

*Lifting Com. 3/7/72*

SENATE FILE 1132

By COMMITTEE ON JUDICIARY

FILED FEB 9 1972

Passed Senate, Date 3-6-72 Passed House, Date 3-23-72  
Vote: Ayes 43 Nays 0 Vote: Ayes 96 Nays 0  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act correcting erroneous, inconsistent, and obsolete  
2 sections of the Code of Iowa, including some penalty  
3 sections.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section four point one (4.1), subsection twenty-  
2 six (26), Code 1971, is amended to read as follows:

3 26. POPULATION. The word "population", where used in  
4 this Code or any statute hereafter passed, shall be taken  
5 to be that as shown by the last preceding national census,  
6 unless otherwise specially provided. However the population  
7 figure disclosed for any city or town as the result of a  
8 special federal census as modified as the result of  
9 consolidation or annexation in the manner provided in sections  
10 312.3 and 123.50, shall be considered for no other purposes  
11 than the application of sections 123.50 and ~~342.3~~ 312.3 and  
12 chapter 165, division IV, Acts of the Sixty-fourth General  
13 Assembly, First Session.

14 Sec. 2. Section sixteen point twenty-four (16.24), Code  
15 1971, as amended by chapter eighty (80), section two (2),  
16 and chapter eighty-four (84), section sixty-four (64), Acts  
17 of the Sixty-fourth General Assembly, First Session, is amended  
18 by striking subsection fifteen (15) and inserting in lieu  
19 thereof the following:

20 15. To the following offices such number of copies as  
21 will enable them to perform the duties of their respective  
22 offices.

- 23 a. Code editor.
- 24 b. Attorney general.
- 25 c. Legislative service bureau.
- 26 d. Legislative fiscal director.
- 27 e. Court administrator.

28 Sec. 3. Section twenty-four point fourteen (24.14), Code  
29 1971, is amended to read as follows:

30 24.14 TAX LIMITED. No greater tax than that so entered  
31 upon the record shall be levied or collected for the  
32 municipality proposing such tax for the purpose or purposes  
33 indicated; and thereafter no greater expenditure of public  
34 money shall be made for any specific purpose than the amount  
35 estimated and appropriated therefor, except as provided in

1 sections 24.6, 24.15 and subsection 4 of section 343.11.  
2 All budgets set up in accordance with the statutes shall take  
3 such funds (allocations made by sections 123.50 and ~~324.79~~,  
4 324.79 and chapter 165, division IV, Acts of the Sixty-fourth  
5 General Assembly, First Session) into account, and all such  
6 funds, regardless of their source, shall be considered in  
7 preparing the budget, all as is provided in this chapter.

8 Sec. 4. Section twenty-six point six (26.6), Code 1971,  
9 as amended by chapter one hundred sixty-five (165), section  
10 forty-five (45), Acts of the Sixty-fourth General Assembly,  
11 First Session, is amended to read as follows:

12 26.6 POPULATION OF COUNTIES, TOWNSHIPS, CITIES, AND TOWNS.  
13 Whenever the population of any county, township, city, or  
14 town is referred to in any law of this state, it shall be  
15 determined by the last certified, or certified and published,  
16 official census unless otherwise provided. However, the  
17 population figure disclosed for any city or town as the result  
18 of a special federal census as modified as the result of  
19 consolidation or annexation in the manner provided in sections  
20 312.3, and 123.50, shall be considered for no other purposes  
21 than the application of sections 123.50, 312.3 and the  
22 provisions of this division. Whenever a special federal  
23 census is hereafter taken by any city or town, the mayor and  
24 council shall certify the said census as soon as possible  
25 to the secretary of state and to the treasurer of state as  
26 otherwise herein provided, and failing to do so, the treasurer  
27 of state shall, after six months from the date of said special  
28 census, ~~turn-over-such-moneys-as-authorized-by-sections--123.50~~  
29 ~~and-312.3-to-the-general-fund-of-the-state~~ withhold allocation  
30 of such moneys from the city or town, and continue to do so  
31 until such time as certification by said mayor and council  
32 is made, or until the next decennial federal census. If there  
33 be a difference between the original certified record in the  
34 office of the secretary of state and the published census  
35 the former shall prevail.



