION XI
COUNTY PROVISIONS

Sec. 102. Section 331.424, subsection 1, paragraph a, subparagraph (1), Code Supplement 1995, is amended to read as follows:

(1) The costs of inpatient or outpatient substance abuse admission, commitment, transportation, care, and treatment at any of the following:

(a) ~~Care and treatment of persons at the~~ The alcoholic treatment center at Oakdale. However, the county may require that an admission to the center shall be reported to the board by the center within five days as a condition of the payment of county funds for that admission.

(b) A state mental health institute, or a community-based public or private facility or service.

Sec. 103. Section 331.424A, subsection 4, Code Supplement 1995, as amended by 1996 Iowa Acts, Senate File 2030,* section 1, is amended to read as follows:

4. For the fiscal year beginning July 1, 1996, and for each subsequent fiscal year, the county shall certify a levy for payment of services. ~~Unless otherwise provided by state law, for~~ For each fiscal year, county revenues from taxes imposed by the county credited to the services fund shall not exceed an amount equal to the amount of base year expenditures for services as defined in section 331.438, less the amount of property tax relief to be received pursuant to section 426B.2, subsections 1 and 3, in the fiscal year for which the budget is certified. The county auditor and the board of supervisors shall reduce the amount of the levy certified for the services fund by the amount of property tax relief to be received. A levy certified under this section is not subject to the appeal provisions of sections 331.426 and 444.25B or to any other provision in law authorizing a county to exceed, increase, or appeal a property tax levy limit.

Sec. 104. Section 426B.1, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. There is annually appropriated from the property tax relief fund to the department of human services to supplement the medical assistance appropriation for the fiscal year beginning July 1, 1997, and for succeeding fiscal years, six million six hundred thousand dollars to be used for the nonfederal share of the costs of services provided to minors with mental retardation under the medical assistance program to meet the requirements of section 249A.12, subsection 4. The appropriation in this subsection shall be charged to the property tax relief fund prior to the distribution of moneys from the fund under section 426B.2 and the amount of moneys available for distribution shall be reduced accordingly. However, the appropriation in this subsection shall be considered to be a property tax relief payment for purposes of the combined amount of payments required to achieve fifty percent of the counties' base year expenditures as provided in section 426B.2, subsection 3.

Sec. 105. Section 444.25A, subsection 2, paragraph e, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

For purposes of this paragraph, the price index for government purchases by type for state and local governments is defined by the bureau of economic analysis of the United States department of commerce and published in table 7.11 of the national income and products accounts. For the fiscal years beginning July 1, 1995, and July 1, 1996, the price index used shall be the revision published in the November 1994 and November 1995 issues, respectively, of the United States department of commerce publication, "survey of current business". For purposes of this paragraph, tax dollars levied in the fiscal years beginning July 1, 1994, and July 1, 1995, shall not include funds levied for paragraphs "a", "b", and "c", and "d" of this subsection.

* Chapter 1205 herein

Sec. 106. Section 444.25B, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

The maximum amount of property tax dollars which may be certified by a county for taxes payable in the fiscal year beginning July 1, 1997, shall not exceed the amount of property tax dollars certified by the county for taxes payable in the fiscal year beginning July 1, 1996, ~~minus the amount by which the property tax relief moneys to be received by the county in the fiscal year beginning July 1, 1997, pursuant to section 426B.2, subsections 1 and 3, exceed the amount of the property tax relief moneys received in the fiscal year beginning July 1, 1996,~~ for each of the levies for the following, except for the levies on the increase in taxable valuation due to new construction, additions or improvements to existing structures, remodeling of existing structures for which a building permit is required, annexation, and phasing out of tax exemptions, and on the increase in valuation of taxable property as a result of a comprehensive revaluation by a private appraiser under a contract entered into prior to January 1, 1992, or as a result of a comprehensive revaluation directed or authorized by the conference board prior to January 1, 1992, with documentation of the contract, authorization, or directive on the revaluation provided to the director of revenue and finance, if the levies are equal to or less than the levies for the previous year, levies on that portion of the taxable property located in an urban renewal project the tax revenues from which are no longer divided as provided in section 403.19, subsection 2, or as otherwise provided in this section:

Sec. 107. Section 444.25B, subsection 2, Code Supplement 1995, is amended by adding the following new paragraph after paragraph d and relettering the subsequent paragraph:

NEW PARAGRAPH. dd. Mental health, mental retardation, and developmental disabilities services fund under section 331.424A.

Sec. 108. Section 444.25B, subsection 2, paragraph e, unnumbered paragraphs 1 and 2, Code Supplement 1995, are amended to read as follows:

Unusual need for additional moneys to finance existing programs which would provide substantial benefit to county residents or compelling need to finance new programs which would provide substantial benefit to county residents. The increase in taxes levied under this exception for the fiscal year beginning July 1, 1997, is limited to no more than the product of the total tax dollars levied in the fiscal year beginning July 1, 1996, and the percent change, computed to two decimal places, ~~in the price index for government purchases by type for state and local governments computed~~ between the preliminary price index for the third quarter of calendar year 1996 ~~from that computed~~ and the revised price index for the third quarter of calendar year 1995 as published in the same issue in which the preliminary 1996 third quarter price index is first published.

~~For purposes of this paragraph, the price index for government purchases by type for state and local governments is defined by the bureau of economic analysis of the United States department of commerce and published in table 7.11 of the national income and products accounts.~~ For the fiscal year beginning July 1, 1997, the price index used shall be the ~~revision published in the November 1996 edition of the United States department of commerce publication, "survey of current business"~~ state and local government chain-type price index used in the quantity and price indexes for gross domestic product, as published by the bureau of economic analysis of the United States department of commerce in the national income and products accounts as published in "survey of current business". For purposes of this paragraph, tax dollars levied in the fiscal year beginning July 1, 1996, shall not include funds levied for paragraphs "a", "b", ~~and~~ "c", "d", and "dd" of this subsection.

Sec. 109. Section 444.25B, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 5. MH/MR/DD LEVY ADJUSTMENT. A county which did not certify the maximum levy authorized for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A, subsection 4, for the fiscal year beginning July 1, 1996, may certify up to the maximum authorized levy under the services fund for the fiscal year beginning July 1, 1997. However, any amount of increase in the certified services fund levy under this subsection over the amount certified for the services

fund in the previous fiscal year shall be offset by an equivalent decrease in the amount certified by the county for general county services.

Sec. 110. EFFECTIVE DATE. Section 102 of this division of this Act, relating to substance abuse treatment costs, being deemed of immediate importance, takes effect upon enactment.

Approved May 30, 1996, except the items which I hereby disapprove and which are designated as Section 14, subsection 1 in its entirety; Section 14, subsections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 in their entirety; Section 17 in its entirety; Section 41 in its entirety; Section 53 in its entirety; Section 63 in its entirety; Sections 66, 67, 68, and 69 in their entirety; those portions of Section 78, subsection 2, paragraph d which are herein bracketed in ink and initialed by me; Section 78, subsection 3, paragraph f in its entirety; that portion of Section 78, subsection 5, paragraph a which is herein bracketed in ink and initialed by me; Section 83 in its entirety; that portion of Section 86, unnumbered and unlettered paragraph 1 which is herein bracketed in ink and initialed by me; that portion of Section 86, subsection 7, paragraph a, unnumbered and unlettered subparagraph 1 which is herein bracketed in ink and initialed by me; and Section 88, subsections 1 and 2 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 Mr. Secretary:

I hereby transmit Senate File 2470, an Act relating to public levy, expenditure, and regulatory matters by making standing and other appropriations, and providing technical provisions, studies of runaway youth, physician utilization, and retirement system issues, and providing a penalty and effective dates.

Senate File 2470 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as Section 14, subsections 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, in their entirety. These items make numerous appropriations from a one-time source of fiscal year 1995 lottery funds. With the exception of subsection 2 which I have approved, all of this spending is for items beyond what was included in my budget recommendations. It is in the state's financial interest to keep spending as low as possible. In addition, many of these items are for ongoing expenses that are inappropriately funded from a one-time source. As a result of these item vetoes, total state spending will be reduced by $2.1 million.

