

House State (Govt 2-15-89 (p 45))
DO pass 2-27-89 (p 574)

Reprinted

FILED FEB 06 1989

SENATE FILE 152
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 162)

Passed Senate, Date 2-9-89 (p. 338) Passed House, Date 3-7-84 (p 671)
Vote: Ayes 19 Nays 0 Vote: Ayes 96 Nays 0
Approved 3-27-89

A BILL FOR

1 An Act relating to relocation payments and relocation advisory
2 assistance for displaced persons, and real property
3 acquisition, and providing an effective date.

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

5

SENATE FILE 152

S-3040

- 1 Amend Senate File 152 as follows:
- 2 1. Page 1, line 28, by striking the word "of" and
- 3 inserting the following: "of,".
- 4 2. Page 1, line 29, by inserting after the word
- 5 "the" the following: "other".
- 6 3. Page 1, line 32, by inserting after the word
- 7 "demolition" the following: "of other real property
- 8 on which the person conducts a business or a farm
- 9 operation".
- 10 4. Page 13, line 32, by striking the word "a" and
- 11 inserting the following: "Except for any federal or
- 12 state law providing low-income housing assistance, a".
- 13 5. Page 13, line 35, by inserting after the word
- 14 "any" the following: "federal or".
- 15 6. Page 17, line 18, by striking the word "on"
- 16 and inserting the following: "or".
- 17 7. Page 17, line 18, by inserting after the word
- 18 "condemnation" the following: "and".

By RICHARD F. DRAKE
ROBERT M. CARR

S-3040 FILED FEBRUARY 7, 1989

adopted 2-9-89 (p. 338)

1 Section 1. Section 316.1, subsection 2, Code 1989, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 2. "Displaced person" means:

5 a. A person who moves from real property or moves the
6 person's personal property from real property in either of the
7 following circumstances:

8 (1) As a direct result of a written notice of intent to
9 acquire, the initiation of negotiations for, or the
10 acquisition of, the real property in whole or in part for a
11 program or project undertaken with federal financial
12 assistance.

13 (2) The person moved or moved the person's personal
14 property from real property on which the person is either a
15 residential tenant or conducts a small business, a farm
16 operation, or a business as defined in section 316.1,
17 subsection 3, paragraph "d", as a direct result of
18 rehabilitation or demolition for a program or project
19 undertaken with federal financial assistance in a case in
20 which the head of the displacing agency determines that the
21 displacement is permanent.

22 b. For purposes of section 316.4, subsections 1 and 2, and
23 section 316.7, a person who moves from real property, or moves
24 the person's personal property from real property in either of
25 the following circumstances:

3040-26 (1) As a direct result of a written notice of intent to
27 acquire, the initiation of negotiations for, or the
28 acquisition of other real property in whole or in part if the
29 person conducts a business or farm operation on the real
30 property for a program or project undertaken with federal
31 financial assistance.

3040-32 (2) As a direct result of rehabilitation or demolition for
33 a program or project undertaken with federal financial
34 assistance in a case in which the head of the displacing
35 agency determines that the displacement is permanent.

1 c. The term "displaced person" does not include any of the
2 following:

3 (1) A person who has been determined to be either in
4 unlawful occupancy of the real property or who has occupied
5 the real property for the purpose of obtaining assistance
6 under this chapter.

7 (2) A person, other than the person who was the occupant
8 of the real property at the time it was acquired, who occupies
9 the real property on a rental basis for a short term or a
10 period subject to termination when the real property is needed
11 for the program or project.

12 (3) An owner-occupant who voluntarily sells the owner-
13 occupant's property, after being informed in writing that if a
14 mutually satisfactory agreement of sale cannot be reached the
15 state agency will not acquire the property.

16 (4) A person who retains the right of use and occupancy of
17 the real property for life following its acquisition by a
18 state agency.

19 Sec. 2. Section 316.1, subsection 3, paragraph d, Code
20 1989, is amended to read as follows:

21 d. Solely for the purposes of section 316.4, ~~subsection 17~~
22 for assisting in the purchase, sale, resale, manufacture,
23 processing, or marketing of products, commodities, personal
24 property, or services by the erection and maintenance of an
25 outdoor advertising display or displays, whether or not such
26 the display or displays are located on the premises on which
27 any of the above activities are conducted.

28 Sec. 3. Section 316.1, subsection 6, Code 1989, is amended
29 by striking the subsection and inserting in lieu thereof the
30 following:

31 6. "Displacing agency" means the state or a state agency
32 carrying out a program or project, or any person carrying out
33 a program or project with federal financial assistance, which
34 causes a person to be a displaced person.

35 Sec. 4. Section 316.1, subsection 8, Code 1989, is amended

1 by striking the subsection and inserting in lieu thereof the
2 following:

3 8. "State agency" means any of the following:

4 a. A department, agency, or instrumentality of the state
5 or of a political subdivision of the state.