1 "Leave of absence of two and one-half working days each  
2 month with pay may be granted in the discretion of the head  
3 of any department, agency or commission to employees of such  
4 department, agency or commission when necessary by reason  
5 of sickness or injury; unused portions of such leave for any  
6 one year may be accumulative to a total of ninety working  
7 days. Provided, however, that notwithstanding the foregoing  
8 limitations, state highway commission maintenance employees,  
9 uniformed members of the division of highway safety and  
10 uniformed force and members of the division of criminal  
11 investigation and bureau of identification and the division  
12 of drug law enforcement, except clerical workers, of the  
13 department of public safety may upon the recommendation of  
14 the commissioner with the approval of the executive council,  
15 be granted additional leave of absence with pay, for injuries  
16 sustained in line of duty. It is further provided that  
17 employees of institutions under the state board of regents  
18 who are employed for nine months or more in any twelve-month  
19 period shall be entitled, in the discretion of the board,  
20 to a leave of absence with pay of two and one-half working  
21 days for each month of employment when necessary by reason  
22 of sickness or injury, and such portion as is unused may be  
23 accumulated to a total of ninety working days."

24 Sec. 9. Section eighty point eight (80.8), unnumbered  
25 paragraph one (1), Code 1971, is amended to read as follows:

26 The commissioner, with the approval of the governor, shall  
27 appoint such deputies, inspectors, officers, clerical workers  
28 and other employees as may be required to properly discharge  
29 the duties of this department, ~~provided, however, that all~~  
30 ~~members in good standing of what was heretofore known as the~~  
31 ~~Iowa highway safety patrol shall, upon the enactment of this~~  
32 ~~chapter, immediately become members of this department without~~  
33 ~~appointment and the rank of all members of the Iowa highway~~  
34 ~~safety patrol shall remain the same as heretofore.~~

35 Sec. 10. Section eighty-four point twenty-two (84.22),



1 Such appointees shall have been in active practice in the  
2 state of Iowa for not less than ten years. Each member shall  
3 file with the secretary of state the constitutional oath of  
4 office and shall hold office until his successor is appointed  
5 and has qualified. The governor may remove any member of  
6 the board for misconduct, incapacity or neglect of duty.

7 Sec. 12. Section one hundred ninety-two point fifty-two  
8 (192.52), Code 1971, is amended to read as follows:

9 192.52 OWNERSHIP OF CERTIFICATION MARK. The ownership  
10 of the Iowa butter certification mark is hereby vested and  
11 lodged in the Iowa certification mark butter association and  
12 said association may own and hold said certification mark  
13 for the benefit of its members. The Iowa butter control board  
14 shall retain all supervision and control over the manufacture  
15 and sale of all butter to be sold under said ~~trademark~~  
16 certification mark.

17 Sec. 13. Section one hundred ninety-two point fifty-seven  
18 (192.57), Code 1971, is amended to read as follows:

19 192.57 MILK BOTTLES TO BE MARKED. Bottles or jars used  
20 for the sale of milk shall have clearly blown or permanently  
21 marked in the side of the bottle, the capacity of the bottle,  
22 and on the bottom of the bottle the name, initials, or ~~trade-~~  
23 mark certification mark of the manufacturer. The designating  
24 number shall be furnished by the department on request.

25 Sec. 14. Section two hundred twenty-seven point twelve  
26 (227.12), Code 1971, is amended to read as follows:

27 227.12 DIFFERENCE OF OPINION. When a difference of opinion  
28 exists between the state director and the authorities in  
29 charge of any private or county hospital in regard to the  
30 removal of a patient or patients as herein provided, the  
31 matter shall be submitted to the district court of the county  
32 in which such hospital is situated and shall be summarily  
33 tried as an equitable action, and the judgment of the district  
34 court ~~ex-judge~~ shall be final.