I am unable to approve the item designated as Section 17, in its entirety. This item would provide that, in determining the amount of lottery revenues to be transferred to the general fund each month, not more than $1.5 million could be retained by the lottery fund. The Iowa Lottery, the Iowa Department of Justice, and the State Auditor have all raised concerns about this language, suggesting the Iowa Lottery would be unable to pay prize winnings on a timely basis and possibly result in reporting negative retained earnings. Moreover, the Multi-State Lottery Association advises the Iowa Lottery would be expelled from the Multi-State Lottery Association and be prohibited from participating in Powerball, a $1.25 billion per year sales organization headquartered in Iowa. As a result of this item veto, an estimated $1.35 million of spending contained in Section 15 of this bill will not occur.

I am unable to approve the item designated as Section 41, in its entirety. This item would provide a fiscal year 1996 supplemental appropriation of $200,000 for the State Hygienic Laboratory to conduct analyses of test samples for alcohol or controlled substances. This provision was added to the bill in anticipation of the passage of an employee drug testing bill. The bill did not pass and therefore the appropriation is unnecessary.

I am unable to approve the item designated as Section 53, in its entirety. This item provides a $70,000 appropriation to the E911 communications council. This is spending beyond the level recommended in my budget.

I am unable to approve the item designated as Section 63, in its entirety. This item greatly expands the membership of county joint E911 boards at a time when most counties report difficulty in having a quorum of members present under the current membership requirements. Expanding membership to include political subdivisions that have no direct responsibilities for E911 services would reduce the ability of these service boards to carry out their duties, and for this reason should not be approved.

I am unable to approve the items designated as Sections 66, 67, 68, and 69, in their entirety. These items relate to a new runaway treatment program. According to the House Co-Chair of the Appropriations Committee, the funding for this program was struck, but the language creating the program was inadvertently left in the bill. Without the appropriation, the program provisions in Sections 66 through 69 are meaningless.

I am unable to approve the designated portions of Section 78, subsection 2, paragraph d. This item would impose a new wage requirement for all projects funded through the Community Economic Betterment Account (CEBA) Program. Ironically, the effect of this language would be to lower the wage requirement for eligibility in the larger cities and increase the wage requirement in rural areas where new jobs are most critically needed. It would damage development efforts in our rural areas while increasing the eligibility of lower wage projects in the more populous counties. The Department of Economic Development Board voted unanimously to oppose this provision and feels strongly it is not workable in its current form. The Board should be complimented on the progress it has made in raising the average wage of CEBA projects, and I am confident it will continue to make additional progress in the future.

I am unable to approve the item designated as Section 78, subsection 3, paragraph f, in its entirety. This item appropriates $50,000 to councils of government for distribution on a per capita basis. This is spending beyond the level recommended in my budget.

I am unable to approve the designated portion of Section 78, subsection 5, paragraph a. This item earmarks $100,000 from tourism operations for a grant program for annual community celebrations of Iowa's agricultural heritage. The practice of special-interest earmarking should be discouraged. As a result of this action, this $100,000 will remain unspent and revert to the general fund at the end of the fiscal year that begins on July 1, 1996 and ends on June 30, 1997.

I am unable to approve the item designated as Section 83, in its entirety. This item requires the Iowa Seed Capital Corporation to cease making new investments and to transfer its portfolio to private sector management on June 30, 1997. I believe the Iowa Seed Capital Corporation needs to be reconfigured and moved to private sector management. However, the timetable provided in the bill may be too short to allow for adequate consideration of all options for accomplishing this change in a manner that best meets the full range of state objectives.

I am unable to approve the designated portion of Section 86, unnumbered and unlettered paragraph 1. This item would authorize the legislature to be involved in decisions relating to the staffing and organization of the Department of Workforce Development. Decisions concerning the personnel needs and structure of the department fall properly within the discretion of the director of the department. Legislative attempts to encroach into matters that are the prerogative of the executive branch cannot be approved.

I am unable to approve the designated portion of Section 86, subsection 7, paragraph a, unnumbered and unlettered subparagraph 1. This item would earmark $800,000 from the youth conservation corps for a summer youth program in one city. The practice of special-interest earmarking should be discouraged. As a result of this action, this $800,000 will remain unspent and revert to the general fund at the end of the fiscal year that begins on July 1, 1996 and ends on June 30, 1997.

I am unable to approve the items designated as Section 88, subsections 1 and 2, in their entirety. These items relate to the operations of workforce development centers and the management of workers' compensation hearings. These items would allow the legislative branch to interfere in decisions that are best made by the director of the Department of Workforce Development and for that reason, can not be approved.

For the above reasons, I 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 2470 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1220

PROPOSED CONSTITUTIONAL AMENDMENT – OFFENSES TRIED WITHOUT INDICTMENT

H.J.R. 11

First Time Passed

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa to eliminate the limitation on fines for offenses which may be summarily tried without indictment.

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

Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Section 11, unnumbered paragraph 1, Article I of the Constitution of the State of Iowa, is amended to read as follows:

All ~~offences~~ offenses less than felony and in which the ~~punishment does not exceed a fine of one hundred dollars, or~~ maximum permissible imprisonment ~~for~~ does not exceed thirty days~~,~~ shall be tried summarily before ~~a justice of the peace, or other~~ an officer authorized by law, on information under oath, without indictment, or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal ~~offence~~ offense, unless on presentment or indictment by a grand jury, except in cases arising in the army, or navy, or in the militia, when in actual service, in time of war or public danger.

Sec. 2. The foregoing amendment to the Constitution of the State of Iowa is referred to the General Assembly to be chosen at the next general election for members of the General Assembly and the Secretary of State is directed to cause the same to be published for three consecutive months previous to the date of that election as provided by law.

CHAPTER 1221
DISPOSITION OF EXHIBITS BY DESTRUCTION

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: 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 Rule of Civil Procedure 253.1 as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), the changes to Iowa Rule of Civil Procedure 253.1 are to take effect March 1, 1996.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
January 2, 1996

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council, hereby acknowledge delivery to me on fourth day of January, 1996, the Report of the Supreme Court pertaining to Iowa Rule of Civil Procedure 253.1.

/s/ Diane E. Bolender
Secretary of the Legislative Council

EXHIBIT "A"

253.1. Disposition of exhibits. One year after the final determination of a case, the clerk may destroy all exhibits filed with ~~him~~ the clerk provided that ~~he~~ the clerk shall notify counsel of record in writing that the exhibits will be destroyed unless receipted for within sixty days thereafter. The clerk may destroy all trial exhibits without notice two years after final determination of the case.

CHAPTER 1222

REQUIRED STATE DISCLOSURES OF EVIDENCE UPON REQUEST

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE	)	
IN THE IOWA RULES OF	)	REPORT OF THE
CRIMINAL PROCEDURE	)	SUPREME COURT

TO: THE HONORABLE RANDAL GIANNETTO, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1996 REGULAR SESSION OF THE SEVENTY-SIXTH GENERAL ASSEMBLY 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 Chair of the Senate Judiciary Committee concerning amendments to Iowa Rule of Criminal Procedure 13(2)(a) as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), the changes to Iowa Rule of Criminal Procedure 13(2)(a) are to take effect July 1, 1996.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
March 21, 1996

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby acknowledge delivery to me on twenty-sixth day of March, 1996, the Report of the Supreme Court pertaining to Iowa Rule of Criminal Procedure 13(2)(a).

/s/ Randal Giannetto
Chair of the Senate Judiciary Committee

EXHIBIT "A"

Rule 13. Discovery.

2. *Disclosure of evidence by the state upon defense motion or request.*

a. *Disclosure required upon request.*

(1) ~~Upon pretrial motion of a defendant the court shall order~~ Upon a filed pretrial request by the defendant the attorney for the state ~~to~~ shall permit the defendant to inspect and copy or photograph: Any relevant written or recorded statements made by the defendant or copies thereof, within the possession, custody or control of the state, unless same shall have been included with the minutes of evidence accompanying the indictment or information; the substance of any oral statement made by the defendant which the state intends to offer in evidence at the trial, including any voice recording of same; and the transcript or record of testimony of the defendant before a grand jury, whether or not the state intends to offer same in evidence upon trial.