6 b. A department, agency, or instrumentality of two or more
7 political subdivisions of the state, or states.

8 c. A person who has the authority to acquire property by
9 eminent domain under state law.

10 Sec. 5. Section 316.1, Code 1989, is amended by adding the
11 following new subsections:

12 NEW SUBSECTION. 10. "Federal Uniform Relocation Act"
13 means the federal Uniform Relocation Assistance and Real
14 Property Acquisition Policies Act of 1970, Pub. L. No. 91-646,
15 as amended by the Uniform Relocation Act Amendments of 1987,
16 Title IV, Pub. L. No. 100-17.

17 NEW SUBSECTION. 11. "Federal financial assistance" means
18 a grant, loan, or contribution provided by the United States,
19 however, "federal financial assistance" does not include any
20 federal guarantee or insurance and any interest reduction
21 payment to an individual in connection with the purchase and
22 occupancy of a residence by that individual.

23 NEW SUBSECTION. 12. "Comparable replacement dwelling"
24 means any single family residential unit that is all of the
25 following:

26 a. Decent, safe, and sanitary.

27 b. Adequate in size to accommodate the occupants.

28 c. Within the financial means of the displaced person.

29 d. Functionally equivalent to the displaced person's
30 dwelling.

31 e. In an area not subject to unreasonably adverse
32 environmental conditions.

33 f. In a location generally not less desirable than the
34 location of the displaced person's dwelling with respect to
35 public utilities, facilities, services, and the displaced

1 person's place of employment.

2 Sec. 6. Section 316.2, subsection 3, Code 1989, is amended
3 by striking the subsection and inserting in lieu thereof the
4 following:

5 3. A payment made or to be made under the authority
6 granted in this chapter shall be for compensating or
7 reimbursing the displaced person or owner of real property in
8 accordance with the requirements of the federal Uniform
9 Relocation Act and this chapter and the payments shall not for
10 any purpose be deemed or considered compensation for real
11 property acquired or compensation for damages to remaining
12 property.

13 Payments authorized to be made by the federal Uniform
14 Relocation Act and this chapter shall be made as relocation
15 payments and in order to prevent unjust enrichment or a
16 duplication of payments to any condemnee in any condemnation
17 proceeding or appeal from any condemnation proceeding, an
18 allowance shall not be made in determining just compensation
19 in a condemnation proceeding for any damages, for any item of
20 damage, or any cost, which is authorized to be paid as a
21 relocation payment.

22 Moving cost payments and allowances for personal property
23 which is damaged or destroyed or reduced in value by an
24 acquisition of property authorized under section 472.14 or any
25 other provision of the Code under the powers of eminent domain
26 on projects where relocation assistance payments are paid
27 under this chapter shall be those payments and allowances
28 authorized by this chapter and shall not be made or included
29 as part of an award of damages in any condemnation proceeding
30 or appeal from any condemnation proceeding.

31 Sec. 7. Section 316.3, Code 1989, is amended to read as
32 follows:

33 316.3 DECLARATION OF POLICY -- AUTHORIZATION --
34 DIVISIBILITY OF APPLICATION.

35 1. The purpose of this chapter is to establish a uniform

1 policy for the fair and equitable treatment of persons
2 displaced as a result of ~~state-and~~ federally assisted highway
3 programs or projects in order that such the persons shall not
4 suffer disproportionate injuries as a result of programs or
5 projects designed for the benefit of the public as a whole and
6 to minimize the hardship of displacement on the persons. The
7 general assembly declares that replacement-housing relocation
8 assistance for persons displaced by highway programs and
9 projects is a necessary and essential part of such-highway the
10 programs and projects. This chapter shall be known and may be
11 cited as the "Highway Relocation Assistance Law."

12 2. If a displacing agency subject to the provisions of the
13 federal Uniform Relocation Act, or if another entity required
14 or electing to provide any of the programs or payments
15 authorized by this chapter, undertakes a project which results
16 in the acquisition of real property or in a person being
17 displaced from the person's home, business, or farm, the
18 displacing agency or other entity may provide relocation
19 assistance, and make relocation payments to the displaced
20 person and do the other acts and follow the procedures and
21 practices as may be necessary to comply with the provisions of
22 the federal Uniform Relocation Act and this chapter.
23 Displacing agencies may provide all or a part of the program
24 and payments authorized under this chapter to persons
25 displaced by any program or project regardless of the funding
26 source. However, to the extent a program or a payment is
27 provided, the program or payment shall be provided on a
28 uniform basis to all displaced persons.

29 3. If a provision, clause, or phrase of this chapter, or
30 application of this chapter to a person or circumstance is
31 adjudged invalid by any court of competent jurisdiction, the
32 judgment shall not invalidate the remainder of the chapter,
33 and the application of the chapter to other persons or
34 circumstances shall not be affected by the adjudication.

