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SENATE FILE 2360

BY COMMITTEE ON APPROPRIATIONS

(FORMERLY SSB 2273)

Approved 4/17 (p. 1610)

Passed Senate, Date 4-19-84 (p. 1641) Passed House, Date \_\_\_\_\_

Vote: Ayes 47 Nays 1 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act making statutory corrections and other changes re-  
2 lating to the court reorganization and court fee legis-  
3 lation enacted in 1983.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S. 2360

1 Section 1. NEW SECTION. 127.20 SALE OF CONVEYANCE.

2 Prior to placing the conveyance for sale to the general public,  
3 the sheriff shall permit an owner or lien holder having a  
4 property interest of fifty percent or more in the conveyance  
5 the opportunity to purchase the property interest forfeited.  
6 If the owner or lien holder does not exercise an option under  
7 this section or if an owner or lien holder does not exist,  
8 the conveyance shall be sold at public auction with the  
9 proceeds first being applied to the owners and lien holders  
10 who have not had their property interest forfeited and applied  
11 to the expenses of keeping the conveyance, and any remaining  
12 funds shall be conveyed by the clerk of the district court  
13 to the treasurer of state for deposit in the general fund  
14 of the state.

15 Sec. 2. Section 331.427, subsection 1, Code Supplement  
16 1983, is amended to read as follows:

17 1. Except as otherwise provided by state law, county  
18 revenues from taxes and other sources for general county  
19 services shall be credited to the general fund of the county,  
20 including revenues received under sections 84.21, 98.35,  
21 98A.6, 101A.3, 101A.7, 110.12, 123.36, 123.143, ~~144-46~~ 176A.8,  
22 247A.10, 321.105, 321.152, 321.192, ~~321-485~~, 321G.7, 331.554,  
23 subsection 6, ~~331-703~~-~~subsection-6~~, 341A.20, 364.3, 368.21,  
24 422.65, 422.100, 422A.2, 428A.8, 430A.3, 433.15, 434.19,  
25 441.68, 445.52, 445.57, 533.24, 556B.1, 567.10, 583.6, 809.6,  
26 906.17, and 911.3, and the following:

- 27 a. License fees for business establishments.
- 28 b. Moneys remitted by the clerk of the district court  
29 and received from a magistrate for fines and forfeited bail  
30 under section 602-55, except those directed to be placed in  
31 the school fund imposed pursuant to a violation of a county  
32 ordinance.

33 c. Other amounts in accordance with state law.

34 Sec. 3. Section 331.506, subsection 2, paragraph b, Code  
35 Supplement 1983, is amended to read as follows:

1 b. Witness fees and mileage in trials of criminal actions  
2 prosecuted under county ordinance, as certified by the county  
3 attorney.

4 Sec. 4. Section 331.510, subsection 2, Code Supplement  
5 1983, is amended by striking the subsection.

6 Sec. 5. Section 602.1303, subsections 7 and 8, Code  
7 Supplement 1983, are amended to read as follows:

8 7. A county or city shall pay the costs of its witnesses,  
9 depositions, and transcripts ~~and the court fees and costs~~  
10 ~~provided by law~~ in criminal actions prosecuted by that county  
11 or city and shall pay the court fees and costs provided by  
12 law in criminal actions prosecuted by that county or city  
13 under county or city ordinance. A county or city shall pay  
14 the costs of its witnesses in criminal actions prosecuted  
15 by the county or city under county or city ordinance.

16 8. A county shall pay the fees and expenses allowed under  
17 sections 815.2 and 815.3, ~~and shall pay the fees and expenses~~  
18 ~~allowed under sections 815.5 and 815.6 with respect to~~  
19 ~~witnesses for the prosecution.~~

20 Sec. 6. Section 602.8102, subsection 45, Code Supplement  
21 1983, is amended by striking the subsection and inserting  
22 in lieu thereof the following:

23 45. Report monthly to the office for planning and  
24 programming the following information related to each  
25 conviction in the district court for a felony, an aggravated  
26 misdemeanor, or a serious misdemeanor under section 321.281,  
27 subsection 2, paragraph "a":

28 a. The name of the convicted offender.

29 b. The statutory citation and character of the offense  
30 of which the offender was convicted.

31 c. The sentence imposed on the convicted offender.

32 Sec. 7. Section 602.8104, subsection 2, paragraph i, Code  
33 Supplement 1983, is amended by striking the paragraph.

34 Sec. 8. Section 602.8105, subsection 1, paragraph a, Code  
35 Supplement 1983, is amended to read as follows:

1 a. For filing a petition other than for modification of  
2 a dissolution decree within one hundred eighty days of the  
3 date of the entering of the dissolution decree, appeal, or  
4 writ of error and docketing any of them, thirty-five dollars.  
5 Four dollars of the fee shall be deposited in the court revenue  
6 distribution account established under section 602.8108, and  
7 thirty-one dollars of the fee shall be paid into the state  
8 treasury. Of the amount paid to the state treasury, one  
9 dollar shall be deposited in the judicial retirement fund  
10 established in section 602.9104 to be used to pay retirement  
11 benefits of the judicial retirement system, and the remainder  
12 shall be deposited in the general fund of the state. In  
13 counties having a population of one hundred thousand or over,  
14 an additional five dollars shall be charged and collected,  
15 to be known as the journal publication fee and used for the  
16 purposes provided for in section 618.13.

17 Sec. 9. Section 602.8105, subsection 1, paragraph b, Code  
18 Supplement 1983, is amended to read as follows:

19 b. For payment in advance of various services and docketing  
20 procedures, excluding those for small claims and simple  
21 misdemeanors at trial or on appeal, twenty-five dollars.

22 Sec. 10. Section 602.8105, subsection 1, paragraph c,  
23 Code Supplement 1983, is amended by striking the paragraph  
24 and inserting in lieu thereof the following:

25 c. In small claims actions at trial, in addition to the  
26 filing fee specified in section 631.6, a consolidated service  
27 fee payable in advance, four dollars.

28 Sec. 11. Section 602.8105, subsection 1, paragraph j,  
29 Code Supplement 1983, is amended to read as follows:

30 j. In criminal cases, the same fees for the same services  
31 as in civil cases, to be paid by the county or city ~~initiating,~~  
32 which has the duty to prosecute the criminal action, as  
33 provided in section 602.8109. When judgment is rendered  
34 against the defendant, costs collected from the defendant  
35 shall be paid to the county or city ~~initiating~~ which has the

1 duty to prosecute the criminal action to the extent necessary  
2 for reimbursement for fees paid. However, the fees which  
3 are payable by the county to the clerk of the district court  
4 for services rendered in criminal actions prosecuted under  
5 state law and the court costs taxed in connection with the  
6 trial of the criminal actions or appeals from the judgment  
7 in the criminal actions are waived.

8 Sec. 12. Section 602.8105, subsection 1, Code Supplement  
9 1983, is amended by adding the following new lettered  
10 paragraphs and relettering the subsequent paragraph:

11 NEW LETTERED PARAGRAPH. p. For issuing an execution or  
12 for issuing other process after judgment or decree, five  
13 dollars.

14 NEW LETTERED PARAGRAPH. g. For filing and docketing a  
15 transcript of judgment from another county, two dollars.

16 NEW LETTERED PARAGRAPH. r. For entering a judgment by  
17 confession, two dollars.

18 Sec. 13. Section 602.8106, subsection 3, Code Supplement  
19 1983, is amended to read as follows:

20 3. The clerk shall remit all other fines and forfeited  
21 bail received from a magistrate to the treasurer of state  
22 ~~for-distribution-under-section-602-8107~~ to be credited to  
23 the general fund of the state.

24 Sec. 14. Section 602.11101, subsection 1, Code Supplement  
25 1983, is amended to read as follows:

26 1. On October 1, 1983 the state shall assume the  
27 responsibility for and the costs of jury ~~and-witness~~ fees  
28 and mileage as provided in section 607.5 and on July 1, 1984  
29 the state shall assume the responsibility for and the costs  
30 of prosecution witness fees and mileage in criminal actions  
31 prosecuted under state law as provided in sections 607-5,  
32 622.69, and 622.72, -except-as-provided-in-section-331-506,  
33 subsection-2.

34 Notwithstanding section 602.1303, subsection 7 and section  
35 815.13, on July 1, 1984, the state shall assume the

1 responsibility for and the costs of the fees which are payable  
2 to the clerk of the district court for services rendered in  
3 criminal actions prosecuted under state law or county ordinance  
4 and the court costs taxed in connection with the trial of  
5 the criminal actions or appeals from the judgment in the  
6 criminal actions. However, on July 1, 1986, the county shall  
7 assume the responsibility for and the costs of the fees that  
8 are payable to the clerk of the district court for services  
9 rendered in criminal actions prosecuted under county ordinance  
10 and the court costs taxed in connection with the trial of  
11 the criminal actions or appeals from the judgment in the  
12 criminal actions.

13 Sec. 15. Section 602.11101, subsection 4, Code Supplement  
14 1983, is amended by adding the following new unnumbered  
15 paragraph:

16 NEW UNNUMBERED PARAGRAPH. Until July 1, 1985 the county  
17 shall remain responsible for the compensation of juvenile  
18 court referees. Effective July 1, 1985 the state shall assume  
19 the responsibility for the compensation of juvenile court  
20 referees.

21 Sec. 16. Section 602.11101, subsection 5, Code Supplement  
22 1983, is amended by adding the following new unnumbered  
23 paragraphs:

24 NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county  
25 shall remain responsible for miscellaneous costs of the  
26 judicial department related to furnishings, supplies, and  
27 equipment purchased for the use of judicial officers, referees,  
28 and their staff. Effective July 1, 1986 the state shall  
29 assume the responsibility for miscellaneous costs of the  
30 judicial department related to furnishings, supplies, and  
31 equipment purchased for the use of judicial officers, referees,  
32 and their staff.

33 NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county  
34 shall remain responsible for the compensation of probate  
35 referees and judicial hospitalization referees. Effective

1 July 1, 1986 the state shall assume the responsibility for  
2 the compensation of probate referees and judicial  
3 hospitalization referees.

4 NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 Polk county  
5 shall remain responsible for the compensation of two and one-  
6 half full-time equivalent positions associated with the  
7 district court administrator's office and related to clerical  
8 assistance for the criminal court and to the scheduling of  
9 indictable misdemeanor trials, rural case assignments, and  
10 connected word processing and other clerical assistance.

11 Sec. 17. Section 602.11101, Code Supplement 1983, is  
12 amended by adding the following new subsection:

13 NEW SUBSECTION. 7. The county shall remain responsible  
14 for the court-ordered costs of conciliation procedures under  
15 section 598.16.

16 Sec. 18. Section 602.11102, Code Supplement 1983, is  
17 amended to read as follows:

18 602.11102 ACCRUED EMPLOYEE RIGHTS.

19 1. Persons who were paid salaries by the counties or  
20 judicial districts immediately prior to becoming state  
21 employees as a result of this Act chapter shall not forfeit  
22 accrued vacation, accrued sick leave, or longevity, except  
23 as provided in this section.

24 2. As a part of its rule-making authority under section  
25 602.11101, the supreme court, after consulting with the state  
26 comptroller, shall prescribe rules to provide for the  
27 following:

28 a. Each person referred to in subsection 1 shall have  
29 to the person's credit as a state employee commencing on the  
30 date of becoming a state employee the number of accrued  
31 vacation days that was credited to the person as a county  
32 employee as of the end of the day prior to becoming a state  
33 employee.

34 b. Each person referred to in subsection 1 shall have  
35 to the person's credit as a state employee commencing on the

1 date of becoming a state employee the number of accrued days  
2 of sick leave that was credited to the person as a county  
3 employee as of the end of the day prior to becoming a state  
4 employee. However, the number of days of sick leave credited  
5 to a person under this subsection and eligible to be taken  
6 when sick or eligible to be received upon retirement shall  
7 not respectively exceed the maximum number of days, if any,  
8 or the maximum dollar amount as provided in section 79.23  
9 that state employees generally are entitled to accrue or  
10 receive according to ~~laws-and~~ rules in effect as of the date  
11 the person becomes a state employee.

12 c. Commencing on the date of becoming a state employee,  
13 each person referred to in subsection 1 is entitled to claim  
14 the person's most recent continuous period of service in full-  
15 time county employment as full-time state employment for  
16 purposes of determining the number of days of vacation which  
17 the person is entitled to earn each year. The actual vacation  
18 benefit, including the limitation on the maximum accumulated  
19 vacation leave, shall be determined as provided in section  
20 79.1 according to ~~laws-and~~ rules in effect for state employees  
21 of comparable longevity, irrespective of any greater or lesser  
22 benefit as a county employee.

23 d. Notwithstanding paragraphs "b" and "c", for the period  
24 beginning July 1, 1984, and ending June 30, 1986, court  
25 reporters who become state employees as a result of this Act  
26 are not subject to the sick leave and vacation accrual  
27 limitations generally applied to state employees. However,  
28 court reporters are subject to the maximum dollar limitation  
29 upon retirement as provided in section 79.23.

30 Sec. 19. Section 602.11103, Code Supplement 1983, is  
31 amended to read as follows:

32 602.11103 LIFE, AND HEALTH, AND DISABILITY INSURANCE.  
33 Persons who were covered by county employee life insurance  
34 and accident and health insurance plans prior to becoming  
35 state employees as a result of this Act chapter shall be

1 permitted to apply prior to becoming state employees for life  
2 insurance and health and accident insurance plans that are  
3 available to state employees so that those persons do not  
4 suffer a lapse of insurance coverage as a result of this Act  
5 chapter. The supreme court, after consulting with the state  
6 comptroller, shall prescribe rules and distribute application  
7 forms and take other actions as necessary to enable those  
8 persons to elect to have insurance coverage that is in effect  
9 on the date of becoming state employees. The actual insurance  
10 coverage available to a person shall be determined by the  
11 plans that are available to state employees, irrespective  
12 of any greater or lesser benefits as a county or judicial  
13 district employee.