(2) When two or more defendants are jointly charged, upon ~~motion~~ the filed request of any defendant ~~the court shall order~~ the attorney for the state ~~to~~ shall permit the defendant to inspect and copy or photograph any written or recorded statement of a codefendant which the state intends to offer in evidence at the trial, and the substance of any oral statement which the state intends to offer in evidence at the trial made by a codefendant whether before or after arrest in response to interrogation by any person known to the codefendant to be a state agent.

(3) Upon ~~motion~~ the filed request of the defendant, ~~the court shall order~~ the state ~~to~~ shall furnish to defendant such copy of the defendant's prior criminal record, if any, as is then available to the state.

CHAPTER 1223
DISPOSITION OF EXHIBITS

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE	)	
IN THE IOWA RULES OF	)	REPORT OF THE
CRIMINAL PROCEDURE	)	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 Rule of Criminal Procedure 20 as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), the changes to Iowa Rule of Criminal Procedure 20 are to take effect March 1, 1996.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
January 2, 1996

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council, hereby acknowledge delivery to me on fourth day of January, 1996, the Report of the Supreme Court pertaining to Iowa Rule of Criminal Procedure 20.

/s/ Diane E. Bolender
Secretary of the Legislative Council

EXHIBIT "A"

Rule 20. Evidence.

5. *Disposition of exhibits.* In all criminal cases other than Class A felonies, the clerk may dispose of all exhibits within 60 days after the first to occur of:

a. Expiration of all sentences imposed in the case.

b. Order of the court after at least 30 days written notice to all counsel of record including the last counsel of record for the defense, and to the defendant, if incarcerated, granting the right to be heard on the question.

Disposal of firearms and ammunition shall be by delivery to the Department of Public Safety for disposition as provided by law. Disposal of controlled substances shall be by delivery to the Department of Public Safety for disposal under Iowa Code section 124.506.

CHAPTER 1224

IMPEACHMENT BY EVIDENCE OF CONVICTION OF CRIME

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF EVIDENCE	)))	REPORT OF THE SUPREME COURT

TO: THE HONORABLE RANDAL GIANNETTO, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1995 REGULAR SESSION OF THE SEVENTY-SIXTH GENERAL ASSEMBLY 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 Chair of the Senate Judiciary Committee concerning amendments to Iowa Rule of Evidence 609 as shown in the attached Exhibit "A."

Pursuant to Iowa Code section 602.4202(2), the changes to Iowa Rule of Evidence 609 are to take effect March 1, 1996.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
December 7, 1995

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby acknowledge delivery to me on eleventh day of December, 1995, the Report of the Supreme Court pertaining to Iowa Rule of Evidence 609.

/s/ Randal Giannetto
Chair of the Senate Judiciary Committee

EXHIBIT "A"

Rule 609. Impeachment by evidence of conviction of crime.

a. *General rule.* For the purpose of attacking the credibility of a witness~~,~~:

(1) e~~E~~vidence that ~~the~~ a witness other than the accused has been convicted of a crime ~~involving dishonesty or false statement~~ shall be admitted, ~~if elicited from the witness or established by public record during cross-examination, but only~~ subject to rule 403, if the crime ~~constituted a felony, aggravated misdemeanor, or other crime~~ was punishable by death or imprisonment in excess of one year pursuant to the law under which ~~he~~ the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect~~.~~ to the accused; and

(2) Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

CHAPTER 1225

APPOINTMENT OF PHYSICIAN FORM

IN THE SUPREME COURT OF IOWA

ORDER

IN THE MATTER OF THE RULES FOR THE INVOLUNTARY HOSPITALIZATION OF THE MENTALLY ILL

By action of this court en banc, the Rules For the Involuntary Hospitalization of the Mentally Ill are hereby amended as shown in the attached Exhibit "A," effective July 1, 1996.

Dated this third day of April, 1996.

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

EXHIBIT "A"
HOSPITALIZATION OF MENTALLY ILL
APPOINTMENT OF PHYSICIAN FORM

IN THE IOWA DISTRICT COURT ~~IN AND~~ FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____.	)	
ALLEGED TO BE SERIOUSLY	)	APPOINTMENT OF PHYSICIAN
MENTALLY IMPAIRED,	)	PURSUANT TO IOWA CODE
	)	SECTION 229.8~~, THE CODE~~.
Respondent.	)	

STATE OF IOWA, _____ COUNTY:

To _____, a regular practicing physician ~~of _____ County, Iowa~~:

~~An application in due form of law having been laid before the (Court) (Judicial Hospitalization Referee) of this County,~~ You are advised that an application has been filed in the Iowa District Court for _____ County alleging that ~~Respondent~~ _____ is seriously mentally impaired, ~~and is a fit subject for custody and treatment,~~ needing medical care and treatment within the meaning of the applicable sections of Iowa Code chapter 229. ~~y~~You are hereby ~~appointed~~ APPOINTED by ~~said (Court) (Judicial Hospitalization Referee) to visit or see said respondent and to make personal examination touching the truth of the allegations of said application and touching respondent's actual condition~~ this court to conduct a personal examination of the above-named person for the purpose of determining whether the person is seriously mentally impaired as defined in Iowa Code section 229.1(14). After conducting such an examination, you shall provide this court with a written report of your medical findings and conclusions.

*

NOTE TO EXAMINING PHYSICIAN:

If the respondent has been detained pursuant to Iowa Code section 229.11(2), ~~The Code,~~ your examination must be conducted within 24 hours of this date. If the respondent has been detained pursuant to section 229.11(1) or (3), your examination must be conducted within 48 hours of this date. Furthermore, your written evaluation report is to be filed with the Clerk of this Court prior to the hospitalization hearing scheduled pursuant to Iowa Code section 229.8(3)(a). *See* Iowa Code § 229.10(2). An informational copy of the report may be directly transmitted by facsimile to the Clerk at the following number: ( ) _____. Transmission by facsimile does not constitute filing.

Dated this _____ day of _____, 19__.

_____
~~Judge of the _____ Judicial District of Iowa or Judicial Hospitalization Referee~~

_____ _____
Judicial Hospitalization Referee Judge of the ____ Judicial District

*Second unnumbered paragraph in form prior to amending was not shown as stricken in Court Order as probably intended

CHAPTER 1226
CHRONIC SUBSTANCE ABUSERS

IN THE SUPREME COURT OF IOWA

ORDER

IN THE MATTER OF THE RULES FOR INVOLUNTARY COMMITMENT OR TREATMENT OF SUBSTANCE ABUSERS

By action of this court en banc, the Rules For Involuntary Commitment or Treatment of Substance Abusers are hereby amended as shown in the attached Exhibits "A" and "B," effective January 1, 1996.

Dated this eighth day of November, 1995.

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

EXHIBIT "A"

RULES FOR INVOLUNTARY COMMITMENT OR TREATMENT OF CHRONIC SUBSTANCE ABUSERS

Rule 1. A form for application seeking the involuntary commitment or treatment of any person on grounds of chronic substance abuse may be obtained from the clerk of court in the county in which the person whose commitment is sought resides or is presently located. Such application may be filled out and presented to the clerk by any person who has an interest in the treatment of another for chronic substance abuse and who has sufficient association with or knowledge about that person to provide the information required on the face of the application and under Iowa Code section 125.75. The clerk or clerk's designee shall provide the forms required by Iowa Code section 125.75 to the person who desires to file the application for involuntary commitment. The clerk shall see that all the information required by Iowa Code section 125.75 accompanies the application.

Rule 14. The judge's or referee's order for respondent's immediate custody under Iowa Code section 125.81 shall include a finding of probable cause to believe that the respondent is a chronic substance abuser and is likely to injure himself or herself or others if allowed to remain at liberty.

Rule 23. If, upon hearing, the court finds respondent to be a chronic substance abuser, evaluation and treatment shall proceed as set out in Iowa Code section 125.83.

EXHIBIT "B"

FORMS FOR INVOLUNTARY COMMITMENT OR
TREATMENT OF CHRONIC SUBSTANCE ABUSERS

FORM 1

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A	)	
CHRONIC SUBSTANCE ABUSER,	)	APPLICATION ALLEGING CHRONIC
	)	SUBSTANCE ABUSE PURSUANT
Respondent.	)	TO IOWA CODE SECTION 125.75.