35 Sec. 8. Section 316.4, Code 1989, is amended to read as

1 follows:

2 316.4 MOVING AND RELATED EXPENSES.

3 1. ~~Whenever the acquisition of real property for~~ If a
4 ~~program or project undertaken by the department a displacing~~
5 ~~agency will result in the displacement of any a person, the~~
6 ~~department displacing agency shall make a payment to any the~~
7 ~~displaced person, upon proper application as approved by such~~
8 ~~department the displacing agency, for:~~

9 a. ~~Actual~~ actual reasonable and necessary expenses
10 incurred in moving the person, the person's family, business,
11 farm operation, or other personal property;

12 b. ~~Actual~~ subject to rules and limits established by the
13 department. The payment may also provide for actual direct
14 losses of tangible personal property, as a result of moving or
15 discontinuing a business or farm operation, but not to exceed
16 an amount equal to the reasonable expenses that would have
17 been required to relocate such property, as determined by the
18 department; and

19 c. ~~Actual~~ reasonable expenses purchase of substitute
20 personal property, business reestablishment expenses, storage
21 expenses, and expenses incurred in searching for a replacement
22 business or farm.

23 2. Any A displaced person eligible for payments under
24 subsection 1, who is displaced from a dwelling and who elects
25 to accept the payments authorized by this subsection in lieu
26 of the payments authorized by subsection 1, may receive a
27 moving expense and dislocation allowance, determined according
28 to a schedule established by the department not to exceed
29 three hundred dollars; and a dislocation allowance of two
30 hundred dollars.

31 3. Any A displaced person, as defined in section 316.1,
32 subsection 2, paragraph "a", eligible for payments under
33 subsection 1, who is displaced from the person's place of
34 business or farm operation and who elects is eligible, may
35 elect to accept the payment authorized by this subsection in

1 lieu of the payment authorized by subsection 17-may-receive.
2 The payment shall consist of a fixed payment in an amount
3 equal to the average annual net earnings of the business or
4 farm operation, except that such payment shall be not less
5 than two thousand five hundred dollars nor more than ten
6 thousand dollars to be determined according to criteria
7 established by the department. In the case of a business, no
8 payment shall be made under this subsection unless the
9 department is satisfied that the business cannot be relocated
10 without a substantial loss of its existing patronage, and is
11 not a part of a commercial enterprise having at least one
12 other establishment not being acquired for a highway project
13 which is engaged in the same or similar business.--For
14 purposes of this subsection, the term "average annual net
15 earnings" means one-half of any net earnings of the business
16 or farm operation, before federal, state, and local income
17 taxes, during the two taxable years immediately preceding the
18 taxable year in which such business or farm operation moves
19 from the real property acquired for such project, or during
20 such other period as the department determines to be more
21 equitable for establishing such earnings, and includes any
22 compensation paid by the business or farm operation to the
23 owner, the owner's spouse, or the owner's dependents during
24 such period A person whose sole business at the displaced
25 dwelling is the rental of the real property does not qualify
26 for a payment under this subsection.

27 Sec. 9. Section 316.5, Code 1989, is amended to read as
28 follows:

29 316.5 REPLACEMENT HOUSING FOR HOMEOWNER.

30 1. In addition to payments otherwise authorized by this
31 chapter, the department displacing agency shall make an
32 additional payment not in excess of fifteen thousand dollars
33 to any a displaced person who is displaced from a dwelling
34 actually owned and occupied by such the displaced person for
35 not less than one hundred eighty days immediately prior to the

1 initiation of negotiations for the acquisition of the
2 property. Such All determinations to carry out this section
3 shall be made in accordance with administrative rules adopted
4 by the department. The additional payment shall include the
5 following elements:

6 a. The amount, if any, which when added to the acquisition
7 cost of the dwelling acquired by the department displacing
8 agency, equals the reasonable cost of a comparable replacement
9 ~~dwelling which-is-a-decent,-safe,-and-sanitary-dwelling~~
10 ~~adequate-to-accommodate-such-displaced-person,-reasonably~~
11 ~~accessible-to-public-services-and-places-of-employment-and~~
12 ~~available-on-the-private-market.~~ All-determinations-required
13 ~~to-carry-out-this-paragraph-shall-be-made-in-accordance-with~~
14 ~~administrative-rules-established-by-the-department-in-making~~
15 ~~these-additional-payments-~~