14 Commencing on the date of becoming a state employee, each  
15 person referred to in this section is entitled to claim the  
16 person's most recent continuous period of service in full-  
17 time county or judicial district employment as full-time state  
18 employment for purposes of determining disability benefits  
19 as provided in section 79.20 according to rules in effect  
20 for state employees of comparable longevity, irrespective  
21 of any greater or lesser benefit as a county or judicial  
22 district employee.

23 Sec. 20. Section 602.11104, Code Supplement 1983, is  
24 amended to read as follows:

25 602.11104 COMPENSATION AND BENEFITS. Notwithstanding  
26 sections 602.11102, 602.11103, and 602.11106, a county or  
27 judicial district employee who becomes a state employee as  
28 a result of this Act chapter shall receive the compensation  
29 and other benefits provided to state employees, unless the  
30 employee, within the ~~period-of-time-beginning~~ thirty days  
31 prior to the day when the employee becomes a state employee  
32 ~~and-ending-thirty-days-after-the-employee-becomes-a-state~~  
33 employee, files an election with the state court administrator  
34 to continue to receive, for an indefinite period of time,  
35 the same compensation ~~and-other-benefits~~, without increase

1 or decrease, received by the employee immediately prior to  
2 becoming a state employee, the same life, health, and  
3 disability benefits that are provided to comparable county  
4 employees, and the same vacation and sick leave benefits  
5 received by the employee immediately prior to becoming a state  
6 employee with any sick leave payable upon retirement not to  
7 exceed the amount which the employee is eligible to receive  
8 on June 30, 1984, except that court reporters are entitled  
9 to receive state disability benefits. If an employee files  
10 the election, the employee may at any time thereafter revoke  
11 the election and agree to receive the compensation and other  
12 benefits provided to state employees. The state court  
13 administrator shall reimburse counties for expenses incurred  
14 as a result of employee elections to continue to receive the  
15 same compensation and-~~ether~~-benefits, without increase or  
16 decrease, which the employees received immediately prior to  
17 becoming state employees, the same life, health, and disability  
18 benefits that are provided to comparable county employees,  
19 and the same vacation and sick leave benefits received by  
20 the employee immediately prior to becoming a state employee  
21 with any sick leave payable upon retirement not to exceed  
22 the amount which the employee is eligible to receive on June  
23 30, 1984, except that court reporters are entitled to receive  
24 state disability benefits. If an employee files the election,  
25 the county shall continue to provide the employee with the  
26 same life, health, and disability benefits that are provided  
27 to comparable county employees. If an employee files the  
28 election and later revokes the election in order to receive  
29 the compensation and other benefits provided to state  
30 employees, section 602.11103 applies to the employee as if  
31 the employee were becoming a state employee for the first  
32 time on the effective date of the revocation of the election.

33 Sec. 21. Section 602.11110, Code Supplement 1983, is  
34 amended to read as follows:

35 602.11110 JUDGESHIPS FOR ELECTION DISTRICTS 5A AND 5C.

1 As soon as practicable after January 1, 1985, the supreme  
2 court administrator shall recompute the number of judgeships  
3 to which judicial election districts 5A and 5C are entitled.  
4 Notwithstanding section 602.6201, subsection 2, the seventeen  
5 incumbent district judges in judicial election district 5A  
6 on December 31, 1984 may reside in either judicial election  
7 district 5A or 5C beginning January 1, 1985. The supreme  
8 court administrator shall apportion to judicial election  
9 district 5C those incumbent district judges who were appointed  
10 to replace district judges residing in Polk county or who  
11 were appointed to fill newly created judgeships while residing  
12 in Polk county. The incumbent district judges residing in  
13 Polk county on January 1, 1985 who are not so apportioned  
14 to judicial election district 5C shall be apportioned to  
15 judicial election district 5A but shall be reapportioned to  
16 judicial election district 5C, in the order of their seniority  
17 as district judges, as soon as the first vacancies occur in  
18 judicial election district 5C due to death, resignation,  
19 retirement, removal, or failure of retention. Such a  
20 reapportionment constitutes a vacancy in judicial election  
21 district 5A for purposes of section 602.6201. Notwithstanding  
22 section 602.6201, subsection 2, the seventeen incumbent  
23 district judges in judicial election district 5A on December  
24 31, 1984 shall stand for retention in the judicial election  
25 district to which the district judges are apportioned or  
26 reapportioned under this section. Commencing on January 1,  
27 1985, vacancies within judicial election districts 5A and  
28 5C shall be determined and filled under section 602.6201,  
29 subsections 4 through 8. For purposes of the recomputations,  
30 the supreme court administrator shall determine the average  
31 case filings for the latest available three-year period by  
32 reallocating the actual case filings during the three-year  
33 period to judicial election districts 5A and 5C as if they  
34 existed throughout the three-year period.

35 Sec. 22. Section 631.6, Code Supplement 1983, is amended

1 to read as follows:

2 631.6 FEES AND COSTS. All fees and costs required to  
3 be paid in small claims actions shall be paid in advance,  
4 and shall be assessed as costs in the action.

5 1. The docket fee for a small claims action is ~~ten~~ eleven  
6 dollars. ~~Other fees imposed for small claims shall be the~~  
7 ~~same as those required in regular actions in district court,~~  
8 ~~four~~ Four dollars of the fee shall ~~remain~~ be deposited in  
9 the ~~county treasury for the use of the county~~ court revenue  
10 distribution account established under section 602.8108 and  
11 ~~six~~ seven dollars of the fee shall be paid into the state  
12 treasury. Of the amount paid into the state treasury, two  
13 dollars shall be deposited in the judicial retirement fund  
14 established in section 602.9104 to be used to pay retirement  
15 benefits of the judicial retirement system, and the remainder  
16 shall be deposited in the general fund of the state. A  
17 consolidated service fee for small claims is imposed in section  
18 602.8105, subsection 1, paragraph "c".

19 2. Postage charged for the mailing of original notices  
20 shall be the actual cost of the postage.

21 3. Fees for personal service by peace officers or other  
22 officials of the state ~~shall be~~ are the amounts specified  
23 by law.

24 4. Fees for service of notice on nonresidents ~~shall be~~  
25 are as provided in section 617.3.

26 All fees and costs collected in small claims actions, other  
27 than the seven dollars of the docket fee to be paid into the  
28 state treasury, shall be deposited in the court revenue  
29 distribution account established under section 602.8108,  
30 except that the fee specified in subsection 4 of this section  
31 shall be remitted to the secretary of state.

32 Sec. 23. Section 666.6, Code Supplement 1983, as amended  
33 to be effective July 1, 1984 under 1983 Iowa Acts, chapter  
34 185, sections 59 and 62, is amended to read as follows:

35 666.6 REPORT OF FORFEITED BONDS. ~~Not later than January~~

1 ~~15-of-each-year,-the~~ The clerk of the district court shall  
 2 make an annual statistical report in writing to the ~~treasurer~~  
 3 ~~of-state~~ supreme court on the first Monday in February of  
 4 the amount of all forfeited recognizances in the clerk's  
 5 office; of the amount of all fines, penalties, and forfeitures  
 6 imposed in the district court, ~~-which-by-law-are-paid-to-the~~  
 7 ~~treasurer-of-state-for-deposit-in-the-general-fund-of-the~~  
 8 ~~state,-in-what-cause-or-proceeding,-when-and-for-what-purpose,-~~  
 9 ~~against-whom-and-for-what-amount,-rendered;~~ whether the amount  
 10 of fines, penalties, forfeitures, and recognizances have been  
 11 ~~paid,-remitted,-canceled,-or-otherwise-satisfied,-if-so,-when,-~~  
 12 ~~how,-and-in-what-manner,-and-if~~ not paid, remitted, canceled,  
 13 or otherwise satisfied, and what steps have been taken to  
 14 enforce the collection of the fines, penalties, forfeitures,  
 15 and recognizances. ~~However,-the-report-shall-only-contain~~  
 16 ~~information-not-already-reported-on-a-monthly-basis-~~

17 ~~Such-report-must-be-true,-and-complete-with-reference~~  
 18 ~~to-the-matters-therein-contained,-and-of-all-things-required~~  
 19 ~~by-this-section-to-be-reported,-and-be-under-oath,-and-any~~  
 20 ~~officer-failing-to-make-such-report-shall-be-guilty-of-a~~  
 21 ~~simple-misdemeanor-~~

22 Sec. 24. Section 805.9, subsection 6, Code Supplement  
 23 1983, is amended to read as follows:

24 6. The eight dollars in costs imposed by this section  
 25 are the total costs collectible from a defendant upon either  
 26 an admission of a violation without hearing, or upon a hearing  
 27 pursuant to subsection 4. ~~Fees-shall-not-be-imposed-upon~~  
 28 ~~or-collected-from-a-defendant-for-the-purposes-specified-in~~  
 29 ~~section-602-8105,-subsection-1,-paragraph-"i",-or-"j",-or-"k"-~~

30 Sec. 25. Section 805.11, unnumbered paragraph 2, Code  
 31 Supplement 1983, is amended by striking the unnumbered  
 32 paragraph.

33 Sec. 26. Section 815.11, Code Supplement 1983, is amended  
 34 to read as follows:

35 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE. Costs incurred

1 under sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6,  
2 815.7, 815.10, ~~815.12~~, or the rules of criminal procedure  
3 on behalf of an indigent shall be paid from funds appropriated  
4 by the general assembly to the supreme court for those  
5 purposes.

6 Sec. 27. Section 815.13, Code Supplement 1983, is amended  
7 to read as follows:

8 815.13 PAYMENT OF PROSECUTION COSTS. The county or city  
9 ~~that-proseecutes~~ which has the duty to prosecute a criminal  
10 action shall pay ~~the-required-fees-and-mileage-to-witnesses~~  
11 ~~called-on-behalf-of-the-proseecution~~, the costs of depositions  
12 taken on behalf of the prosecution, the costs of transcripts  
13 requested by the prosecution, and in criminal actions  
14 prosecuted by the county or city under county or city ordinance  
15 the fees that are payable to the clerk of the district court  
16 for services rendered, and the court costs taxed in connection  
17 with the trial of the action or appeals from the judgment.  
18 The county or city shall pay the costs of its witnesses in  
19 criminal actions prosecuted by the county or city under county  
20 or city ordinance. These fees and costs are recoverable by  
21 the county or city from the defendant unless the defendant  
22 is found not guilty or the action is dismissed. ~~Expenditures~~  
23 ~~of-a-county-under-this-section-may-be-paid-out-of-the-court~~  
24 ~~expense-fund-in-lieu-of-the-county-general-fund-~~

25 Sec. 28. Section 910.2, Code Supplement 1983, is amended  
26 to read as follows:

27 910.2 RESTITUTION ORDERED BY SENTENCING COURT. In all  
28 criminal cases except simple misdemeanors under chapter 321,  
29 in which there is a plea of guilty, verdict of guilty, or  
30 special verdict upon which a judgment of conviction is ren-  
31 dered, the sentencing court shall order that restitution be  
32 made by each offender to the victims of the offender's criminal  
33 activities and, if the court so orders and to the extent that  
34 the offender is reasonably able to do so, ~~to-the-county-where~~  
35 ~~convietion-was-rendered~~ for court costs, court-appointed

1 attorney's fees or the expense of a public defender when  
2 applicable. However, victims shall be paid in full before  
3 restitution payments-are is paid ~~to the county~~ for court  
4 costs, court-appointed attorney's fees or for the expense  
5 of a public defender. When the offender is not reasonably  
6 able to pay all or a part of the court costs, court-appointed  
7 attorney's fees or the expense of a public defender, the court  
8 may require the offender in lieu of that portion of the court  
9 costs, court-appointed attorney's fees, or expense of a public  
10 defender for which the offender is not reasonably able to  
11 pay, to perform a needed public service for any a governmental  
12 agency or for a private, nonprofit agency which provides a  
13 service to the youth, elderly or poor of the community. When  
14 community service is ordered, the court shall set a specific  
15 number of hours of service to be performed by the offender.  
16 The judicial district department of correctional services  
17 shall provide for the assignment of the offender to a public  
18 agency or private nonprofit agency to perform the required  
19 service.

20 Sec. 29. REPEALS.

21 1. Section 127.21, Code Supplement 1983, as amended to  
22 be effective July 1, 1984 under 1983 Iowa Acts, chapter 185,  
23 sections 3 and 62, is repealed. Sections 127.20 and 602.8107,  
24 Code Supplement 1983, are repealed.

25 2. Sections 247.29 through 247.31, Code Supplement 1983,  
26 are repealed.

27 3. Section 602.9110, Code Supplement 1983, is repealed.

28 EXPLANATION

29 This bill makes corrections and other changes relating  
30 to the court reorganization and court fee legislation enacted  
31 in 1983.

32 Sections 1, 13, 23, and 29 correct certain sections of  
33 the Code which relate to both the court reorganization and  
34 school finance legislation enacted in 1983. Section 1 reenacts  
35 section 127.20 and deletes a reference to section 602.8107.

1 The 1983 Code Supplement version of section 127.20 and section  
2 602.8107 are repealed in section 29. The two sections are  
3 effective only to July 1, 1984 as the school finance  
4 legislation voided their effect after that date. Section  
5 13 conforms the court reorganization legislation to the school  
6 finance legislation and credits other fines and forfeitures  
7 received by a magistrate to the general fund of the state.  
8 Section 23 amends the school finance legislation to conform  
9 its provisions to the court reorganization legislation by  
10 requiring the submission of the clerk's annual report of  
11 fines, penalties, and forfeitures to the supreme court rather  
12 than the treasurer of state. The clerk is given one extra  
13 month to prepare the report for submission and is authorized  
14 to delete certain detailed information from the report. The  
15 criminal penalty in the section is deleted. Section 29 repeals  
16 section 127.21 which is unnecessary due to the reenactment  
17 of section 127.20 in section 1.