I, _____, of _____, allege that respondent
(address)
is a chronic substance abuser. In support thereof I state as follows:

Based on the above facts, I believe respondent is a danger to himself or herself or others.

Do you request the respondent be taken into immediate custody? Yes ☐ No ☐

☐ Attached hereto is a written statement of a licensed physician in support of this application.

☐ Attached hereto is an affidavit corroborating these allegations.

_____
Applicant

State of Iowa)
) ss:
_____ County)

I, the undersigned, do solemnly swear or affirm that the matters alleged in the above application to which my name is affixed, are true as stated, as I verily believe.

_____
Applicant

Subscribed and sworn to (or affirmed) before the undersigned this _____ day of _____, 19____.

_____
Notary Public in and for the State of Iowa

FORM 2

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	AFFIDAVIT IN SUPPORT OF
SUBSTANCE ABUSER,	)	APPLICATION ALLEGING CHRONIC
	)	SUBSTANCE ABUSE PURSUANT TO
	)	IOWA CODE SECTION 125.75.
Respondent.	)	

I, _____, of _____, being first duly
(address)
sworn on oath, depose and state that I am acquainted with respondent who resides at
_____,
(street) (city) (county)

Iowa, and that I believe the respondent is a chronic substance abuser.

In support thereof, I state as follows:

By _____

Subscribed and sworn to before the undersigned this _____ day of

_____, 19___.

_____
Notary Public in and for the State of Iowa

_____
Clerk of Iowa District Court

FORM 3

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	NOTICE TO RESPONDENT
SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	SECTION 125.77.
Respondent.	)	

TO: _____

You are hereby notified: There is now on file in the office of the clerk of the district court of _____ County, Iowa, a verified application alleging that the respondent is a chronic substance abuser and a fit subject for custody and treatment, as shown by the application and (report of the physician)(supporting affidavits) on file in this proceeding. Copies of these documents are attached. This matter will come on for hearing on said application before the court at _____ County, Iowa, on the _____ day of _____, 19___, at _____ o'clock __.m. The court thereafter will enter an appropriate order.

You are further notified that you have the following rights in connection with this matter:

1. THE RIGHT TO THE ASSISTANCE OF AN ATTORNEY. If you cannot afford an attorney, one will be appointed for you at public expense.

2. THE RIGHT TO AN EXAMINATION BY A PHYSICIAN OF YOUR OWN CHOOSING. If you cannot afford an examination by your physician, you may have such an examination at public expense.

3. THE RIGHT TO A HEARING WITHIN 5 DAYS (Unless the fifth day is a Saturday, Sunday, or a holiday), and no sooner than 48 hours (excluding Saturdays, Sundays, and holidays), if you are presently in custody.

4. THE RIGHT TO A HEARING NO SOONER THAN 48 HOURS AFTER SERVICE OF THIS NOTICE (excluding Saturdays, Sundays, and holidays), and no later than 48 hours after the report of a court-appointed physician is filed (excluding Saturdays, Sundays, and holidays), if you are not presently in custody.

5. THE RIGHT TO BE PRESENT AT THE HEARING.

You are hereby advised that:

1. You must not leave the county while awaiting hearing. If you leave the county, you may be taken into custody.

2. You must submit to an examination by a physician appointed by the court.

_____

Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

(Form 3 — Continued)

RETURN OF SERVICE

State of Iowa)
) ss:
_____ County)

The within notice received this _____ day of _____, 19 ___, at _____ a.m./p.m., I served the same on _____ by delivering a copy thereof to said _____ in the City, Township of _____ in _____ County, State of Iowa.

_____
Sheriff, _____ County

By _____
Deputy Sheriff

FORM 4

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	ORDER FOR IMMEDIATE CUSTODY
SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	SECTION 125.81.
Respondent.	)	

A request has been presented that respondent should be immediately detained due to chronic substance abuse. After review of the application and supporting documentation, I find there is probable cause to believe respondent is a chronic substance abuser and is likely to injure himself or herself or others if allowed to remain at liberty.

This finding is based on the following facts:

☐ 1. I hereby order that respondent shall be detained in the custody of _____ until the hearing date pursuant to Iowa Code section 125.81(1).

☐ 2. Because I find the less restrictive alternative of custody pursuant to Iowa Code section 125.81(1) will not be sufficient to protect respondent from himself or herself or others, I hereby order that respondent shall be detained at _____ until the hearing date pursuant to Iowa Code section 125.81(2).

☐ 3. Because I find that an actual emergency exists and there is no other secure facility available besides a facility for the confinement of persons accused of or convicted of crime, I hereby order that respondent shall be detained at _____ for a period of not more than 24 hours pursuant to Iowa Code section 125.81(3). I further order that respondent be kept under close supervision at all times and that as soon as practicable arrangements for transfer to a suitable secure facility be made.

(Check ☐ the appropriate one of these three provisions.)

_____

Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

FORM 5

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	APPLICATION FOR APPOINTMENT
SUBSTANCE ABUSER,	)	OF RESPONDENT'S COUNSEL AND
	)	FINANCIAL STATEMENT.
Respondent.	)	

I, the undersigned, being first sworn, depose and say that I am (respondent) (respondent's spouse) (next friend) or (guardian) herein, and I request the court to appoint counsel to represent respondent at public expense. The following statement relating to respondent's financial affairs is submitted in support of this application.

Name _____

Address _____

Marital Status _____

Number and ages of dependents _____

Business or employment _____

Average weekly earnings _____

Total income past 12 months _____

Is respondent now in custody: Yes ☐ No ☐ If no, is respondent working and at what salary:

_____

Is spouse working: Yes ☐ No ☐ If yes, name of employer and average weekly earnings

_____

Motor vehicles: List make, year, amount owing thereon, if any, and how title is registered

_____

List balance of bank accounts of respondent and spouse _____

List all sources of income other than salary from employment _____

Describe real estate owned, if any, and value thereof _____

Total amount of debts _____

_____

List on the reverse side hereof all other assets owned by respondent, other than clothing and personal effects.

(Form 5 — Continued)

The foregoing statements are true to the best of my knowledge, are made under penalty of perjury, and are made in support of respondent's application for appointment of legal counsel because respondent is financially unable to employ counsel.

By _____

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

_____
Notary Public in and for the State of Iowa

FORM 6

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	ORDER APPOINTING RESPONDENT'S
SUBSTANCE ABUSER,	)	ATTORNEY PURSUANT TO IOWA
	)	CODE SECTION 125.78.
Respondent.	)	

NOW, on this _____ day of _____, 19___, on application previously filed with the (court) (judicial hospitalization referee) alleging that the above-named respondent is a chronic substance abuser, and upon which hearing was set for the _____ day of _____, 19___, and upon showing made that respondent is unrepresented at this time and that no arrangements have been made either by the respondent or any member of respondent's family to procure such representation, it is now ORDERED that _____, a regular practicing attorney in _____ County, Iowa, be and is hereby appointed to represent the respondent at this hearing and at each subsequent hearing at which the subject matter of this cause is under consideration.

_____
Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

FORM 7

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	APPLICATION FOR APPOINTMENT OF
SUBSTANCE ABUSER,	)	APPLICANT'S COUNSEL AND
	)	FINANCIAL STATEMENT, PURSUANT
Respondent.	)	TO IOWA CODE SECTION 125.76.

I, the undersigned, being first sworn, depose and say that I am the applicant herein, and I request the court to appoint counsel to represent the applicant at public expense, pursuant to Iowa Code sections 125.76 and 125.78(2). The following statement relating to applicant's financial affairs is submitted in support of this application.

Name _____

Address _____

Marital status _____

Number and ages of dependents _____

Business or employment _____

Average weekly earnings _____

Total income past 12 months _____

Is applicant working and at what salary: _____

Is spouse working: Yes ☐ No ☐ If yes, name of employer and average weekly earnings

_____

Motor vehicles: List make, year, amount owing thereon, if any, and how title is registered

_____

List balance of bank accounts of applicant and spouse _____

List all sources of income other than salary from employment _____

Describe real estate owned, if any, and value thereof _____

Total amount of debts _____

_____

List on the reverse side hereof all other assets owned by applicant, other than clothing and personal effects.