35 Sec. 15. Section two hundred forty-eight point six (248.6),

1 Code 1971, is amended to read as follows:

2 248.6 CONDITIONS PREREQUISITE TO A PARDON. After con-  
3 viction for a felony, no pardon or commutation of sentence  
4 shall be granted by the governor until he shall have presented  
5 the matter to, and obtained the advice of, the board of parole,  
6 ~~but he may commute a death sentence to imprisonment in the~~  
7 ~~penitentiary for life, without making such reference or~~  
8 ~~obtaining such advice.~~

9 Sec. 16. Section six hundred eighty-seven point two  
10 (687.2), Code 1971, is amended to read as follows:

11 687.2 "FELONY" DEFINED. A felony is a public offense  
12 ~~which may be punished with death, or~~ which is, or in the  
13 discretion of the court may be, punished by imprisonment in  
14 the penitentiary or men's reformatory.

15 Sec. 17. Section seven hundred thirty-eight point ten  
16 (738.10), Code 1971, is amended to read as follows:

17 738.10 VOTING WHEN NOT RESIDENT OF STATE. If any person  
18 willfully vote who has not been a resident of this state for  
19 six months next preceding the election, or who, at the time  
20 of the election, is not ~~twenty-one~~ eighteen years of age,  
21 or who is not a citizen of the United States, or who is not  
22 qualified, by reason of other disability, to vote at the place  
23 where and time when the vote is to be given, he shall be fined  
24 in a sum not exceeding three hundred dollars, or imprisoned  
25 in the county jail not exceeding one year.

26 Sec. 18. Section twenty-nine C point fourteen (29C.14),  
27 Code 1971, is repealed.

28 EXPLANATION

29 This is a bill submitted for the purpose of correcting  
30 errors, inconsistencies, and obsolete sections of the Code.  
31 This bill was developed as the result of material submitted  
32 by the Code Editor.

33 Sections 1, 3, and 4 are amendments submitted because the  
34 Sixty-fourth General Assembly, First Session, created a  
35 municipal assistance fund and provided that it should be

1 distributed on a population basis. Chapter 26 already provided  
2 for special census for distribution of special funds on a  
3 population basis. This Act of the Sixty-fourth General  
4 Assembly included within these provisions the distribution  
5 of the municipal assistance fund. However, in doing so, a  
6 similar provision in section 4.1 was overlooked which provides  
7 that a special census could only be used for distribution  
8 of liquor tax money and motor vehicle fuel tax money. This  
9 bill corrects the oversight.

10 This bill also corrects a provision in section 26.6 which  
11 states that if a city or town fails to report the population  
12 decrease its share of the motor vehicle fuel tax money would  
13 be deposited in the general fund of the state. This provision  
14 is clearly unconstitutional because the money is raised by  
15 the road use tax, and is corrected by this bill.

16 Section 2 consolidates provisions which resulted from two  
17 amendments to the same section of law during the first session  
18 of the Sixty-fourth General Assembly without any change in  
19 substance.

20 Section 5 corrects an erroneous reference.

21 Sections 6, 7, and 17 relate to changing the age for voting  
22 from 21 to 18.

23 Section 8 consolidates two amendments to the same section  
24 without a change in substance.

25 Section 9 strikes obsolete language.

26 Section 10 strikes language that is inconsistent with  
27 notaries public no longer receiving commissions to act only  
28 within a county, a change required by legislation of the last  
29 session providing that notaries act for the state.

30 Section 11 removes obsolete language concerning the initial  
31 board of architectural examiners.

32 Sections 12 and 13 strike words which are erroneous because  
33 the law provides for "certification marks" not "trademarks".

34 Section 14 strikes an obsolete reference.

35 Sections 15 and 16 strike references to the death penalty

1 which, of course, has been repealed.

2 Section 18 repeals reference to an abolished merit system.

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6 Amend Senate File 1132 as follows:

- 7 1. Page 3, line 30, by striking the words, "or town".
- 8 2. Page 4, by striking lines 6 through 29, inclusive.
- 9 3. Page 8, by striking lines 15 through 25, inclusive.
- 6 4. Renumber the remaining sections and make internal  
6 corrections in conformity with this amendment.

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Filed  
February 18, 1972

By GAUDINEER and POTGETER

*adapted*