18 Section 2 contains a technical amendment to deposit county  
19 ordinance fines into the county general fund.

20 Sections 3, 5, 14, and 27 require that the state assume  
21 the costs of prosecution witness fees and mileage in criminal  
22 actions prosecuted under state law beginning July 1, 1984.  
23 The counties and cities remain responsible for prosecution  
24 witness costs and other court fees in criminal actions  
25 prosecuted under county or city ordinance. Indigent defense  
26 witness fees would not be assumed by the state until July  
27 1, 1987 under section 602.11101, subsection 6 and section  
28 815.11, Code Supplement 1983. Court fees payable by a county  
29 in criminal actions prosecuted under county ordinance are  
30 waived until July 1, 1986.

31 Sections 4, 6, and 29 repeal certain reporting require-  
32 ments relating to county expenses for criminal prosecutions  
33 and county criminal statistics and substitute a requirement  
34 to report criminal convictions to the office for planning  
35 and programming.

1 Section 7 deletes a reference to a repealed section of  
2 the Code.

3 Section 8 makes the \$35 filing and docketing fee inap-  
4 plicable to petitions for modification of a dissolution decree  
5 within one hundred eighty days of the date of the entering  
6 of the decree.

7 Section 9 makes the \$25 advance fee for various services  
8 inapplicable to simple misdemeanor cases at trial, in order  
9 to conform to current fee collection practices. The section  
10 also makes the \$25 fee inapplicable to small claims and simple  
11 misdemeanors on appeal.

12 Section 10 abolishes the separate services fees for small  
13 claims at trial and establishes a consolidated fee of \$4,  
14 payable in advance.

15 Section 11 waives the fees payable by the county in criminal  
16 actions prosecuted under state law.

17 Section 12 authorizes the clerk of the district court to  
18 collect three small fees, in addition to the \$25 advance fee,  
19 for issuing an execution after judgment, for filing and  
20 docketing a transcript of judgment from another county, and  
21 for entering a judgment of confession.

22 Section 15 requires the state to assume the costs of  
23 juvenile court referees, effective July 1, 1985.

24 Section 16 requires the state to assume certain  
25 miscellaneous costs of the judicial department, effective  
26 July 1, 1986. The section also requires the state to assume  
27 the costs of probate referees and judicial hospitalization  
28 referees, effective July 1, 1986. The section also requires  
29 Polk county to continue to provide the district court with  
30 certain staff assistance until July 1, 1986.

31 Section 17 requires the counties to continue to pay the  
32 costs of court-ordered marital conciliation.

33 Section 18 amends the transition provision on accrued em-  
34 ployee rights to clarify that county employees who become  
35 state employees under the court reorganization are limited

1 to both the maximum number of sick days allowed other state  
2 employees, should the state reimpose such a limitation, and  
3 to the maximum dollar amount in sick leave payable upon  
4 retirement, currently \$2,000. The section also clarifies  
5 that the limitation on the maximum accumulated vacation leave,  
6 currently two times the annual rate of accrual, applies to  
7 the new state employees. The section also subjects court  
8 reporters to the same sick leave retirement amount, currently  
9 \$2,000, as applied to other state employees.

10 Section 19 extends the same disability benefits to the  
11 new state employees as to other comparable state employees.

12 Section 20 amends the transition provision on compensation  
13 and benefits to delete the last 30 days of the 60-day period  
14 for new state employees to elect to continue to receive county  
15 compensation and benefits. The section clarifies that elected  
16 county compensation and vacation and sick leave benefits are  
17 frozen at the level immediately preceding state employment,  
18 with sick leave retirement benefits frozen at the July 1,  
19 1984 level, and that the elected life, health, and disability  
20 benefits are the same benefits as provided to comparable  
21 county employees, except for disability benefits for court  
22 reporters. The section requires counties to continue to  
23 provide the same benefits to electing employees. The section  
24 provides that a later revocation of the election triggers  
25 the application of the transition provision on life, health,  
26 and disability insurance.

27 Section 21 provides rules for the apportionment and reten-  
28 tion of district judges in new judicial election districts  
29 5A and 5C.

30 Section 22 raises the small claims docket fee to \$11 and  
31 clarifies that \$4 of the \$11 small claims docket fee is to  
32 be deposited in the court revenue distribution account rather  
33 than the county treasury and that one additional dollar of  
34 the docket fee paid to the state is to be deposited in the  
35 judicial retirement fund.

1 Sections 24 and 25 delete Code references to three  
2 paragraphs repealed by the 1983 court fee legislation.

3 Section 26 deletes a Code reference which would include  
4 jury fees as a portion of indigent defense costs.

5 Section 28 deletes the requirement that restitution for  
6 court-related expenses is to be paid to the county, in order  
7 to conform to current fee collection practices. The  
8 restitution would be deposited in the court revenue dis-  
9 tribution account and paid to the state or the county ac-  
10 cording to their respective responsibilities for court-related  
11 expenses.

12 The bill takes effect July 1 following enactment.

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SENATE FILE 2360  
(AS AMENDED, PASSED, AND REPRINTED BY THE SENATE)

EXPLANATION

1

2 This bill makes corrections and other changes relating  
3 to the court reorganization and court fee legislation enacted  
4 in 1983.

5 Sections 1 and 8 make several technical changes in the  
6 statute on submission of rules by the supreme court to the  
7 general assembly. A substantive change is made to the date  
8 to which the legislative council may delay the effect of such  
9 a rule. A rule submitted between February 15 and February  
10 14 of the next calendar year may be delayed until May 1 of  
11 the next calendar year.

12 Sections 2, 18, 29, and 39 correct certain sections of  
13 the Code which relate to both the court reorganization and  
14 school finance legislation enacted in 1983. Section 2 reenacts  
15 section 127.20 and deletes a reference to section 602.8107.  
16 The 1983 Code Supplement version of section 127.20 and section  
17 602.8107 are repealed in section 39. The two sections are  
18 effective only to July 1, 1984 as the school finance  
19 legislation voided their effect after that date. Section  
20 18 conforms the court reorganization legislation to the school  
21 finance legislation and credits other fines and forfeitures  
22 received by a magistrate to the general fund of the state.  
23 Section 29 amends the school finance legislation to conform  
24 its provisions to the court reorganization legislation by  
25 requiring the submission of the clerk's annual report of  
26 fines, penalties, and forfeitures to the supreme court rather  
27 than the treasurer of state. The clerk is given one extra  
28 month to prepare the report for submission and is authorized  
29 to delete certain detailed information from the report. The  
30 criminal penalty in the section is deleted. Section 39 repeals  
31 section 127.21 which is unnecessary due to the reenactment  
32 of section 127.20 in section 2.

33 Section 3 contains a technical amendment to deposit county  
34 ordinance fines into the county general fund.

35 Sections 4, 7, 20, and 36 require that the state assume

1 the costs of prosecution witness fees and mileage in criminal  
2 actions prosecuted under state law beginning July 1, 1984.  
3 The counties and cities remain responsible for prosecution  
4 witness costs and other court fees in criminal actions  
5 prosecuted under county or city ordinance. Indigent defense  
6 witness fees would not be assumed by the state until July  
7 1, 1987 under section 602.11101, subsection 6 and section  
8 815.11, Code Supplement 1983. However, court fees payable  
9 by a county in criminal actions prosecuted under county  
10 ordinance are waived until July 1, 1986.

11 Sections 5, 9, and 39 repeal certain reporting require-  
12 ments relating to county expenses for criminal prosecutions  
13 and county criminal statistics and substitute a requirement  
14 to report criminal convictions to the office for planning  
15 and programming.

16 Section 6 amends chapter 601A to state that administrative  
17 closures are not authorized where an investigation is  
18 warranted.

19 Section 10 authorizes the receipt of checks and certain  
20 other negotiable instruments by the clerk of the district  
21 court or friend of the court as payments of support  
22 obligations.

23 Section 11 deletes a reference to a repealed section of  
24 the Code.

25 Section 12 makes the \$35 filing and docketing fee inap-  
26 plicable to petitions for modification of a dissolution decree  
27 within one hundred eighty days of the date of the entering  
28 of the decree.

29 Section 13 makes the \$25 advance fee for various services  
30 inapplicable to simple misdemeanor cases at trial, in order  
31 to conform to current fee collection practices. The section  
32 also makes the \$25 fee inapplicable to small claims and simple  
33 misdemeanors on appeal.

34 Section 14 abolishes the separate services fees for small  
35 claims at trial and establishes a consolidated fee of \$4,

1 payable in advance.

2 Section 15 waives the fees payable by the county in criminal  
3 actions prosecuted under state law.

4 Section 16 authorizes the clerk of the district court to  
5 collect two small fees, in addition to the \$25 advance fee,  
6 for filing and docketing a transcript of judgment from another  
7 county, and for entering a judgment of confession.

8 The section also adds an administrative fee for the  
9 collection and distribution of support obligations, collectible  
10 after all support obligations have been paid.

11 Sections 17, 19, 30, 31, 32, and 33 raise the fee from  
12 eight to ten dollars for the filing and docketing of a  
13 complaint or information for a simple misdemeanor and for  
14 court costs in scheduled violation cases. One additional  
15 dollar is to be remitted to the treasurer of state for deposit  
16 in the general fund of the state and the second additional  
17 dollar is to be credited to the judicial retirement fund.

18 Section 21 requires the state to assume the costs of  
19 juvenile court referees, effective July 1, 1985.

20 Section 22 requires the state to assume certain  
21 miscellaneous costs of the judicial department, effective  
22 July 1, 1986. The section also requires the state to assume  
23 the costs of probate referees and judicial hospitalization  
24 referees, effective July 1, 1986. The section also requires  
25 Polk county and Scott county to continue to provide the  
26 district court with certain staff assistance until July 1,  
27 1986.

28 Section 23 requires the counties to continue to pay the  
29 costs of court-ordered marital conciliation.

30 Section 24 amends the transition provision on accrued em-  
31 ployee rights to clarify that county employees who become  
32 state employees under the court reorganization are limited  
33 to both the maximum number of sick days allowed other state  
34 employees, should the state reimpose such a limitation, and  
35 to the maximum dollar amount in sick leave payable upon

1 retirement, currently \$2,000. The section also clarifies  
2 that the limitation on the maximum accumulated vacation leave,  
3 currently two times the annual rate of accrual, applies to  
4 the new state employees. The section also subjects court  
5 reporters to the same sick leave retirement amount, currently  
6 \$2,000, as applied to other state employees.

7 Section 25 extends the same disability benefits to the  
8 new state employees as to other comparable state employees.

9 Section 26 amends the transition provision on compensation  
10 and benefits to delete the last 30 days of the 60-day period  
11 for new state employees to elect to continue to receive county  
12 compensation and benefits. The section clarifies that elected  
13 county compensation and vacation and sick leave benefits are  
14 frozen at the level immediately preceding state employment,  
15 with sick leave retirement benefits frozen at the July 1,  
16 1984 level, and that the elected life, health, and disability  
17 benefits are the same benefits as provided to comparable  
18 county employees, except for disability benefits for court  
19 reporters. The section requires counties to continue to  
20 provide the same benefits to electing employees. The section  
21 provides that a later revocation of the election triggers  
22 the application of the transition provision on life, health,  
23 and disability insurance. (Section 602.11104, Code Supplement  
24 1983, is repealed in House File 2518.)

25 Section 27 provides rules for the apportionment and reten-  
26 tion of district judges in new judicial election districts  
27 5A and 5C.

28 Section 28 raises the small claims docket fee from \$10  
29 to \$11 and clarifies that \$4 of the \$11 small claims docket  
30 fee is to be deposited in the court revenue distribution  
31 account rather than the county treasury and that one additional  
32 dollar of the docket fee paid to the state is to be deposited  
33 in the judicial retirement fund.

34 Sections 33 and 34 delete Code references to three  
35 paragraphs repealed by the 1983 court fee legislation.

1 Section 35 deletes a Code reference which would include  
2 jury fees as a portion of indigent defense costs.

3 Section 37 establishes a presumption of ability to pay  
4 a criminal fine and requires a defendant to prove inability  
5 to pay a fine.

6 Section 38 deletes the requirement that restitution for  
7 court-related expenses is to be paid to the county, in order  
8 to conform to current fee collection practices. The  
9 restitution would be deposited in the court revenue dis-  
10 tribution account and paid to the state or the county ac-  
11 cording to their respective responsibilities for court-related  
12 expenses.

13 Section 39 also repeals the prohibition on the receipt  
14 of an annuity by a member of the judicial retirement system  
15 while that member is serving as a state officer or employee.

16 The bill takes effect July 1 following enactment.

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SENATE FILE 2360

5968

1 Amend Senate File 2360 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

4 "Section 1. Section 2.42, subsection 16, Code  
5 Supplement 1983, as amended by 1984 Iowa Acts, Senate  
6 File 2129, section 1, is amended to read as follows:  
7 16. Authority to review ~~proposed~~ and delay the  
8 effective dates of rules and forms submitted by the  
9 supreme court pursuant to section 602.4202."

10 2. Page 2, by inserting after line 5 the following:

11 "Sec. \_\_\_\_\_. Section 331.655, subsection 1, paragraph  
12 a, Code Supplement 1983, is amended to read as follows:

13 a. For serving a notice and returning it, for  
14 the first person served, ~~six~~ twelve dollars, and each  
15 additional person, ~~six~~ twelve dollars except the fee  
16 for serving additional persons in the same household  
17 shall be ~~three~~ six dollars for each additional service,  
18 or if the service of notice cannot be made or several  
19 attempts are necessary, the repayment of all necessary  
20 expenses actually incurred by the sheriff while  
21 attempting in good faith to serve the notice."

22 3. Page 2, by inserting before line 6 the  
23 following:

24 "Sec. \_\_\_\_\_. Section 595.4, Code 1983, is amended  
25 by striking the section and inserting in lieu thereof  
26 the following:

27 595.4 AGE AND QUALIFICATION--WAITING PERIOD--  
28 DURATION OF LICENSE.