(Form 7 — Continued)

The foregoing statements are true to the best of my knowledge, are made under penalty of perjury, and are made in support of application for appointment of legal counsel because I am financially unable to employ counsel.

_____
Applicant

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

_____
Notary Public in and for the State of Iowa

FORM 8

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	ORDER APPOINTING APPLICANT'S
SUBSTANCE ABUSER,	)	ATTORNEY PURSUANT TO IOWA
	)	CODE SECTION 125.78(2).
Respondent.	)	

NOW, on this _____ day of _____, 19__, on application previously filed with the (court) (judicial hospitalization referee), alleging that the above-named respondent is a chronic substance abuser, and upon which hearing was set for the _____ day of _____, 19__, and upon showing made that the applicant is unrepresented at this time, that a court-appointed attorney is necessary to assist the applicant in presenting the evidence, and that the applicant is financially unable to employ an attorney, it is now ORDERED that _____, a regular practicing attorney in _____ County, Iowa, be and is hereby appointed to represent the applicant at this hearing and at each subsequent hearing at which the subject matter of this cause is under consideration.

_____
Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

FORM 9

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	APPOINTMENT OF PHYSICIAN
SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	SECTION 125.78.
Respondent.	)	

To _____, a regular practicing physician of _____ County, Iowa:

This (court) (judicial hospitalization referee) has before it an application alleging that respondent is a chronic substance abuser, and is a fit subject for custody and treatment. Therefore, you are hereby appointed to make a personal examination of the respondent regarding the allegations of said application and the respondent's actual condition.

You shall therefore proceed to make such examination and forthwith report thereon to said (court) (judicial hospitalization referee) as the law requires in such cases.

_____
Judge of _____ Judicial District
of Iowa or Judicial Hospitalization Referee

NOTE TO EXAMINING PHYSICIAN:

If respondent has been taken into custody pursuant to Iowa Code section 125.81, your examination must be conducted within 24 hours.

FORM 10

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	PHYSICIAN'S REPORT OF
SUBSTANCE ABUSER,	)	EXAMINATION PURSUANT
	)	TO IOWA CODE SECTION 125.80.
Respondent.	)	

DATE AND TIME OF EXAMINATION _____

1. Respondent's name _____
2. Address _____
(street) (city or town) (county) (state)
3. Date of birth _____
(day) (month) (year)
4. Place of birth _____
5. Sex _____
6. Occupation _____
7. Marital status: Single ☐ Married ☐ Divorced ☐
8. Number of children _____
9. Nearest relative's name _____ relationship _____
address _____
(street) (city or town) (county) (state)
10. Is this examination conducted under Iowa Code section 125.80? _____
11. Did a qualified mental health professional assist with this exam? _____ If so, name that individual. _____
(Please provide address) If the professional's report is written, please attach.
12. In your judgment is respondent a chronic substance abuser? _____ If so, state diagnosis and supporting observations or medical history:
13. In your judgment is respondent capable of making responsible decisions with respect to his or her hospitalization or treatment? _____ If not, state supporting observations or medical history:

(Form 10 — Continued)

14. In your judgment, is the respondent treatable? _____ If so, state diagnosis and supporting observations or medical history:

15. In your judgment, is the respondent likely to physically injure himself or herself or others? _____ If so, what has led you to this conclusion?

16. In your judgment, is the respondent likely to inflict severe emotional injury on those who cannot avoid contact with the respondent?

17. Can the respondent be evaluated on an out-patient basis? _____ Basis for answer:

18. Can the respondent, without danger to self or others, be released to the custody of a relative or friend during the course of evaluation?

19. Is full-time hospitalization necessary for evaluation?

20. Does the respondent have a prior history of treatment for substance abuse? _____ If so, please specify:

21. Has the patient been medicated within 12 hours of the time of the hearing? _____ If so, supply the probable effects of the medication:

MEDICINE _____

DOSAGE _____

TIME _____

Signed _____
Physician

Address _____

FORM 11

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	ORDER FOR CONTINUANCE
SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	CODE SECTION 125.80(4).
Respondent.	)	

Upon the application of respondent's attorney, and for good cause shown, it is ordered that hearing in this matter be continued. The hearing shall be rescheduled promptly, as soon as respondent's attorney has informed the court of the expected date of respondent's readiness for the hearing. The rescheduling shall take into consideration any application by the facility for an earlier release of the respondent from custody.

Done this _____ day of _____, 19___.

_____
Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

FORM 12

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	STIPULATION PURSUANT TO IOWA
SUBSTANCE ABUSER,	)	CODE SECTION 125.82 AND RULE 20,
	)	RULES FOR INVOLUNTARY
	)	COMMITMENT OR TREATMENT OF
Respondent.	)	CHRONIC SUBSTANCE ABUSERS.

It is hereby stipulated that respondent need not be present at the hearing to determine if he or she is a chronic substance abuser.

(1) I have conversed with respondent about the hearing and his or her absence on _____.
(date)

(2) In my judgment, *(a)* respondent can make no meaningful contribution to the hearing; or *(b)* respondent has waived the right to be present. I base this judgment on the following grounds: _____

_____

_____

SIGNED

_____
Respondent's attorney

FORM 13

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	NOTICE OF MEDICATION
SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	SECTION 125.82(1).
Respondent.	)	

I hereby certify that the respondent was medicated at _____ a.m./p.m. on _____, 19 ___.

The probable effects of the medication are as follows:

The medication (may) (probably will not) affect respondent's ability to understand the nature of these proceedings.

SIGNED

_____

Physician

FORM 14

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	DISCHARGE AND TERMINATION OF
SUBSTANCE ABUSER,	)	PROCEEDINGS PURSUANT TO IOWA
	)	CODE SECTION 125.82(4).
Respondent.	)	

A hearing was held on the _____ day of _____, 19 ___, pertaining to the alleged chronic substance abuse by respondent. All relevant and material evidence was presented.

This court finds the contention that the respondent is a chronic substance abuser has not been sustained by clear and convincing evidence.

It is therefore ordered that the application for involuntary commitment or treatment of respondent is hereby denied and that all proceedings in this matter are hereby terminated.

It is further ordered that the respondent be released from custody.

All papers and records pertaining to these proceedings shall be confidential and subject to the provisions of Iowa Code section 125.93.

Done this _____ day of _____, 19 ___.

_____

Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

FORM 15

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	FINDINGS OF FACT AND ORDER
SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	SECTION 125.83.
Respondent.	)	

A hearing on this matter was held on the _____ day of _____, 19 ___. The court finds the contention that the respondent is a chronic substance abuser has been sustained by clear and convincing evidence.

The following is a statement of facts setting forth the evidence upon which this finding is based:

It is therefore ordered that the respondent be placed at _____ for a complete
(facility)
evaluation and appropriate treatment.

Done this _____ day of _____, 19 ___.

_____
Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

FORM 16

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	REFEREE'S NOTICE OF TERMINATION
SUBSTANCE ABUSER,	)	OF PROCEEDINGS PURSUANT TO
	)	IOWA CODE SECTION 125.82(4)
Respondent.	)	OR 125.85(4).

TO THE CHIEF JUDGE OF THE _____ JUDICIAL DISTRICT OR DESIGNEE:

As required by Iowa Code section 229.21(3), I hereby advise that I have terminated the proceedings in regard to the above respondent for the reasons stated in the order entered, a copy of which is attached.

_____

Judicial Hospitalization Referee

_____ County, Iowa

FORM 17

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	REFEREE'S NOTICE OF ORDER
SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	SECTIONS 125.90 AND 229.21(3).
Respondent.	)	

TO THE CHIEF JUDGE OF THE _____ JUDICIAL DISTRICT OR DESIGNEE:

Please be advised that I have issued an order regarding the above respondent for the reasons stated in the order and findings of fact, copies of which are attached.

