

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*

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## 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