29 1. Before issuing a license to marry, the clerk  
30 of the district court shall require the following,  
31 which shall appear as part of the license:

32 a. A signed and verified statement from each party  
33 desiring the license, setting forth facts as to age  
34 and qualification which the clerk deems necessary  
35 to determine the party's competency to contract a  
36 marriage.

37 b. A signed and verified statement from at least  
38 one competent and disinterested person setting forth  
39 facts as to age and qualification of the parties which  
40 the clerk deems necessary to determine the competency  
41 of the parties to contract a marriage.

42 2. If the clerk is satisfied as to the competency  
43 of the parties to contract a marriage, the clerk shall  
44 issue the license upon payment of the prescribed fee.

45 3. The license is not valid until the expiration  
46 of three days from the date of its issuance. This  
47 restriction shall appear on the face of the license.

48 A district judge or district associate judge for the  
49 judicial district in which the license is issued may  
50 grant an order waiving or shortening the three-day

1 waiting period, upon application of the parties filed  
2 with the clerk, if the judge is satisfied that an  
3 emergency or extraordinary circumstances exist. A  
4 fee of five dollars shall be paid to the clerk at  
5 the time the application for the order is made, which  
6 fee is in addition to the fee prescribed by law for  
7 the issuance of a marriage license. Upon presentation  
8 by the parties of the order waiving or shortening  
9 the waiting period, the clerk shall enter on the  
10 license the facts of the order.

11 4. If the marriage does not take place within  
12 sixty-three days from the date of issuance of the  
13 license, the license is invalid. This restriction  
14 shall appear on the face of the license.

15 Sec. \_\_\_\_ . Section 595.5, Code 1983, is amended  
16 to read as follows:

A  
17 595.5 SURNAME ADOPTED. ~~Upon marriage either~~  
18 ~~Either party requesting a marriage license~~ may request  
19 ~~on the application for a marriage license~~ a name  
20 change, upon marriage, to that of the other party  
21 or to some other surname mutually agreed upon by the  
22 parties. The names used on the marriage license shall  
23 become the legal names of the parties to the marriage.  
24 The marriage license shall contain a statement that  
25 when a name change is requested and affixed to the  
26 marriage license, the new name is the legal name of  
27 the requesting party. If a party requests a name  
28 change, other than a change of surname to that of  
29 the other spouse or to a hyphenated combination of  
30 the surnames of both spouses, the party shall request  
31 approval of the court pursuant to chapter 674 and  
32 shall submit to the court the information required  
33 by section 674.2, and upon approval of the court and  
34 solemnization of the marriage, the clerk of the  
35 district court shall send a certified copy of the  
36 return of marriage to the recorder's office in every  
37 county in this state where real property is owned  
38 by either of the parties. The district judge or  
39 district associate judge may approve the name change.  
40 The new names and the immediate former names shall  
41 appear on the return of marriage, and the return of  
42 marriage shall be recorded in the miscellaneous records  
43 in the recorder's office. An individual can have  
44 only one legal name at any one time.

45 Sec. \_\_\_\_ . Section 595.6, Code 1983, is amended  
46 by striking the section and inserting in lieu thereof  
47 the following:

48 595.6 RECORDS. The clerk of the district court  
49 shall keep a record of each license issued. The  
50 record shall include the verified statements as to

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PAGE 3

A 1 age and qualification, orders of court relating to  
2 the license and other information the clerk deems  
3 necessary."

4 4. Page 2, by inserting after line 19 the follow-  
5 ing:

6 "Sec. \_\_\_\_ . Section 602.1505, subsection 1, Code  
7 Supplement 1983, is amended to read as follows:

B 8 1. The chief judge of each judicial district shall  
9 set the salaries of the clerks of the district court  
10 within the judicial district. ~~A clerk of the district~~  
11 ~~court shall not receive a salary in excess of the~~  
12 ~~highest salary paid to the county auditor, the county~~  
13 ~~treasurer, or the county recorder in the county in~~  
14 ~~which the clerk serves."~~

15 5. Page 2, by inserting before line 20 the  
16 following:

17 "Sec. \_\_\_\_ . Section 602.4202, Code Supplement 1983,  
18 is amended by striking the section and inserting in  
19 lieu thereof the following:

20 602.4202 RULE-MAKING PROCEDURE.

A 21 1. The supreme court shall submit a rule or form  
22 prescribed by the supreme court under section 602.4201  
23 or pursuant to any other rule-making authority  
24 specifically made subject to this section to the  
25 legislative council and shall at the same time report  
26 the rule or form to the chairpersons and ranking  
27 members of the senate committee on judiciary and the  
28 house committee on judiciary and law enforcement.  
29 The legislative service bureau shall make  
30 recommendations to the supreme court on the proper  
31 style and format of rules and forms required to be  
32 submitted to the legislative council under this  
33 subsection.

34 2. A rule or form submitted as required under  
35 subsection 1 takes effect sixty days after submission  
36 to the legislative council, or at a later date  
37 specified by the supreme court, unless the legislative  
38 council, within sixty days after submission and by  
39 a majority vote of its members, delays the effective  
40 date of the rule or form to a date provided in  
41 subsection 3.

42 3. The effective date of a rule or form submitted  
43 during the period of time beginning February 15 and  
44 ending December 14 may be delayed by the legislative  
45 council until February 15 of the next calendar year,  
46 and the effective date of a rule or form submitted  
47 during the period of time beginning December 15 and  
48 ending February 14 of the next calendar year may be  
49 delayed by the legislative council until May 1 of  
50 that next calendar year.

1 4. A rule or form submitted as required under  
2 subsection 1 and effective on or before July 1 shall  
3 be enrolled in substantially the same manner as Acts  
4 of the general assembly are enrolled and shall be  
5 filed with the secretary of state and bound with the  
6 Acts of the general assembly meeting in regular session  
7 in the calendar year in which the July 1 falls.

8 5. If the general assembly enacts a bill changing  
9 a rule or form, the general assembly's enactment  
10 supersedes a conflicting provision in the rule or  
11 form as submitted by the supreme court."

12 6. Page 2, by inserting after line 31 the  
13 following:

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14 "Sec. \_\_\_\_ Section 602.8102, subsection 83, Code  
15 Supplement 1983, is amended to read as follows:

16 83. ~~Aaccept-applications-for-and-issue~~ Issue  
17 marriage licenses as provided in chapter 595."

18 7. Page 4, by inserting after line 7 the following:

19 "Sec. \_\_\_\_ Section 602.8105, subsection 1,  
20 paragraph k, Code Supplement 1983, is amended to read  
21 as follows:

22 k. For issuing a marriage license, fifteen dollars.  
23 The clerk of the district court shall remit to the  
24 treasurer of state five dollars for each marriage  
25 license issued. The treasurer of state shall deposit  
26 the funds received in the general fund of the state.  
27 For ~~issuing~~ an application for an order of the district  
28 court authorizing the ~~issuance-of-a-license-to-marry~~  
29 ~~prior-to-the-expiration-of-three-days-from-the-date~~  
30 ~~of-filing-the-application-for-the-license~~ waiver or  
31 shortening of the three-day waiting period before  
32 the license becomes valid, five dollars."

33 8. Page 4, by inserting after line 17 the  
34 following:

35 "NEW LETTERED PARAGRAPH. s. For the administrative  
36 costs of collecting and distributing support payments  
37 payable to the clerk of the district court under  
38 section 598.22, to be paid annually by the person,  
39 obligated to pay the support and to be billed and  
40 collected by the clerk separately from and in addition  
41 to both current and accrued support payments payable  
42 to the clerk, twenty-five dollars."

43 9. Page 13, by inserting after line 24 the  
44 following:

45 "Sec. \_\_\_\_ NEW SECTION. 909.7 ABILITY TO PAY  
46 FINE PRESUMED. A defendant is presumed to be able  
47 to pay a fine. The court may sentence the defendant  
48 to pay a fine and, in the alternative, may sentence  
49 the defendant to confinement if the defendant does  
50 not pay the fine. However, if the defendant proves

A 1 to the satisfaction of the court that the defendant  
2 cannot pay the fine, the defendant shall not be  
3 confined."

4 10. By renumbering as necessary.

SENATE FILE 2360

5-5978

1 Amend Senate File 2360 as follows:

2 1. Page 4, by inserting after line 17 the  
3 following:

4 "Sec. \_\_\_\_ Section 602.8106, subsection 1, Code  
5 Supplement 1983, is amended to read as follows:

6 1. Notwithstanding section 602.8105, the fee for  
7 the filing and docketing of a complaint or information  
8 for a simple misdemeanor ~~shall be eight~~ is ten dollars,  
9 ~~provided that.~~ However, a fee for filing and docketing  
10 a complaint or information shall not be collected  
11 in cases of overtime parking."

12 2. Page 4, by inserting after line 23 the  
13 following:

14 "Sec. \_\_\_\_ Section 602.8106, subsection 4, Code  
15 Supplement 1983, is amended to read as follows:

16 4. All fees and costs for the filing of a complaint  
17 or information or upon forfeiture of bail received  
18 from a magistrate shall be distributed by the clerk  
19 as follows:

20 a. One-half shall be remitted monthly by the clerk  
21 to the treasurer of state to be credited to the general  
22 fund of the state.

23 b. ~~One-fourth~~ One-fifth shall be deposited in  
24 the court revenue distribution account established  
25 under section 602.8108.

26 c. ~~One-fourth~~ Three-tenths shall be remitted  
27 monthly by the clerk to the treasurer of state to  
28 be credited to the judicial retirement fund established  
29 under section 602.9104."

30 3. Page 12, by inserting after line 21 the  
31 following:

32 "Sec. \_\_\_\_ Section 805.6, subsection 1, paragraph  
33 a, Code Supplement 1983, is amended to read as follows:

34 a. The commissioner of public safety and the state  
35 conservation director, acting jointly, shall adopt  
36 a uniform, combined citation and complaint which shall  
37 be used for charging all traffic violations in Iowa  
38 under state law or local regulation or ordinance,  
39 and which shall be used for charging all other  
40 violations which are designated by section 805.8 to  
41 be scheduled violations. The court costs in scheduled  
42 violation cases are the same as the fee for the filing  
43 and docketing of simple misdemeanor cases, as pro-  
44 vided in section 602.8106, subsection 1. This  
45 subsection does not prevent the charging of any of  
46 those violations by information, by private complaint  
47 filed under chapter 804, or by a simple notice of  
48 fine where permitted by section 321.236, subsection  
49 1. Each uniform citation and complaint shall be  
50 serially numbered and shall be in quintuplicate, and

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PAGE 2

1 the officer shall deliver the original and a copy  
2 to the court where the defendant is to appear, two  
3 copies to the defendant, and a copy to the law  
4 enforcement agency of the officer. The court shall  
5 forward the copy of the uniform citation and complaint  
6 in accordance with section 321.207 when applicable.  
7 The uniform citation and complaint shall contain  
8 spaces for the parties' names; the address of the  
9 alleged offender; the registration number of the  
10 offender's vehicle; the information required by section  
11 805.2; a promise to appear as provided in section  
12 805.3 and a place where the cited person may sign  
13 the promise to appear; a list of the scheduled fines  
14 prescribed by section 805.8, either separately or  
15 by group, and a statement ~~that~~ of the court costs  
16 payable in scheduled offense violation cases, whether  
17 or not a court appearance is required or is demanded,  
18 ~~are eight-dollars~~; a brief explanation of sections  
19 805.9 and 805.10; and a space where the defendant  
20 may sign an admission of the violation when permitted  
21 by section 805.9; and the uniform citation and  
22 complaint shall require that the defendant appear  
23 before a court at a specified time and place. The  
24 uniform citation and complaint also may contain a  
25 space for the imprint of a credit card, and may contain  
26 any other information which the commissioner of public  
27 safety and the state conservation director may  
28 determine.

29 Sec. \_\_\_\_ . Section 805.6, subsection 1, paragraph  
30 c, subparagraphs (1), (2), and (3), Code Supplement  
31 1983, are amended to read as follows:

32 (1) If the offense is one to which a scheduled  
33 fine is applicable, an amount equal to one and one-  
34 half times the scheduled fine plus ~~eight-dollars~~ court  
35 costs.

36 (2) If the violation charged involved or resulted  
37 in an accident or injury to property and the total  
38 damages are less than two hundred fifty dollars, the  
39 amount of fifty dollars ~~and-eight-dollars~~ plus court  
40 costs.

41 (3) If the violation is for any offense for which  
42 a court appearance is mandatory, the amount of one  
43 hundred dollars plus ~~eight-dollars~~ court costs.

44 Sec. \_\_\_\_ . Section 805.9, subsections 1 through  
45 5, Code Supplement 1983, are amended to read as  
46 follows:

47 1. In cases of scheduled violations, the defendant,  
48 before the time specified in the citation and complaint  
49 for appearance before the court, may sign the admission  
50 of violation on the citation and complaint and deliver

1 or mail the citation and complaint, together with  
2 the minimum fine for the violation, plus ~~eight-dollars~~  
3 court costs, to a scheduled violations office in the  
4 county. The office shall, if the offense is a moving  
5 violation under chapter 321, forward a copy of the  
6 citation and complaint and admission to the department  
7 of transportation as required by section 321.207.

8 In this case the defendant is not required to appear  
9 before the court. The admission constitutes a  
10 conviction.

11 2. A defendant charged with a scheduled violation  
12 by information may obtain two copies of the information  
13 from the court and, before the time the defendant  
14 is required to appear before the court, deliver or  
15 mail the copies, together with the defendant's  
16 admission, fine, and ~~eight-dollars~~ court costs, to  
17 the scheduled violations office in the county. The  
18 procedure, fine, and costs are the same as when the  
19 charge is by citation and complaint, with the admission  
20 and the number of the defendant's operator's or  
21 chauffeur's license placed upon the information, when  
22 the violation involves the use of a motor vehicle.