DATE OF COMMITMENT _____

_____

Judicial Hospitalization Referee

_____ County, Iowa

FORM 18

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A CHRONIC	)	APPLICATION FOR ORDER FOR
SUBSTANCE ABUSER,	)	EXTENSION OF TIME FOR
	)	EVALUATION PURSUANT TO
	)	IOWA CODE SECTION 125.83.
Respondent.	)	

I, the facility administrator of _____ request an extension of time
(facility)
not to exceed seven (7) days in order to complete the evaluation of respondent.
I request this extension because:

_____
Facility Administrator

_____
Date

FORM 19

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
	)	ORDER FOR EXTENSION OF TIME
	)	PURSUANT TO IOWA CODE
Respondent.	)	SECTION 125.83.

An application for extension of time for evaluation in this matter having been presented to the (court) (judicial hospitalization referee) this _____ day of _____, 19 ___, and upon a showing of good cause; it is hereby ordered that the extension of time be granted for a period not to exceed seven (7) days beyond the initial fifteen-day evaluation period set out in Iowa Code section 125.83.

Done this _____ day of _____, 19 ___.

_____

Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

FORM 20

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
	)	REPORT OF THE CHIEF MEDICAL
Respondent.	)	OFFICER'S SUBSTANCE ABUSE
	)	EVALUATION PURSUANT TO IOWA
	)	CODE SECTION 125.84.

DATE AND TIME OF EVALUATION: _____

1. Treatment that respondent has received during the present hearing and evaluation period:

2. Medication given for withdrawal symptoms and the effect on the respondent's behavior or mental state:

3. Have there been previous incidents of substance abuse? _____
   (a) If so, give approximate dates:

   (b) Was hospitalization or treatment necessary? _____
   If so, give place, date, length of stay, condition on discharge:

4. Respondent's past medical history:

5. Is there a family history of substance abuse? _____
   If so, give names and relationship:

6. In your judgment is respondent a chronic substance abuser? _____
   If so, state diagnosis and supporting observations or medical history:

7. In your judgment is respondent capable of making responsible decisions with respect to his or her hospitalization or treatment? _____
   If not, state supporting observations or medical history:

8. In your judgment, is the respondent treatable? _____
   If so, state diagnosis and supporting observations or medical history:

9. In your judgment, is the respondent likely to physically injure himself or herself or others? _____
   What has led you to this conclusion?

(Form 20 — Continued)

10. In your judgment, is the respondent likely to inflict severe emotional injury on those unable to avoid contact with the respondent?

11. PROPOSED TREATMENT
Please check one of the four alternatives contained in Iowa Code section 125.84.

_____ 1. The respondent does not, as of the date of this report, require further treatment for substance abuse.

_____ 2. The respondent is a 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.

_____ 3. The respondent is a chronic substance abuser who is in need of treatment, but does not require full-time placement in a facility.

_____ 4. 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. Recommendation for alternative placement.

Signed _____, M.D.
Chief Medical Officer/Designee

Address _____

FORM 21

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:) No. _____
_____,)
) PERIODIC REPORT PURSUANT TO
Respondent.) IOWA CODE SECTION 125.86(1).

Date _____

---

1. An order for continued placement of the respondent at this facility was entered _____.

Facility _____ Address _____

Patient's Name _____ Hospital Number _____ DOB _____ County of Settlement _____

County of Commitment _____ Transfer From _____

Transfer Date _____ Last Evaluation _____ Date of this Visit _____

Diagnosis _____

2. Current therapy: list all types of therapy, including medication.

PHYSICAL CONDITION COMMENTS:

Ambulatory _____ Wheelchair _____ _____
Bed Patient _____
General Appearance: Good _____ _____
Fair _____ Poor _____
Eating Habits: Good _____ _____
Fair _____ Poor _____
Sleeping Habits: Good _____ _____
Fair _____ Poor _____
Incontinent — Yes _____ No _____
Sometimes _____
Diet: Regular _____ Reduction _____
Other (specify) _____ Wt. _____ Ht. _____ B.P. _____

(Form 21 — Continued)

List any physical problems such as seizures, dental, heart, sight, hearing, etc.

BEHAVIOR: Improved _____ Unchanged _____ Disturbed _____

Depressed _____ Suicidal _____

Is this patient easily managed in your facility?

Yes _____ No _____ If no, describe:

WORK: Is patient currently employed? _____ If so, where?

_____

Describe job performance _____

_____

FAMILY SITUATION: Single ☐ Married ☐ Divorced ☐

Dissolution in progress ☐

Does this patient receive Social Security?

Disability _____ Pension _____

RECREATIONAL ACTIVITIES:

Participation: Active _____ Limited _____

Observe Only _____ Type _____

VISITORS: No _____ Yes _____ Frequency _____ Who _____

MAIL: Receives _____ Writes _____

INTERVIEW SUMMARY

COVER THE FOLLOWING: (1) Present physical and mental condition; (2) Adjustment to facility; (3) Behavior during interview; and (4) Administrator's viewpoint of patient.

3. In my opinion, the patient's condition (has improved) (remains unchanged) (has deteriorated). Additional information concerning the patient's condition and prognosis is provided below:

(Form 21 — Continued)

4. In my opinion, the following subsection of Iowa Code section 125.84 is applicable (check one):

_____ (a) Respondent does not, as of this date, require further treatment for substance abuse.

_____ (b) Respondent is a 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.

_____ (c) Respondent is a chronic substance abuser who is in need of treatment, but does not require full-time placement in a facility. (See recommendation below.)

_____ (d) Respondent is a chronic substance abuser who is in need of treatment but is not responding to the treatment provided. (See recommendation below.)

RECOMMENDATIONS:

5. Respondent was tentatively discharged on _____, pursuant to Iowa Code section 125.85 because in my opinion the respondent no longer requires treatment or care as a substance abuser. (See explanation below.)

EXPLANATION:

Respondent seen at _____ on _____
(name of facility) (date)

by _____.
(interviewer) (title)

_____, M.D.
Chief Medical Officer/Designee

FORM 22

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:)
_____,)
)
Respondent.)

No. _____

PERIODIC REPORT PURSUANT TO IOWA CODE SECTION 125.86(2).

Date _____

---

1. An order for continued placement* of the respondent under the supervision of this facility was entered _____.

Facility _____ Address _____

Patient's Name _____ Hospital Number _____ DOB _____ County of Settlement _____

County of Commitment _____ Transfer From _____

Transfer Date _____ Last Evaluation _____ Date of this Visit _____

Diagnosis _____

2. Current therapy: list all types of therapy, including medication.

PHYSICAL CONDITION

Ambulatory _____ Wheelchair _____
Bed Patient _____
General Appearance: Good _____
Fair _____ Poor _____
Eating Habits: Good _____
Fair _____ Poor _____
Sleeping Habits: Good _____
Fair _____ Poor _____
Incontinent — Yes _____ No _____
Sometimes _____
Diet: Regular _____ Reduction _____
Other (specify) _____

COMMENTS:

_____
_____
_____
_____

Wt. _____ Ht. _____ B.P. _____

* The word "treatment" probably intended

(Form 22 — Continued)

List any physical problems such as seizures, dental, heart, sight, hearing, etc.

BEHAVIOR: Improved _____ Unchanged _____ Disturbed _____

Depressed _____ Suicidal _____

Is this patient easily managed in your facility?

Yes _____ No _____ If no, describe:

WORK: Is patient currently employed? _____ If so, where?

_____

Describe job performance _____

_____

FAMILY SITUATION: Single ☐ Married ☐ Divorced ☐

Dissolution in progress ☐

Does this patient receive Social Security?

Disability _____ Pension _____

RECREATIONAL ACTIVITIES:

Participation: Active _____ Limited _____

Observe Only _____ Type _____

VISITORS: No _____ Yes _____ Frequency _____ Who _____

MAIL: Receives _____ Writes _____

INTERVIEW SUMMARY

COVER THE FOLLOWING: (1) Present physical and mental condition; (2) Adjustment to facility; (3) Behavior during interview; and (4) Administrator's viewpoint of patient.

3. In my opinion, the patient's condition (has improved) (remains unchanged) (has deteriorated). Additional information concerning the patient's condition and prognosis is provided below:

(Form 22 — Continued)

4. In my opinion, the following subsection of Iowa Code section 125.84 is applicable (check one):

_____ (a) Respondent does not, as of this date, require further treatment for substance abuse.

_____ (b) Respondent is a 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.

_____ (c) Respondent is a chronic substance abuser who is in need of treatment, but does not require full-time placement in a facility. (See recommendation below.)