23 3. When section 805.8 and this section are  
24 applicable but the officer does not deem it advisable  
25 to release the defendant and no court in the county  
26 is in session:

27 a. If the defendant wishes to admit the violation,  
28 the officer may release the defendant upon observing  
29 the person mail the citation and complaint, admission,  
30 and minimum fine, together with ~~eight-dollars~~ court  
31 costs, to a traffic violations office in the county,  
32 in an envelope furnished by the officer. The admission  
33 constitutes a conviction and judgment in the amount  
34 of the scheduled fine plus ~~eight-dollars~~ court costs.  
35 The officer may allow the defendant to use a credit  
36 card pursuant to rules adopted under section 805.14  
37 by the department of public safety or to mail a check  
38 in the proper amount in lieu of cash. If the check  
39 is not paid by the drawee for any reason, the defendant  
40 may be held in contempt of court. The officer shall  
41 advise the defendant of the penalty for nonpayment  
42 of the check.

43 b. If the defendant does not comply with paragraph  
44 "a" ~~of this subsection~~, the officer may release the  
45 defendant upon observing the defendant mail to a court  
46 in the county the citation and complaint and one and  
47 one-half times the minimum fine together with ~~eight~~  
48 ~~dollars~~ court costs, or in lieu of one and one-half  
49 times the fine and the court costs, a guaranteed  
50 arrest bond certificate as provided in section 321.1.

1 subsection 70, as bail together with the following  
2 statement signed by the defendant:  
3 "I agree that either (1) I will appear pursuant  
4 to this citation or (2) if I do not appear in person  
5 or by counsel to defend against the offense charged  
6 in this citation the court is authorized to enter  
7 a conviction and render judgment against me for the  
8 amount of one and one-half times the scheduled fine  
9 plus ~~eight-dollars~~ court costs."

10 c. If the defendant does not comply with paragraph  
11 "a" or "b", or when section 804.7 is applicable, the  
12 officer may arrest and confine the defendant if  
13 authorized by the latter section, and proceed according  
14 to chapter 804.

15 4. A defendant who admits a scheduled violation  
16 may appear before court. The procedure, costs, and  
17 fine, without suspension of the fine, after the hearing  
18 are the same as in the traffic violations office.

19 5. A defendant charged with a scheduled violation  
20 who does not fully comply with subsection 1, 2, 3,  
21 or 4 of this section before the time required to  
22 appear before the court must, at that time, appear  
23 before the court. If the defendant admits the  
24 violation, the procedure, costs, and fine, without  
25 suspension of the fine, after the hearing are the  
26 same before the court as before the traffic violations  
27 office ~~with-eight-dollars-court-costs,~~ and are without  
28 prejudice, when applicable, to proceedings under  
29 section 321.487."

30 4. Page 12, line 24, by striking the words "eight  
31 dollars in" and inserting in lieu thereof the words  
32 "~~eight-dollars-+n~~ court".

33 5. By renumbering as necessary.

S-5978 FILED & ADOPTED  
APRIL 18, 1984 (p. 1638)

BY ARTHUR A. SMALL JR.

SENATE FILE 2360

S-5969

1 Amend Senate File 2360 as follows:

2 1. Page 2, by inserting after line 31 the  
3 following:

4 "Sec. \_\_\_\_ . Section 602.8103, Code Supplement 1983,  
5 is amended by adding the following new subsection:  
6 NEW SUBSECTION. 6. Accept a check, share draft,  
7 draft, or written order on a bank, savings and loan  
8 association, credit union, corporation, or person  
9 as payment of a support obligation which is payable  
10 to the clerk or friend of the court, in accordance  
11 with procedures established by the clerk or friend  
12 of the court to assure that such negotiable instruments  
13 will not be dishonored."

14 2. By renumbering as necessary.

S-5969 FILED  
APRIL 18, 1984  
ADOPTED (p. 1638)

BY WALLY E. HORN

SENATE FILE 2360

S-5993

1 Amend Senate File 2360 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

4 "Section 1. Section 2.42, subsection 16, Code  
5 Supplement 1983, as amended by 1984 Iowa Acts, Senate  
6 File 2129, section 1, is amended to read as follows:  
7 16. Authority to review ~~proposed~~ and delay the  
8 effective dates of rules and forms submitted by the  
9 supreme court pursuant to section 602.4202."

10 2. Page 2, by inserting after line 19 the  
11 following:

12 "Sec. \_\_\_\_ . Section 602.4202, Code Supplement 1983,  
13 is amended by striking the section and inserting in  
14 lieu thereof the following:  
15 602.4202 RULE-MAKING PROCEDURE.

16 1. The supreme court shall submit a rule or form  
17 prescribed by the supreme court under section 602.4201  
18 or pursuant to any other rule-making authority  
19 specifically made subject to this section to the  
20 legislative council and shall at the same time report  
21 the rule or form to the chairpersons and ranking  
22 members of the senate committee on judiciary and the  
23 house committee on judiciary and law enforcement.  
24 The legislative service bureau shall make  
25 recommendations to the supreme court on the proper  
26 style and format of rules and forms required to be  
27 submitted to the legislative council under this  
28 subsection.

29 2. A rule or form submitted as required under  
30 subsection 1 takes effect sixty days after submission  
31 to the legislative council, or at a later date  
32 specified by the supreme court, unless the legislative  
33 council, within sixty days after submission and by  
34 a majority vote of its members, delays the effective  
35 date of the rule or form to a date provided in  
36 subsection 3.

37 3. The effective date of a rule or form submitted  
38 during the period of time beginning February 15 and  
39 ending February 14 of the next calendar year may be  
40 delayed by the legislative council until May 1 of  
41 that next calendar year.

42 4. A rule or form submitted as required under  
43 subsection 1 and effective on or before July 1 shall  
44 be enrolled in substantially the same manner as Acts  
45 of the general assembly are enrolled and shall be  
46 filed with the secretary of state and bound with the  
47 Acts of the general assembly meeting in regular session  
48 in the calendar year in which the July 1 falls.

49 5. If the general assembly enacts a bill changing  
50 a rule or form, the general assembly's enactment

GE 2

1 supersedes a conflicting provision in the rule or  
2 form as submitted by the supreme court."

S-5988

1 Amend Senate File 2360, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 12, by inserting after line 21 the  
4 following:

5 "Sec. \_\_\_\_ Section 805.1, Code Supplement 1983,  
6 is amended by striking the section and inserting in  
7 lieu thereof the following:

8 805.1 WHEN POLICE CITATION MAY ISSUE.

9 1. Except as to an offense for which an accused  
10 would not be eligible for bail after conviction  
11 pursuant to section 811.1, a law enforcement officer  
12 has authority to issue a citation in lieu of an arrest  
13 without a warrant or in lieu of continued custody  
14 after a warrantless arrest. The decision whether  
15 to issue a citation in lieu of arrest shall be made  
16 by an officer with grounds to make an arrest. The  
17 decision whether to issue a citation in lieu of  
18 continued custody after an arrest or to release the  
19 person on bail shall be made by the ranking officer  
20 on duty.

21 2. The citation procedure for traffic and other  
22 violations designated as scheduled violations is  
23 governed by sections 805.6 through 805.15.

24 3. A law enforcement officer who has grounds to  
25 charge a person with other simple misdemeanors shall  
26 issue a citation in lieu of arrest or, if an arrest  
27 has been made, the ranking officer on duty shall issue  
28 a citation or shall release the person pursuant to  
29 pretrial release guidelines or a bond schedule  
30 promulgated pursuant to section 804.21, subsection  
31 1, in lieu of keeping the person in custody. This  
32 requirement does not apply, and the officer may arrest  
33 or retain a person in custody in any of the following  
34 situations:

35 a. When the person refuses or fails to offer  
36 satisfactory identification.

37 b. When the person refuses to sign the citation.

38 c. When detention is reasonably necessary to  
39 prevent bodily harm to the accused or to another.

40 d. When the person appears to be under the  
41 influence of intoxicants or drugs and no one is  
42 available to take responsibility for the person's  
43 custody and safety.

44 e. When the person has insufficient ties to the  
45 jurisdiction, or a contiguous jurisdiction, to assure  
46 the person's appearance and a substantial likelihood  
47 exists that the person will refuse to respond to a  
48 citation.

49 f. When the person previously failed to respond  
50 to a citation or to appear after release on pretrial

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1 release guidelines.

2 4. In other cases in which a citation is  
3 authorized, a law enforcement officer who has grounds  
4 to make an arrest may instead issue a citation or,  
5 after arrest, the ranking officer on duty may issue  
6 a citation or may release the person pursuant to  
7 pretrial release guidelines or a bond schedule  
8 promulgated pursuant to section 804.21, subsection  
9 1, in lieu of continued custody. In determining  
10 whether to issue a citation the officer shall consider  
11 the safety of the community and all of the following  
12 facts concerning the person:

- 13 a. Place and length of residence.
- 14 b. Family relationships.
- 15 c. References.
- 16 d. Present and past employment.
- 17 e. Criminal record.
- 18 f. Nature and circumstances of the alleged offense.
- 19 g. Other facts relevant to the likelihood of the  
20 person's response to a citation.

21 In making this decision, the officer shall follow  
22 the recommendations of the pretrial release services  
23 of the judicial district department of correctional  
24 services, when available.

25 5. The issuance of a citation in lieu of arrest  
26 or continued custody does not affect the officer's  
27 authority to conduct an otherwise lawful search.  
28 The issuance of a citation in lieu of arrest shall  
29 be deemed an arrest for purposes of the speedy  
30 indictment requirements of R.Cr.P. 27, subsection  
31 2, paragraph a, Ia. Ct. Rules, 2d ed.

32 6. Even if a citation is issued, the officer has  
33 authority to take the cited person to an appropriate  
34 medical facility if the person reasonably appears  
35 to need such care.

36 7. When an officer determines pursuant to  
37 subsection 3 or 4 that a citation should not be issued,  
38 the officer has authority to release the arrested  
39 person on bail or on other conditions as determined  
40 by the supreme court in pretrial release guidelines  
41 promulgated pursuant to section 804.21, subsection  
42 1. In following the pretrial release guidelines the  
43 officer shall follow the recommendations of the  
44 pretrial release services of the judicial district  
45 department of correctional services, when available.  
46 When the arrested person furnishes bail, the officer  
47 shall maintain it in safekeeping and shall turn it  
48 over to the clerk of court not later than during the  
49 next subsequent regular business day that the clerk's  
50 office is open.

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1 8. When the offense is one for which citation  
2 is not authorized, the person does not meet the  
3 pretrial release criteria and the person is not  
4 releasable under a bond schedule, the person may be  
5 released on bail or otherwise only after initial  
6 appearance before a magistrate as provided in chapter  
7 804 and the rules of criminal procedure."

8 2. Page 14, by inserting after line 19 the  
9 following:

10 "Sec. \_\_\_\_ Rule of criminal procedure 19,  
11 subsection 3, paragraph a, subparagraph (3), Iowa  
12 court rules, second edition, is amended to read as  
13 follows:

14 (3) Upon consideration of such application the  
15 judge shall enter an order either granting the witness  
16 immunity to prosecution for any crime or public offense  
17 concerning which the witness was compelled to give  
18 competent and relevant testimony or to produce  
19 competent and relevant evidence, or granting the  
20 witness use immunity from prosecution for the competent  
21 and relevant testimony or evidence which the witness  
22 was compelled to give or produce."

23 3. By renumbering as necessary.

S-5988 FILED

BY TOM MANN, JR.

APRIL 18, 1984

*Tom Mann 4/19 (p. 1662)*

SENATE FILE 2360

S-6005

1 Amend amendment S-5985, to Senate File 2360 as  
2 follows:

3 1. Page 1, by striking lines 9 through 30.

4 2. Page 1, by inserting after line 30 the

5 following:

6 " \_\_\_\_ Page 6, by striking line 5 and inserting  
7 in lieu thereof the words "and Scott county shall  
8 each remain responsible for the compensation of no  
9 more than three".

10 \_\_\_\_ Page 6, line 6, by striking the word "half".

11 3. By renumbering as necessary.

S-6005 FILED & ADOPTED

BY TOM MANN JR.

APRIL 19, 1984 *(p. 1666)*

S-5985

1 Amend Senate File 2360 as follows:

2 1. Page 2, by inserting after line 5 the following:

3 "Sec. \_\_\_\_ . Section 601A.16, subsection 6, Code  
4 1983, is amended by adding the following new unnumbered  
5 paragraph:

6 NEW UNNUMBERED PARAGRAPH. This section shall not  
7 be construed to authorize administrative closures  
8 where an investigation is warranted."

9 2. Page 5, line 25, by inserting after the word  
10 "responsible" the words "for the compensation of and  
11 operating costs for court employees not presently  
12 designated for state financing and".

13 3. Page 5, line 27, by inserting after the word  
14 "purchased" the words ", leased, or maintained".

15 4. Page 5, line 29, by inserting after the word  
16 "responsibility" the words "for the compensation of  
17 and operating costs for court employees not presently  
18 designated for state financing and".

19 5. Page 5, line 31, by inserting after the word  
20 "purchased" the words ", leased, or maintained".

21 6. Page 5, line 34, by inserting after the word  
22 "of" the words "and operating costs for".

23 7. Page 5, line 35, by inserting after the words  
24 "hospitalization referees" the words "and their  
25 staffs".

26 8. Page 6, line 2, by inserting after the word  
27 "of" the words "and operating costs for".

28 9. Page 6, line 3, by inserting after the word  
29 "referees" the words "and their staffs".

30 10. Page 6, by striking lines 4 through 10.

S-5985 FILED & ADOPTED  
APRIL 18, 1984 *(p. 1640)*

BY TOM MANN

*Revised amended (6005) 7  
Adopted 4/19 (p. 1666)*

*motion to reconsider (p. 1640)* SENATE FILE 2360

S-5991

1 Amend Senate File 2360 as follows:

2 1. Page 4, by inserting after line 17 the  
3 following:

4 "NEW LETTERED PARAGRAPH. s. For the administrative  
5 costs of collecting and distributing support payments  
6 payable to the clerk of the district court under  
7 section 598.22, to be paid annually by the person  
8 obligated to pay the support and to be billed and  
9 collected by the clerk separately from and in addition  
10 to both current and accrued support payments payable  
11 to the clerk, twenty-five dollars."

12 2. Page 13, by inserting after line 24 the  
13 following:

14 "Sec. \_\_\_\_ . NEW SECTION. 909.7 ABILITY TO PAY  
15 FINE PRESUMED. A defendant is presumed to be able  
16 to pay a fine. The court may sentence the defendant  
17 to pay a fine and, in the alternative, may sentence  
18 the defendant to confinement if the defendant does  
19 not pay the fine. However, if the defendant proves  
20 to the satisfaction of the court that the defendant  
21 cannot pay the fine, the defendant shall not be  
22 confined."

23 3. By renumbering as necessary.

S-5991 FILED

BY DONALD V. DOYLE

APRIL 18, 1984 *Adopted 4/19  
(p. 1662)*

-5981

1 Amend Senate File 2360 as follows:

2 1. Page 1, by inserting after line 14 the  
3 following:

4 "Sec. \_\_\_\_ . 1984 Iowa Acts, House File 2340, section  
5 3, if House File 2340 becomes law, is amended to read  
6 as follows:

7 135C.37 COMPLAINTS ALLEGING VIOLATIONS. A person  
8 may request an inspection of a health care facility  
9 by filing with the department of care review committee  
10 of the facility a complaint of an alleged violation  
11 of applicable requirements of this chapter or the  
12 rules adopted pursuant to it. A copy of a complaint  
13 filed with the care review committee shall be forwarded  
14 to the department. The complaint shall state in a  
15 reasonably specific manner the basis of the complaint,  
16 and a statement of the nature of the complaint shall  
17 be delivered to the facility involved at the time  
18 of or prior to the inspection. The name of the person  
19 who files a complaint with the department or care  
20 review committee shall be kept confidential and shall  
21 ~~not be subject to discovery, subpoena, or other means~~  
22 ~~of legal compulsion for its release to a person other~~  
23 ~~than department employees involved in the investigation~~  
24 ~~of the complaint, except as authorized by a court~~  
25 of competent jurisdiction. The department may seek  
26 an appropriate protective order where discovery is  
27 permitted by court order."

28 2. Page 2, by inserting after line 5 the following:  
29 "Sec. \_\_\_\_ . Section 601A.16, subsection 6, Code  
30 1983, is amended by adding the following new unnumbered  
31 paragraph:

32 NEW UNNUMBERED PARAGRAPH. This section shall not  
33 be construed to authorize administrative closures  
34 where an investigation is warranted."

35 3. Page 5, line 25, by inserting after the word  
36 "responsible" the words "for the compensation of and  
37 operating costs for court employees not presently  
38 designated for state financing and".

39 4. Page 5, line 27, by inserting after the word  
40 "purchased" the words ", leased, or maintained".

41 5. Page 5, line 29, by inserting after the word  
42 "responsibility" the words "for the compensation of  
43 and operating costs for court employees not presently  
44 designated for state financing and".

45 6. Page 5, line 31, by inserting after the word  
46 "purchased" the words ", leased, or maintained".

47 7. Page 5, line 34, by inserting after the word  
48 "of" the words "and operating costs for".

49 8. Page 5, line 35, by inserting after the words  
50 "hospitalization referees" the words "and their

SENATE 28  
APRIL 19, 1984

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PAGE 2

- 1 staffs".  
2 9. Page 6, line 2, by inserting after the word  
3 "of" the words "and operating costs for".  
4 10. Page 6, line 3, by inserting after the word  
5 "referees" the words "and their staffs".  
6 11. Page 6, by striking lines 4 through 10.

S-5981 FILED BY TOM MANN, JR.  
APRIL 18, 1984

*Not germane 4/18 (p. 1639)*

SENATE FILE 2360

S-5971

- 1 Amend Senate File 2360 as follows:  
2 1. Page 4, by striking lines 11 through 13.

S-5971 FILED BY TOM MANN JR.  
APRIL 18, 1984  
ADOPTED *(p. 1638)*

SENATE FILE 2360

S-5976

- 1 Amend Senate File 2360 as follows:  
2 1. Page 6, by striking lines 4 through 10.

S-5976 FILED BY WILLIAM D. PALMER  
APRIL 18, 1984

RULED OUT OF ORDER *(p. 1640)*

See Senate 4/19

SENATE FILE 2360  
BY COMMITTEE ON APPROPRIATIONS

(AS AMENDED AND PASSED BY THE SENATE APRIL 19, 1984)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

- 1 An Act making statutory corrections and other changes re-
- 2 lating to the court reorganization and court fee legis-
- 3 lation enacted in 1983.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2360

H-6481

- 1 Amend Senate File 2360 as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 2, by inserting after line 11 the
- 4 following:
- 5 "Sec. \_\_\_\_ Section 331.655, subsection 1, paragraph
- 6 a, Code Supplement 1983, is amended to read as follows:
- 7 a. For serving a notice and returning it, for
- 8 the first person served, ~~six~~ twelve dollars, and each
- 9 additional person, ~~six~~ twelve dollars except the fee
- 10 for serving additional persons in the same household
- 11 shall be ~~three~~ six dollars for each additional service,
- 12 or if the service of notice cannot be made or several
- 13 attempts are necessary, the repayment of all necessary
- 14 expenses actually incurred by the sheriff while
- 15 attempting in good faith to serve the notice."
- 16 2. By renumbering as necessary.

H-6481 FILED APRIL 19, 1984 BY WOODS of Polk

22  
23  
24  
25

1 Section 1. Section 2.42, subsection 16, Code Supplement  
2 1983, as amended by 1984 Iowa Acts, Senate File 2129, section  
3 1, is amended to read as follows:

4 16. Authority to review proposed and delay the effective  
5 dates of rules and forms submitted by the supreme court  
6 pursuant to section 602.4202.

7 Sec. 2. NEW SECTION. 127.20 SALE OF CONVEYANCE. Prior  
8 to placing the conveyance for sale to the general public,  
9 the sheriff shall permit an owner or lien holder having a  
10 property interest of fifty percent or more in the conveyance  
11 the opportunity to purchase the property interest forfeited.  
12 If the owner or lien holder does not exercise an option under  
13 this section or if an owner or lien holder does not exist,  
14 the conveyance shall be sold at public auction with the  
15 proceeds first being applied to the owners and lien holders  
16 who have not had their property interest forfeited and applied  
17 to the expenses of keeping the conveyance, and any remaining  
18 funds shall be conveyed by the clerk of the district court  
19 to the treasurer of state for deposit in the general fund  
20 of the state.

21 Sec. 3. Section 331.427, subsection 1, Code Supplement  
22 1983, is amended to read as follows:

23 1. Except as otherwise provided by state law, county  
24 revenues from taxes and other sources for general county  
25 services shall be credited to the general fund of the county,  
26 including revenues received under sections 84.21, 98.35,  
27 98A.6, 101A.3, 101A.7, 110.12, 123.36, 123.143, ~~144-467~~ 176A.8,  
28 247A.10, 321.105, 321.152, 321.192, ~~321-4857~~ 321G.7, 331.554,  
29 subsection 6, ~~331-7037-subsection-67~~ 341A.20, 364.3, 368.21,  
30 422.65, 422.100, 422A.2, 428A.8, 430A.3, 433.15, 434.19,  
31 441.68, 445.52, 445.57, 533.24, 556B.1, 567.10, 583.6, 809.6,  
32 906.17, and 911.3, and the following:

33 a. License fees for business establishments.

34 b. Moneys remitted by the clerk of the district court  
35 and received from a magistrate for fines and-forfeited-bail

1 ~~under section 602-55, except those directed to be placed in~~  
 2 ~~the school fund~~ imposed pursuant to a violation of a county  
 3 ordinance.

4 c. Other amounts in accordance with state law.

5 Sec. 4. Section 331.506, subsection 2, paragraph b, Code  
 6 Supplement 1983, is amended to read as follows:

7 b. Witness fees and mileage in trials of criminal actions  
 8 prosecuted under county ordinance, as certified by the county  
 9 attorney.

10 Sec. 5. Section 331.510, subsection 2, Code Supplement  
 11 1983, is amended by striking the subsection.

12 Sec. 6. Section 601A.16, subsection 6, Code 1983, is  
 13 amended by adding the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. This section shall not be  
 15 construed to authorize administrative closures where an  
 16 investigation is warranted.

17 Sec. 7. Section 602.1303, subsections 7 and 8, Code  
 18 Supplement 1983, are amended to read as follows:

19 7. A county or city shall pay the costs of its witnesses,  
 20 depositions, and transcripts ~~and the court fees and costs~~  
 21 ~~provided by law~~ in criminal actions prosecuted by that county  
 22 or city and shall pay the court fees and costs provided by  
 23 law in criminal actions prosecuted by that county or city  
 24 under county or city ordinance. A county or city shall pay  
 25 the costs of its witnesses in criminal actions prosecuted  
 26 by the county or city under county or city ordinance.

27 8. A county shall pay the fees and expenses allowed under  
 28 sections 815.2 and 815.3, ~~and shall pay the fees and expenses~~  
 29 ~~allowed under sections 815-5 and 815-6 with respect to~~  
 30 ~~witnesses for the prosecution.~~

31 Sec. 8. Section 602.4202, Code Supplement 1983, is amended  
 32 by striking the section and inserting in lieu thereof the  
 33 following:

34 602.4202 RULE-MAKING PROCEDURE.

35 1. The supreme court shall submit a rule or form prescribed

1 by the supreme court under section 602.4201 or pursuant to  
2 any other rule-making authority specifically made subject  
3 to this section to the legislative council and shall at the  
4 same time report the rule or form to the chairpersons and  
5 ranking members of the senate committee on judiciary and the  
6 house committee on judiciary and law enforcement. The  
7 legislative service bureau shall make recommendations to the  
8 supreme court on the proper style and format of rules and  
9 forms required to be submitted to the legislative council  
10 under this subsection.

11 2. A rule or form submitted as required under subsection  
12 1 takes effect sixty days after submission to the legislative  
13 council, or at a later date specified by the supreme court,  
14 unless the legislative council, within sixty days after  
15 submission and by a majority vote of its members, delays the  
16 effective date of the rule or form to a date provided in  
17 subsection 3.

18 3. The effective date of a rule or form submitted during  
19 the period of time beginning February 15 and ending February  
20 14 of the next calendar year may be delayed by the legislative  
21 council until May 1 of that next calendar year.

22 4. A rule or form submitted as required under subsection  
23 1 and effective on or before July 1 shall be enrolled in  
24 substantially the same manner as Acts of the general assembly  
25 are enrolled and shall be filed with the secretary of state  
26 and bound with the Acts of the general assembly meeting in  
27 regular session in the calendar year in which the July 1  
28 falls.

29 5. If the general assembly enacts a bill changing a rule  
30 or form, the general assembly's enactment supersedes a  
31 conflicting provision in the rule or form as submitted by  
32 the supreme court.

33 Sec. 9. Section 602.8102, subsection 45, Code Supplement  
34 1983, is amended by striking the subsection and inserting  
35 in lieu thereof the following:

1 45. Report monthly to the office for planning and  
2 programming the following information related to each  
3 conviction in the district court for a felony, an aggravated  
4 misdemeanor, or a serious misdemeanor under section 321.281,  
5 subsection 2, paragraph "a":

6 a. The name of the convicted offender.

7 b. The statutory citation and character of the offense  
8 of which the offender was convicted.

9 c. The sentence imposed on the convicted offender.

10 Sec. 10. Section 602.8103, Code Supplement 1983, is amended  
11 by adding the following new subsection:

12 NEW SUBSECTION. 6. Accept a check, share draft, draft,  
13 or written order on a bank, savings and loan association,  
14 credit union, corporation, or person as payment of a support  
15 obligation which is payable to the clerk or friend of the  
16 court, in accordance with procedures established by the clerk  
17 or friend of the court to assure that such negotiable  
18 instruments will not be dishonored.

19 Sec. 11. Section 602.8104, subsection 2, paragraph i,  
20 Code Supplement 1983, is amended by striking the paragraph.

21 Sec. 12. Section 602.8105, subsection 1, paragraph a,  
22 Code Supplement 1983, is amended to read as follows:

23 a. For filing a petition other than for modification of  
24 a dissolution decree within one hundred eighty days of the  
25 date of the entering of the dissolution decree, appeal, or  
26 writ of error and docketing any of them, thirty-five dollars.  
27 Four dollars of the fee shall be deposited in the court revenue  
28 distribution account established under section 602.8108, and  
29 thirty-one dollars of the fee shall be paid into the state  
30 treasury. Of the amount paid to the state treasury, one  
31 dollar shall be deposited in the judicial retirement fund  
32 established in section 602.9104 to be used to pay retirement  
33 benefits of the judicial retirement system, and the remainder  
34 shall be deposited in the general fund of the state. In  
35 counties having a population of one hundred thousand or over,

1 an additional five dollars shall be charged and collected,  
2 to be known as the journal publication fee and used for the  
3 purposes provided for in section 618.13.

4 Sec. 13. Section 602.8105, subsection 1, paragraph b,  
5 Code Supplement 1983, is amended to read as follows:

6 b. For payment in advance of various services and docketing  
7 procedures, excluding those for small claims and simple  
8 misdemeanors at trial or on appeal, twenty-five dollars.

9 Sec. 14. Section 602.8105, subsection 1, paragraph c,  
10 Code Supplement 1983, is amended by striking the paragraph  
11 and inserting in lieu thereof the following:

12 c. In small claims actions at trial, in addition to the  
13 filing fee specified in section 631.6, a consolidated service  
14 fee payable in advance, four dollars.