_____ (d) Respondent is a chronic substance abuser who is in need of treatment but is not responding to the treatment provided. (See recommendation below.)

RECOMMENDATIONS:

5. Respondent was tentatively discharged on _____, pursuant to Iowa Code section 125.85 because in my opinion the respondent no longer requires treatment or care as a substance abuser. (See explanation below.)

EXPLANATION:

Respondent seen at _____ on _____
(name of facility) (date)

by _____.
(interviewer) (title)

_____, M.D.
Chief Medical Officer/Designee

FORM 23

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
	)	NOTICE OF FACILITY ADMINISTRA-
	)	TOR'S REQUEST FOR EXTENSION
Respondent.	)	OF TIME PURSUANT TO IOWA
	)	CODE SECTION 125.83.

TO: _____, attorney or* respondent.

You are hereby notified, pursuant to Iowa Code section 125.83, that a request for extension of time for filing an evaluation report has been received from the facility administrator of _____, a copy of which is attached.

The request for an extension of time may be contested pursuant to Iowa Code section 125.83.

Done this _____ day of _____, 19 ___.

_____
Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

* The word "for" probably intended

FORM 24

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
	)	ORDER AFTER EVALUATION
	)	PURSUANT TO IOWA CODE
Respondent.	)	SECTION 125.84.

The court has received the facility administrator's report of the chief medical officer's substance abuse evaluation of the respondent, and it was the recommendation of _____ that the respondent _____

_____

_____

_____

_____

_____

It is therefore ordered that the respondent _____

_____

_____

_____

_____

_____

Copies of this order shall be sent to respondent's attorney.

Done this _____ day of _____, 19 ____.

_____

Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

FORM 25

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
	)	REPORT OF RESPONDENT'S
	)	DISCHARGE PURSUANT TO IOWA
Respondent.	)	CODE SECTION 125.85(4).

TO: _____ (judge) (judicial hospitalization referee)

I, _____, administrator of _____ (facility) do hereby report that the above-named respondent, for whom (commitment) (treatment) was ordered on _____, was discharged from this facility or from treatment on _____.

_____
Facility Administrator

_____
Date

FORM 26

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
	)	ORDER CONFIRMING RESPONDENT'S
	)	DISCHARGE AND TERMINATING
Respondent.	)	PROCEEDINGS, PURSUANT TO
	)	IOWA CODE SECTION 125.85(4).

This (court) (referee) has received a report from _____, administrator of _____ (facility), indicating that respondent, for whom (commitment) (treatment) was ordered by this (court) (referee) on _____, has been discharged from the facility or from treatment.

I hereby confirm respondent's discharge and, further, order termination of all proceedings pursuant to which the (commitment) (treatment) order was issued.

All papers and records pertaining to those proceedings shall be confidential and subject to the provisions of Iowa Code section 125.93.

Done this _____ day of _____, 19____.

_____
Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

cc: Facility
Respondent

FORM 27

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
	)	NOTICE OF APPEAL FROM THE
	)	FINDINGS OF THE JUDICIAL
Respondent.	)	HOSPITALIZATION REFEREE.

TO: _____, judge of the _____ judicial district of Iowa and the clerk of the district court:

The undersigned hereby appeals the findings of _____, judicial hospitalization referee, that respondent is a chronic substance abuser, and requests a review of the matter by a judge of the Iowa district court for _____ County, Iowa, all pursuant to Iowa Code section 229.21(4).

Done this _____ day of _____, 19 ___.

SIGNED

_____
(Respondent, Next Friend, Guardian, Attorney)

FORM 28

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A	)	CLAIM, ORDER AND CERTIFICATE
CHRONIC SUBSTANCE ABUSER,	)	FOR ATTORNEY OR PHYSICIAN'S
	)	FEES
Respondent.	)	

STATE OF IOWA, _____ COUNTY, ss:

The undersigned (attorney) (physician), being first duly sworn (or affirmed), states that he/she was appointed by the (court) (judicial hospitalization referee) to (represent) (examine) the (respondent) (applicant _____) in substance abuse proceedings, pursuant to Iowa Code section 125.78; that services have been completed by this claimant as set forth on the attached itemized statement; and that this claimant has not directly, or indirectly, received, or entered into a contract to receive, any compensation for such services from any sources.

WHEREFORE, this claimant prays for an order to be compensated in accordance with the provisions of Iowa Code section 125.78.

_____
Claimant

_____
Address

Subscribed and sworn to (or affirmed) before me this _____ day of _____,19___.

_____
Clerk of Said District Court
(or) Notary Public In and For the State of Iowa

(Form 28 — Continued)

ORDER

The foregoing verified claim has been duly considered, is fixed and approved in the sum of $_____ and ordered paid out of the county treasury. The clerk is directed to certify a copy of above claim and this order to the county auditor for payment to claimant, as provided by statute.

Done this _____ day of _____, 19___.

_____

Judge of the _____ Judicial District
of Iowa or Judicial Hospitalization Referee

CERTIFICATE

The above is a true copy of claim and order as appears of record in my office and is hereby certified to county auditor for payment.

Done this _____ day of _____, 19____.

_____

(Deputy) Clerk of Said Court

FORM 29

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A	)	AUTHORIZATION OF DETENTION
CHRONIC SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	SECTION 125.91(2).
Respondent.	)	

DATE _____

TIME OF DETENTION _____

TIME OF NOTIFICATION OF MAGISTRATE _____

Respondent has been detained because there is reason to believe respondent is a chronic substance abuser who is incapacitated or is likely to injure himself or herself or others if not immediately detained. My conclusion regarding the need for detention is based upon the following information:

This detention has been authorized by the verbal instruction of _____, magistrate.

_____
Facility Administrator

ARRIVAL OF MAGISTRATE

Time of arrival of magistrate _____

_____
Magistrate

FORM 30

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A	)	MAGISTRATE'S REPORT
CHRONIC SUBSTANCE ABUSER,	)	PURSUANT TO IOWA CODE
	)	SECTION 125.91(2)(b).
Respondent.	)	

1. Reason for failure to respond immediately to the facility administrator's call:

2. Substance of the information on the basis of which the respondent's continued detention was ordered:

TIME OF CALL _____

TIME OF RESPONSE _____

TIME OF APPOINTMENT OR NOTIFICATION OF COUNSEL _____

_____
Magistrate

FORM 31

IN THE IOWA DISTRICT COURT FOR _____ COUNTY, IOWA

IN THE MATTER OF:	)	No. _____
_____,	)	
ALLEGED TO BE A	)	MAGISTRATE'S ORDER OF
CHRONIC SUBSTANCE ABUSER,	)	DETENTION PURSUANT TO IOWA
	)	CODE SECTION 125.91(3).
Respondent.	)	

TIME OF NOTIFICATION OF MAGISTRATE _____

TIME OF ACTION BY MAGISTRATE _____

Information and evidence has been presented to this magistrate that respondent should be immediately detained due to chronic substance abuse;

This magistrate finds that there is probable cause to believe that respondent is a chronic substance abuser, and because of that chronic abuse is likely to injure himself or herself or others if not immediately detained;

The finding is based on the following circumstances and grounds: _____

_____

_____

_____

It is hereby ordered that _____ shall be detained in custody at _____ for examination and care for a period
(facility)
not to exceed forty-eight hours (excluding Saturdays, Sundays and holidays).

It is further ordered that the facility may provide treatment which is necessary to preserve the respondent's life, or to appropriately control behavior by the respondent which is likely to result in physical injury to himself or herself or others if allowed to continue, or is otherwise deemed medically necessary by the chief medical officer, but the facility may not otherwise provide treatment to the respondent without his or her consent.