15 Sec. 15. Section 602.8105, subsection 1, paragraph j,  
16 Code Supplement 1983, is amended to read as follows:

17 j. In criminal cases, the same fees for the same services  
18 as in civil cases, to be paid by the county or city ~~initiating~~,  
19 which has the duty to prosecute the criminal action, as  
20 provided in section 602.8109. When judgment is rendered  
21 against the defendant, costs collected from the defendant  
22 shall be paid to the county or city ~~initiating~~ which has the  
23 duty to prosecute the criminal action to the extent necessary  
24 for reimbursement for fees paid. However, the fees which  
25 are payable by the county to the clerk of the district court  
26 for services rendered in criminal actions prosecuted under  
27 state law and the court costs taxed in connection with the  
28 trial of the criminal actions or appeals from the judgment  
29 in the criminal actions are waived.

30 Sec. 16. Section 602.8105, subsection 1, Code Supplement  
31 1983, is amended by adding the following new lettered  
32 paragraphs and relettering the subsequent paragraph:

\* 33 NEW LETTERED PARAGRAPH. p. For filing and docketing a  
34 transcript of judgment from another county, two dollars.

35 NEW LETTERED PARAGRAPH. q. For entering a judgment by

1 confession, two dollars.

2 NEW LETTERED PARAGRAPH. r. For the administrative costs  
3 of collecting and distributing support payments payable to  
4 the clerk of the district court under section 598.22, to be  
5 paid annually by the person obligated to pay the support and  
6 to be billed and collected by the clerk separately from and  
7 in addition to both current and accrued support payments  
8 payable to the clerk, twenty-five dollars.

9 Sec. 17. Section 602.8106, subsection 1, Code Supplement  
10 1983, is amended to read as follows:

11 1. Notwithstanding section 602.8105, the fee for the  
12 filing and docketing of a complaint or information for a  
13 simple misdemeanor shall be eight is ten dollars, provided  
14 that. However, a fee for filing and docketing a complaint  
15 or information shall not be collected in cases of overtime  
16 parking.

17 Sec. 18. Section 602.8106, subsection 3, Code Supplement  
18 1983, is amended to read as follows:

19 3. The clerk shall remit all other fines and forfeited  
20 bail received from a magistrate to the treasurer of state  
21 for distribution under section 602.8107 to be credited to  
22 the general fund of the state.

23 Sec. 19. Section 602.8106, subsection 4, Code Supplement  
24 1983, is amended to read as follows:

25 4. All fees and costs for the filing of a complaint or  
26 information or upon forfeiture of bail received from a  
27 magistrate shall be distributed by the clerk as follows:

28 a. One-half shall be remitted monthly by the clerk to  
29 the treasurer of state to be credited to the general fund  
30 of the state.

31 b. One-fourth One-fifth shall be deposited in the court  
32 revenue distribution account established under section  
33 602.8108.

34 c. One-fourth Three-tenths shall be remitted monthly by  
35 the clerk to the treasurer of state to be credited to the

1 judicial retirement fund established under section 602.9104.

2 Sec. 20. Section 602.11101, subsection 1, Code Supplement  
3 1983, is amended to read as follows:

4 1. On October 1, 1983 the state shall assume the  
5 responsibility for and the costs of jury ~~and-witness~~ fees  
6 and mileage as provided in section 607.5 and on July 1, 1984  
7 the state shall assume the responsibility for and the costs  
8 of prosecution witness fees and mileage in criminal actions  
9 prosecuted under state law as provided in sections 607.5,  
10 622.69, and 622.72, except as provided in section 331.506,  
11 subsection-2.

12 Notwithstanding section 602.1303, subsection 7 and section  
13 815.13, on July 1, 1984, the state shall assume the  
14 responsibility for and the costs of the fees which are payable  
15 to the clerk of the district court for services rendered in  
16 criminal actions prosecuted under state law or county ordinance  
17 and the court costs taxed in connection with the trial of  
18 the criminal actions or appeals from the judgment in the  
19 criminal actions. However, on July 1, 1986, the county shall  
20 assume the responsibility for and the costs of the fees that  
21 are payable to the clerk of the district court for services  
22 rendered in criminal actions prosecuted under county ordinance  
23 and the court costs taxed in connection with the trial of  
24 the criminal actions or appeals from the judgment in the  
25 criminal actions.

26 Sec. 21. Section 602.11101, subsection 4, Code Supplement  
27 1983, is amended by adding the following new unnumbered  
28 paragraph:

29 NEW UNNUMBERED PARAGRAPH. Until July 1, 1985 the county  
30 shall remain responsible for the compensation of juvenile  
31 court referees. Effective July 1, 1985 the state shall assume  
32 the responsibility for the compensation of juvenile court  
33 referees.

34 Sec. 22. Section 602.11101, subsection 5, Code Supplement  
35 1983, is amended by adding the following new unnumbered

1 paragraphs:

2 NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county  
3 shall remain responsible for miscellaneous costs of the  
4 judicial department related to furnishings, supplies, and  
5 equipment purchased for the use of judicial officers, referees,  
6 and their staff. Effective July 1, 1986 the state shall  
7 assume the responsibility for miscellaneous costs of the  
8 judicial department related to furnishings, supplies, and  
9 equipment purchased for the use of judicial officers, referees,  
10 and their staff.

11 NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county  
12 shall remain responsible for the compensation of probate  
13 referees and judicial hospitalization referees. Effective  
14 July 1, 1986 the state shall assume the responsibility for  
15 the compensation of probate referees and judicial  
16 hospitalization referees.

17 NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 Polk county  
18 and Scott county shall each remain responsible for the  
\* 19 compensation of no more than three full-time equivalent  
20 positions associated with the district court administrator's  
21 office and related to clerical assistance for the criminal  
22 court and to the scheduling of indictable misdemeanor trials,  
23 rural case assignments, and connected word processing and  
24 other clerical assistance.

25 Sec. 23. Section 602.11101, Code Supplement 1983, is  
26 amended by adding the following new subsection:

27 NEW SUBSECTION. 7. The county shall remain responsible  
28 for the court-ordered costs of conciliation procedures under  
29 section 598.16.

30 Sec. 24. Section 602.11102, Code Supplement 1983, is  
31 amended to read as follows:

32 602.11102 ACCRUED EMPLOYEE RIGHTS.

33 1. Persons who were paid salaries by the counties or  
34 judicial districts immediately prior to becoming state  
35 employees as a result of this Act chapter shall not forfeit

1 accrued vacation, accrued sick leave, or longevity, except  
2 as provided in this section.

3 2. As a part of its rule-making authority under section  
4 602.11101, the supreme court, after consulting with the state  
5 comptroller, shall prescribe rules to provide for the  
6 following:

7 a. Each person referred to in subsection 1 shall have  
8 to the person's credit as a state employee commencing on the  
9 date of becoming a state employee the number of accrued  
10 vacation days that was credited to the person as a county  
11 employee as of the end of the day prior to becoming a state  
12 employee.

13 b. Each person referred to in subsection 1 shall have  
14 to the person's credit as a state employee commencing on the  
15 date of becoming a state employee the number of accrued days  
16 of sick leave that was credited to the person as a county  
17 employee as of the end of the day prior to becoming a state  
18 employee. However, the number of days of sick leave credited  
19 to a person under this subsection and eligible to be taken  
20 when sick or eligible to be received upon retirement shall  
21 not respectively exceed the maximum number of days, if any,  
22 or the maximum dollar amount as provided in section 79.23  
23 that state employees generally are entitled to accrue or  
24 receive according to ~~laws-and~~ rules in effect as of the date  
25 the person becomes a state employee.

26 c. Commencing on the date of becoming a state employee,  
27 each person referred to in subsection 1 is entitled to claim  
28 the person's most recent continuous period of service in full-  
29 time county employment as full-time state employment for  
30 purposes of determining the number of days of vacation which  
31 the person is entitled to earn each year. The actual vacation  
32 benefit, including the limitation on the maximum accumulated  
33 vacation leave, shall be determined as provided in section  
34 79.1 according to ~~laws-and~~ rules in effect for state employees  
35 of comparable longevity, irrespective of any greater or lesser

1 benefit as a county employee.

2 d. Notwithstanding paragraphs "b" and "c", for the period  
3 beginning July 1, 1984, and ending June 30, 1986, court  
4 reporters who become state employees as a result of this Act  
5 are not subject to the sick leave and vacation accrual  
6 limitations generally applied to state employees. However,  
7 court reporters are subject to the maximum dollar limitation  
8 upon retirement as provided in section 79.23.

9 Sec. 25. Section 602.11103, Code Supplement 1983, is  
10 amended to read as follows:

11 602.11103 LIFE, AND HEALTH, AND DISABILITY INSURANCE.

12 Persons who were covered by county employee life insurance  
13 and accident and health insurance plans prior to becoming  
14 state employees as a result of this Act chapter shall be  
15 permitted to apply prior to becoming state employees for life  
16 insurance and health and accident insurance plans that are  
17 available to state employees so that those persons do not  
18 suffer a lapse of insurance coverage as a result of this Act  
19 chapter. The supreme court, after consulting with the state  
20 comptroller, shall prescribe rules and distribute application  
21 forms and take other actions as necessary to enable those  
22 persons to elect to have insurance coverage that is in effect  
23 on the date of becoming state employees. The actual insurance  
24 coverage available to a person shall be determined by the  
25 plans that are available to state employees, irrespective  
26 of any greater or lesser benefits as a county or judicial  
27 district employee.

28 Commencing on the date of becoming a state employee, each  
29 person referred to in this section is entitled to claim the  
30 person's most recent continuous period of service in full-  
31 time county or judicial district employment as full-time state  
32 employment for purposes of determining disability benefits  
33 as provided in section 79.20 according to rules in effect  
34 for state employees of comparable longevity, irrespective  
35 of any greater or lesser benefit as a county or judicial

1 district employee.

2 Sec. 26. Section 602.11104, Code Supplement 1983, is  
3 amended to read as follows:

4 602.11104 COMPENSATION AND BENEFITS. Notwithstanding  
5 sections 602.11102, 602.11103, and 602.11106, a county or  
6 judicial district employee who becomes a state employee as  
7 a result of this ~~Act~~ chapter shall receive the compensation  
8 and other benefits provided to state employees, unless the  
9 employee, within the ~~period-of-time-beginning~~ thirty days  
10 prior to the day when the employee becomes a state employee  
11 ~~and-ending-thirty-days-after-the-employee-becomes-a-state~~  
12 employee, files an election with the state court administrator  
13 to continue to receive, for an indefinite period of time,  
14 the same compensation and-other-benefits, without increase  
15 or decrease, received by the employee immediately prior to  
16 becoming a state employee, the same life, health, and  
17 disability benefits that are provided to comparable county  
18 employees, and the same vacation and sick leave benefits  
19 received by the employee immediately prior to becoming a state  
20 employee with any sick leave payable upon retirement not to  
21 exceed the amount which the employee is eligible to receive  
22 on June 30, 1984, except that court reporters are entitled  
23 to receive state disability benefits. If an employee files  
24 the election, the employee may at any time thereafter revoke  
25 the election and agree to receive the compensation and other  
26 benefits provided to state employees. The state court  
27 administrator shall reimburse counties for expenses incurred  
28 as a result of employee elections to continue to receive the  
29 same compensation and-other-benefits, without increase or  
30 decrease, which the employees received immediately prior to  
31 becoming state employees, the same life, health, and disability  
32 benefits that are provided to comparable county employees,  
33 and the same vacation and sick leave benefits received by  
34 the employee immediately prior to becoming a state employee  
35 with any sick leave payable upon retirement not to exceed

1 the amount which the employee is eligible to receive on June  
2 30, 1984, except that court reporters are entitled to receive  
3 state disability benefits. If an employee files the election,  
4 the county shall continue to provide the employee with the  
5 same life, health, and disability benefits that are provided  
6 to comparable county employees. If an employee files the  
7 election and later revokes the election in order to receive  
8 the compensation and other benefits provided to state  
9 employees, section 602.11103 applies to the employee as if  
10 the employee were becoming a state employee for the first  
11 time on the effective date of the revocation of the election.

12 Sec. 27. Section 602.11110, Code Supplement 1983, is  
13 amended to read as follows:

14 602.11110 JUDGESHIPS FOR ELECTION DISTRICTS 5A AND 5C.  
15 As soon as practicable after January 1, 1985, the supreme  
16 court administrator shall recompute the number of judgeships  
17 to which judicial election districts 5A and 5C are entitled.  
18 Notwithstanding section 602.6201, subsection 2, the seventeen  
19 incumbent district judges in judicial election district 5A  
20 on December 31, 1984 may reside in either judicial election  
21 district 5A or 5C beginning January 1, 1985. The supreme  
22 court administrator shall apportion to judicial election  
23 district 5C those incumbent district judges who were appointed  
24 to replace district judges residing in Polk county or who  
25 were appointed to fill newly created judgeships while residing  
26 in Polk county. The incumbent district judges residing in  
27 Polk county on January 1, 1985 who are not so apportioned  
28 to judicial election district 5C shall be apportioned to  
29 judicial election district 5A but shall be reapportioned to  
30 judicial election district 5C, in the order of their seniority  
31 as district judges, as soon as the first vacancies occur in  
32 judicial election district 5C due to death, resignation,  
33 retirement, removal, or failure of retention. Such a  
34 reapportionment constitutes a vacancy in judicial election  
35 district 5A for purposes of section 602.6201. Notwithstanding

1 section 602.6201, subsection 2, the seventeen incumbent  
2 district judges in judicial election district 5A on December  
3 31, 1984 shall stand for retention in the judicial election  
4 district to which the district judges are apportioned or  
5 reapportioned under this section. Commencing on January 1,  
6 1985, vacancies within judicial election districts 5A and  
7 5C shall be determined and filled under section 602.6201,  
8 subsections 4 through 8. For purposes of the recomputations,  
9 the supreme court administrator shall determine the average  
10 case filings for the latest available three-year period by  
11 reallocating the actual case filings during the three-year  
12 period to judicial election districts 5A and 5C as if they  
13 existed throughout the three-year period.

14 Sec. 28. Section 631.6, Code Supplement 1983, is amended  
15 to read as follows:

16 631.6 FEES AND COSTS. All fees and costs required to  
17 be paid in small claims actions shall be paid in advance,  
18 and shall be assessed as costs in the action.

19 1. The docket fee for a small claims action is ~~ten eleven~~  
20 ~~dollars.~~ ~~Other-fees-imposed-for-small-claims-shall-be-the~~  
21 ~~same-as-those-required-in-regular-actions-in-district-court,~~  
22 ~~four~~ Four dollars of the fee shall remain be deposited in  
23 the county-treasury-for-the-use-of-the-county court revenue  
24 distribution account established under section 602.8108 and  
25 ~~six seven~~ seven dollars of the fee shall be paid into the state  
26 treasury. Of the amount paid into the state treasury, two  
27 dollars shall be deposited in the judicial retirement fund  
28 established in section 602.9104 to be used to pay retirement  
29 benefits of the judicial retirement system, and the remainder  
30 shall be deposited in the general fund of the state. A  
31 consolidated service fee for small claims is imposed in section  
32 602.8105, subsection 1, paragraph "c".

33 2. Postage charged for the mailing of original notices  
34 shall be the actual cost of the postage.

35 3. Fees for personal service by peace officers or other

1 officials of the state ~~shall be~~ are the amounts specified  
2 by law.

3 4. Fees for service of notice on nonresidents ~~shall be~~  
4 are as provided in section 617.3.

5 All fees and costs collected in small claims actions, other  
6 than the seven dollars of the docket fee to be paid into the  
7 state treasury, shall be deposited in the court revenue  
8 distribution account established under section 602.8108,  
9 except that the fee specified in subsection 4 of this section  
10 shall be remitted to the secretary of state.

11 Sec. 29. Section 666.6, Code Supplement 1983, as amended  
12 to be effective July 1, 1984 under 1983 Iowa Acts, chapter  
13 185, sections 59 and 62, is amended to read as follows:

14 666.6 REPORT OF FORFEITED BONDS. ~~Not later than January~~  
15 ~~15 of each year, the~~ The clerk of the district court shall  
16 make an annual statistical report in writing to the treasurer  
17 of state supreme court on the first Monday in February of  
18 the amount of all forfeited recognizances in the clerk's  
19 office; of the amount of all fines, penalties, and forfeitures  
20 imposed in the district court, which by law are paid to the  
21 treasurer of state for deposit in the general fund of the  
22 state, in what cause or proceeding, when and for what purpose,  
23 against whom and for what amount, rendered; whether the amount  
24 of fines, penalties, forfeitures, and recognizances have been  
25 paid, remitted, canceled, or otherwise satisfied, if so, when,  
26 how, and in what manner, and if not paid, remitted, canceled,  
27 or otherwise satisfied, and what steps have been taken to  
28 enforce the collection of the fines, penalties, forfeitures,  
29 and recognizances. However, the report shall only contain  
30 information not already reported on a monthly basis.  
31 Such report must be fully true, and complete with reference  
32 to the matters therein contained, and of all things required  
33 by this section to be reported, and be under oath, and any  
34 officer failing to make such report shall be guilty of a  
35 simple misdemeanor.

1 Sec. 30. Section 805.6, subsection 1, paragraph a, Code  
2 Supplement 1983, is amended to read as follows:  
3 a. The commissioner of public safety and the state  
4 conservation director, acting jointly, shall adopt a uniform,  
5 combined citation and complaint which shall be used for  
6 charging all traffic violations in Iowa under state law or  
7 local regulation or ordinance, and which shall be used for  
8 charging all other violations which are designated by section  
9 805.8 to be scheduled violations. The court costs in scheduled  
10 violation cases are the same as the fee for the filing and  
11 docketing of simple misdemeanor cases, as provided in section  
12 602.8106, subsection 1. This subsection does not prevent  
13 the charging of any of those violations by information, by  
14 private complaint filed under chapter 804, or by a simple  
15 notice of fine where permitted by section 321.236, subsection  
16 1. Each uniform citation and complaint shall be serially  
17 numbered and shall be in quintuplicate, and the officer shall  
18 deliver the original and a copy to the court where the  
19 defendant is to appear, two copies to the defendant, and a  
20 copy to the law enforcement agency of the officer. The court  
21 shall forward the copy of the uniform citation and complaint  
22 in accordance with section 321.207 when applicable. The  
23 uniform citation and complaint shall contain spaces for the  
24 parties' names; the address of the alleged offender; the  
25 registration number of the offender's vehicle; the information  
26 required by section 805.2; a promise to appear as provided  
27 in section 805.3 and a place where the cited person may sign  
28 the promise to appear; a list of the scheduled fines prescribed  
29 by section 805.8, either separately or by group, and a  
30 statement that of the court costs payable in scheduled offense  
31 violation cases, whether or not a court appearance is required  
32 or is demanded, -are-eight-dollars; a brief explanation of  
33 sections 805.9 and 805.10; and a space where the defendant  
34 may sign an admission of the violation when permitted by  
35 section 805.9; and the uniform citation and complaint shall

1 require that the defendant appear before a court at a specified  
2 time and place. The uniform citation and complaint also may  
3 contain a space for the imprint of a credit card, and may  
4 contain any other information which the commissioner of public  
5 safety and the state conservation director may determine.

6 Sec. 31. Section 805.6, subsection 1, paragraph c,  
7 subparagraphs (1), (2), and (3), Code Supplement 1983, are  
8 amended to read as follows:

9 (1) If the offense is one to which a scheduled fine is  
10 applicable, an amount equal to one and one-half times the  
11 scheduled fine plus eight-dollars court costs.

12 (2) If the violation charged involved or resulted in an  
13 accident or injury to property and the total damages are less  
14 than two hundred fifty dollars, the amount of fifty dollars  
15 and-eight-dollars plus court costs.

16 (3) If the violation is for any offense for which a court  
17 appearance is mandatory, the amount of one hundred dollars  
18 plus eight-dollars court costs.

19 Sec. 32. Section 805.9, subsections 1 through 5, Code  
20 Supplement 1983, are amended to read as follows:

21 1. In cases of scheduled violations, the defendant, before  
22 the time specified in the citation and complaint for appearance  
23 before the court, may sign the admission of violation on the  
24 citation and complaint and deliver or mail the citation and  
25 complaint, together with the minimum fine for the violation,  
26 plus eight-dollars court costs, to a scheduled violations  
27 office in the county. The office shall, if the offense is  
28 a moving violation under chapter 321, forward a copy of the  
29 citation and complaint and admission to the department of  
30 transportation as required by section 321.207. In this case  
31 the defendant is not required to appear before the court.  
32 The admission constitutes a conviction.

33 2. A defendant charged with a scheduled violation by  
34 information may obtain two copies of the information from  
35 the court and, before the time the defendant is required to

1 appear before the court, deliver or mail the copies, together  
2 with the defendant's admission, fine, and eight-dollars court  
3 costs, to the scheduled violations office in the county.  
4 The procedure, fine, and costs are the same as when the charge  
5 is by citation and complaint, with the admission and the  
6 number of the defendant's operator's or chauffeur's license  
7 placed upon the information, when the violation involves the  
8 use of a motor vehicle.

9 3. When section 805.8 and this section are applicable  
10 but the officer does not deem it advisable to release the  
11 defendant and no court in the county is in session:

12 a. If the defendant wishes to admit the violation, the  
13 officer may release the defendant upon observing the person  
14 mail the citation and complaint, admission, and minimum fine,  
15 together with eight-dollars court costs, to a traffic  
16 violations office in the county, in an envelope furnished  
17 by the officer. The admission constitutes a conviction and  
18 judgment in the amount of the scheduled fine plus eight-dollars  
19 court costs. The officer may allow the defendant to use a  
20 credit card pursuant to rules adopted under section 805.14  
21 by the department of public safety or to mail a check in the  
22 proper amount in lieu of cash. If the check is not paid by  
23 the drawee for any reason, the defendant may be held in  
24 contempt of court. The officer shall advise the defendant  
25 of the penalty for nonpayment of the check.

26 b. If the defendant does not comply with paragraph "a"  
27 of this subsection, the officer may release the defendant  
28 upon observing the defendant mail to a court in the county  
29 the citation and complaint and one and one-half times the  
30 minimum fine together with eight-dollars court costs, or in  
31 lieu of one and one-half times the fine and the court costs,  
32 a guaranteed arrest bond certificate as provided in section  
33 321.1, subsection 70, as bail together with the following  
34 statement signed by the defendant:

35 "I agree that either (1) I will appear pursuant to this

1 citation or (2) if I do not appear in person or by counsel  
2 to defend against the offense charged in this citation the  
3 court is authorized to enter a conviction and render judgment  
4 against me for the amount of one and one-half times the  
5 scheduled fine plus eight-dollars court costs."

6 c. If the defendant does not comply with paragraph "a"  
7 or "b", or when section 804.7 is applicable, the officer may  
8 arrest and confine the defendant if authorized by the latter  
9 section, and proceed according to chapter 804.

10 4. A defendant who admits a scheduled violation may appear  
11 before court. The procedure, costs, and fine, without  
12 suspension of the fine, after the hearing are the same as  
13 in the traffic violations office.

14 5. A defendant charged with a scheduled violation who  
15 does not fully comply with subsection 1, 2, 3, or 4 of this  
16 section before the time required to appear before the court  
17 must, at that time, appear before the court. If the defendant  
18 admits the violation, the procedure, costs, and fine, without  
19 suspension of the fine, after the hearing are the same before  
20 the court as before the traffic violations office with-eight  
21 dollars-court-costs, and are without prejudice, when  
22 applicable, to proceedings under section 321.487.

23 Sec. 33. Section 805.9, subsection 6, Code Supplement  
24 1983, is amended to read as follows:

25 6. The eight-dollars-in court costs imposed by this section  
26 are the total costs collectible from a defendant upon either  
27 an admission of a violation without hearing, or upon a hearing  
28 pursuant to subsection 4. Fees-shall-not-be-imposed-upon  
29 or-collected-from-a-defendant-for-the-purposes-specified-in  
30 section-602-8105, -subsection-1, -paragraph-"i", -"j", -or-"t".

31 Sec. 34. Section 805.11, unnumbered paragraph 2, Code  
32 Supplement 1983, is amended by striking the unnumbered  
33 paragraph.

34 Sec. 35. Section 815.11, Code Supplement 1983, is amended  
35 to read as follows:

1 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE. Costs incurred  
2 under sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6,  
3 815.7, 815.10, ~~815.12~~, or the rules of criminal procedure  
4 on behalf of an indigent shall be paid from funds appropriated  
5 by the general assembly to the supreme court for those  
6 purposes.

7 Sec. 36. Section 815.13, Code Supplement 1983, is amended  
8 to read as follows:

9 815.13 PAYMENT OF PROSECUTION COSTS. The county or city  
10 ~~that prosecutes~~ which has the duty to prosecute a criminal  
11 action shall pay ~~the required fees and mileage to witnesses~~  
12 ~~called on behalf of the prosecution~~; the costs of depositions  
13 taken on behalf of the prosecution, the costs of transcripts  
14 requested by the prosecution, and in criminal actions  
15 prosecuted by the county or city under county or city ordinance  
16 the fees that are payable to the clerk of the district court  
17 for services rendered; and the court costs taxed in connection  
18 with the trial of the action or appeals from the judgment.  
19 The county or city shall pay the costs of its witnesses in  
20 criminal actions prosecuted by the county or city under county  
21 or city ordinance. These fees and costs are recoverable by  
22 the county or city from the defendant unless the defendant  
23 is found not guilty or the action is dismissed. ~~Expenditures~~  
24 ~~of a county under this section may be paid out of the court~~  
25 ~~expense fund in lieu of the county general fund.~~

26 Sec. 37. NEW SECTION. 909.7 ABILITY TO PAY FINE PRESUMED.  
27 A defendant is presumed to be able to pay a fine. The court  
28 may sentence the defendant to pay a fine and, in the  
29 alternative, may sentence the defendant to confinement if  
30 the defendant does not pay the fine. However, if the defendant  
31 proves to the satisfaction of the court that the defendant  
32 cannot pay the fine, the defendant shall not be confined.

33 Sec. 38. Section 910.2, Code Supplement 1983, is amended  
34 to read as follows:

35 910.2 RESTITUTION ORDERED BY SENTENCING COURT. In all

1 criminal cases except simple misdemeanors under chapter 321,  
2 in which there is a plea of guilty, verdict of guilty, or  
3 special verdict upon which a judgment of conviction is ren-  
4 dered, the sentencing court shall order that restitution be  
5 made by each offender to the victims of the offender's criminal  
6 activities and, if the court so orders and to the extent that  
7 ~~the offender is reasonably able to do so, to-the-county-where~~  
8 ~~conviction-was-rendered~~ for court costs, court-appointed  
9 attorney's fees or the expense of a public defender when  
10 applicable. However, victims shall be paid in full before  
11 restitution payments-are is paid ~~to-the-county~~ for court  
12 costs, court-appointed attorney's fees or for the expense  
13 of a public defender. When the offender is not reasonably  
14 able to pay all or a part of the court costs, court-appointed  
15 attorney's fees or the expense of a public defender, the court  
16 may require the offender in lieu of that portion of the court  
17 costs, court-appointed attorney's fees, or expense of a public  
18 defender for which the offender is not reasonably able to  
19 pay, to perform a needed public service for any a governmental  
20 agency or for a private, nonprofit agency which provides a  
21 service to the youth, elderly or poor of the community. When  
22 community service is ordered, the court shall set a specific  
23 number of hours of service to be performed by the offender.  
24 The judicial district department of correctional services  
25 shall provide for the assignment of the offender to a public  
26 agency or private nonprofit agency to perform the required  
27 service.

28 Sec. 39. REPEALS.

29 1. Section 127.21, Code Supplement 1983, as amended to  
30 be effective July 1, 1984 under 1983 Iowa Acts, chapter 185,  
31 sections 3 and 62, is repealed. Sections 127.20 and 602.8107,  
32 Code Supplement 1983, are repealed.

33 2. Sections 247.29 through 247.31, Code Supplement 1983,  
34 are repealed.

35 3. Section 602.9110, Code Supplement 1983, is repealed.