Done this day _____ of _____, 19___.
Time _____

_____
Magistrate

ANALYSIS OF TABLES

1996 REGULAR SESSION

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTION TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY

1996 REGULAR SESSION

SENATE FILES

File No.	Acts Chapter
13	1011
73	1035
259	1148
284	1181
376	1012
454	1192
482	1133
2012	1143
2013	1036
2030	1205
2035	1042
2062	1079
2063	1086
2066	1002
2071	1142
2072	1005
2074	1080
2080	1034
2082	1001
2083	1007
2085	1171
2087	1018
2088	1006
2097	1145
2101	1093
2110	1076
2114	1151
2121	1028
2122	1038
2123	1122
2127	1037
2130	1003
2131	1104
2135	1010
2140	1191
2147	1200
2153	1201
2154	1164
2155	1067
2157	1158
2158	1113
2159	1087
2165	1072
2167	1069
2168	1166
2171	1128
2186	1090
2195	1209
2201	1157
2204	1127
2207	1163
2208	1132
2211	1135
2212	1073
2213	1071
2218	1108
2219	1051
2235	1053
2245	1187
2252	1068
2259	1020
2260	1083
2265	1195
2266	1152
2269	1131
2270	1026
2278	1022
2282	1057
2283	1115
2287	1095
2289	1165
2294	1156
2299	1078
2301	1161
2303	1107
2305	1137
2307	1084
2321	1162
2323	1070
2324	1106
2331	1039
2336	1029
2337	1030
2344	1141
2348	1096
2351	1180
2352	1081
2353	1094
2357	1179
2359	1139
2363	1025
2366	1177
2367	1075
2368	1138
2370	1196
2372	1203
2375	1118
2381	1130
2387	1085
2395	1046
2396	1136
2399	1175
2405	1019
2408	1021
2409	1186
2410	1092
2413	1153
2420	1134
2422	1154
2423	1062
2430	1110
2438	1129
2442	1213
2446	1214
2448	1212
2449	1197
2453	1149
2455	1167
2464	1204
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2470	1219

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTION TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY — Continued

1996 REGULAR SESSION

HOUSE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
111	1097	2165	1049	2390	1119
121	1190	2166	1123	2397	1058
210	1091	2177	1050	2399	1140
230	1155	2187	1031	2400	1048
308	1059	2190	1098	2407	1099
334	1112	2201	1147	2408	1043
400	1194	2202	1054	2409	1056
419	1103	2207	1064	2416	1211
455	1189	2211	1013	2419	1126
476	1176	2225	1017	2421	1218
511	1114	2229	1121	2422	1124
514	1088	2230	1052	2426	1047
523	1061	2234	1185	2427	1183
560	1198	2247	1009	2429	1040
569	1125	2256	1105	2432	1146
570	1184	2258	1032	2433	1117
2001	1063	2259	1120	2444	1208
2036	1044	2297	1033	2448	1150
2050	1174	2299	1015	2453	1159
2061	1109	2303	1016	2456	1111
2065	1206	2306	1116	2458	1193
2066	1004	2308	1074	2462	1102
2081	1060	2310	1045	2472	1216
2107	1023	2315	1101	2477	1215
2109	1077	2316	1082	2481	1199
2113	1065	2318	1055	2486	1210
2114	1207	2324	1100	2488	1144
2127	1027	2350	1089	2491	1182
2140	1066	2363	1014	2497	1217
2144	1169	2365	1008	2498	1160
2150	1041	2369	1202	2499	1173
2152	1024	2370	1170	2500	1188
2153	1178	2383	1172		

HOUSE JOINT RESOLUTION

11	1220

1995 CODE AND CODE SUPPLEMENT CHAPTERS AND SECTIONS AMENDED OR REPEALED

1996 REGULAR SESSION

S immediately following Code chapter or section indicates Code Supplement

Code Chapter or Section	Acts Chapter
2	1214, §28
2.42(11)	1099, §1
2B.13(7) S	1099, §2
2B.17	1099, §4
2B.17(1,3)	1099, §3
4.1(12) S	1153, §1
4.1(15,39) S	1129, §1
7.14(3)	1129, §2
7A.11(3)	1099, §5
7A.21	1099, §6
7A.22	1099, §8
7A.22(3)	1099, §7
7B.2	1186, §23
7B.5	1186, §23
7D.15	1129, §113
7E.5	1186, §23
8	1214, §29
8.22A(5) S	1218, §24
8.36	1186, §23
8.41	1105, §1
8.57(5) S	1218, §26
8.57(5c) S	1218, §25,71
8.60(6)	1096, §1
8.62	1219, §1
8A	1219, §61,77
8D.3(2) S	1200, §1
8D.11(1)	1177, §1
8D.13 S	1218, §27
8D.13(12) S	1034, §1
9E	1060, §1
10A.104(9) S	1052, §1; 1079, §1
10A.108(1)	1052, §2
10A.302(1,5)	1052, §3
11.5B	1186, §23
11.6(1a)	1215, §20
12	1058, §8; 1177, §2
12.32	1058, §1
12.34	1058, §3
12.34(2)	1058, §2
12.35	1058, §4
12.36	1058, §5
12.38	1058, §6
12.40	1058, §7
12.51	1058, §11
12.52	1058, §11
12B.10(6)	1187, §75
12B.10A(6)	1187, §76
12B.10B(3)	1187, §77
12B.10C	1187, §78
12C.6	1021, §1
12C.6A(2,3)	1021, §2
12C.6A(4d,g)	1021, §3
13	1216, §27
13.7	1186, §23
13B.1(1) S	1040, §1
13B.1(3) S	1193, §1
13B.4 S	1040, §2
13B.9 S	1040, §4
13B.9(1a,b) S	1040, §3
13B.10(3)	1193, §2
15	1180, §1,7; 1185, §2; 1199, §2,3,5; 1219, §93,94
15.108	1186, §23
15.108(6)	1186, §1
15.108(7)	1186, §2
15.108(9)	1186, §4
15.108(9a)	1186, §3
15.224	1186, §26
15.225	1129, §113; 1186, §26
15.225(1b)	1129, §3
15.226 - 15.230	1186, §26
15.241	1186, §23
15.286(4b)	1129, §4
15.313(2)	1219, §95
15.327	1185, §1; 1199, §1
15.335	1199, §4
15.343(1a) S	1186, §5
15.343(1b) S	1180, §2
15.343(1c) S	1180, §3,4
15.343(2) S	1180, §5
15.343(2a) S	1186, §6
15.343(2e) S	1186, §7
15.343(3) S	1180, §6
15.345 S	1180, §20
15.346 S	1180, §20
15.347 S	1186, §26
15.348 S	1186, §26
15A	1180, §8; 1219, §96
15A.9(8) S	1166, §1
15E	1218, §52
15E.111	1186, §23
15E.112(1)	1219, §97
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16.1(7,14)	1129, §5
16.1(13,24)	1129, §6
16.1(32c)	1129, §8
16.2(1)	1129, §9
16.3(13)	1129, §10
16.4	1129, §113
16.9	1129, §113
16.12	1129, §113
16.17	1129, §113
16.18	1129, §113
16.26	1129, §113
16.100(2b)	1129, §11
16.155	1129, §113
17A.6(1) S	1099, §9
17A.6(2) S	1099, §10
18	1099, §13
18.7	1176, §1
18.8	1085, §1
18.12 S	1085, §4
18.12(3) S	1085, §2
18.12(8) S	1085, §3
18.12(10) S	1177, §3
18.23	1177, §4
18.97	1099, §11,12
18.115(11)	1085, §5
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19B.2	1129, §12
21.4	1129, §113
22	1099, §15
22.2(3)	1099, §14

1995 CODE AND CODE SUPPLEMENT
CHAPTERS AND SECTIONS AMENDED OR REPEALED

1996 REGULAR SESSION — Continued

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22.7(9) S	1150, §1
23A.2	1129, §113
25.1	1075, §1
25.2 S	1038, §1; 1075, §2
28E	1219, §62
28E.20	1194, §1
30.2	1186, §23
30.5	1186, §23
30.7	1186, §23
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34A	1219, §64
35A	1218, §29
37.10	1216, §28
43.67	1034, §2
48A.2(3)	1129, §14
49.21	1129, §15
49.25	1129, §113
49.90	1129, §16
56.14 S	1079, §2
68B.2	1186, §23
68B.35(2e)	1200, §2
70A.20 S	1129, §17
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70A.28(1)	1100, §2
70A.28(2)	1100, §3
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80.39(1)	1133, §39
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