16 b. The amount, if any, which will compensate such the
17 displaced person for any increased interest costs and other
18 debt service costs which such the displaced person is required
19 to pay for financing the acquisition of ~~any-such~~ a comparable
20 replacement dwelling. Such The amount shall be paid only if
21 the dwelling acquired by the department displacing agency was
22 encumbered by a bona fide mortgage which was a valid lien on
23 such the dwelling for not less than one hundred and eighty
24 days immediately prior to the initiation of negotiations for
25 the acquisition of such the dwelling. ~~Such-amount-shall-be~~
26 ~~equal-to-the-excess-in-the-aggregate-interest-and-other-debt~~
27 ~~service-costs-of-that-amount-of-the-principal-of-the-mortgage~~
28 ~~on-the-replacement-dwelling-which-is-equal-to-the-unpaid~~
29 ~~balance-of-the-mortgage-on-the-acquired-dwelling,-over-the~~
30 ~~remainder-term-of-the-mortgage-on-the-acquired-dwelling,~~
31 ~~reduced-to-discounted-present-value.--The-discount-rate-shall~~
32 ~~be-the-prevailing-interest-rate-paid-on-savings-deposits-by~~
33 ~~commercial-banks-in-the-general-area-in-which-the-replacement~~
34 ~~dwelling-is-located-~~

35 c. Reasonable Actual, reasonable, and necessary expenses

1 incurred by ~~such~~ the displaced person for evidence of title,
2 recording fees, and other closing costs incident to the
3 purchase of ~~the~~ a replacement dwelling, but not including
4 prepaid expenses.

5 2. The additional payment authorized by this section shall
6 be made only to ~~such~~ a displaced person who purchases and
7 occupies a decent, safe, and sanitary replacement dwelling
8 ~~which is decent, safe, and sanitary not later than the end of~~
9 ~~the one-year period beginning on~~ within one year after the
10 date on which the person receives ~~from the department~~ final
11 payment from the displacing agency of all costs of the
12 acquired dwelling, or on the date on which the ~~person moves~~
13 ~~from the acquired dwelling~~ obligation of the displacing agency
14 under section 316.8 is met, whichever is the later, date
15 except that the displacing agency may extend the eligibility
16 period for good cause. If the period is extended, the payment
17 under this section shall be based on the costs of relocating
18 the person to a comparable replacement dwelling within one
19 year of the applicable date.

20 Sec. 10. Section 316.6, Code 1989, is amended to read as
21 follows:

22 316.6 REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.

23 In addition to amounts otherwise authorized by this
24 chapter, the department displacing agency shall make a payment
25 to or for any a displaced person, displaced from any a
26 dwelling, not eligible to receive a payment under section
27 316.5, which dwelling was actually and lawfully occupied by
28 such the displaced person for not less than ninety days
29 immediately prior to the initiation of negotiations for
30 acquisition of such the dwelling, or as a result of the
31 written order of the displacing agency to vacate the real
32 property. Such payment shall be All determinations to carry
33 out this section shall be made in accordance with
34 administrative rules adopted by the department. The displaced
35 person may elect either of the following:

1 1. The amount necessary to enable such the displaced
2 person to lease or rent for a period not to exceed four years,
3 a decent, safe, and sanitary dwelling of standards adequate to
4 accommodate such person in areas not generally less desirable
5 in regard to public utilities and public and commercial
6 facilities, and reasonably accessible to the person's place of
7 employment, but not to exceed four thousand dollars, or a
8 comparable replacement dwelling. At the discretion of the
9 displacing agency, a payment under this subsection may be made
10 in periodic installments. Computations of a payment under
11 this subsection to a low-income displaced person for a
12 comparable replacement dwelling shall take into account the
13 person's income.

14 2. The amount necessary to enable such the person to make
15 a down payment, including incidental expenses described in
16 section 316.5, subsection 1, paragraph "c", on the purchase of
17 a decent, safe, and sanitary dwelling of standards adequate to
18 accommodate such person in areas not generally less desirable
19 in regard to public utilities and public and commercial
20 facilities, but not to exceed four thousand dollars, except
21 that if such amount exceeds two thousand dollars, such person
22 must equally match any such amount in excess of two thousand
23 dollars, in making the down payment. The person may, at the
24 discretion of the displacing agency, be eligible under this
25 subsection for the maximum payment allowed under subsection 1,
26 except that, in the case of a displaced homeowner who has
27 owned and occupied the displaced dwelling for at least ninety
28 days but not more than one hundred and eighty days immediately
29 prior to the initiation of negotiations for the acquisition of
30 the dwelling, the payment shall not exceed the payment the
31 person would otherwise have received under section 316.5,
32 subsection 1, had the person owned and occupied the displaced
33 dwelling for one hundred and eighty days immediately prior to
34 the initiation of the negotiations.

35 Sec. 11. Section 316.7, Code 1989, is amended to read as

1 follows:

2 316.7 RELOCATION ASSISTANCE ADVISORY SERVICES.

3 1. ~~Whenever the acquisition of real property for a highway~~
4 ~~project undertaken by the department will result in the~~
5 ~~displacement of any person, the department shall provide a~~
6 ~~relocation assistance advisory program for displaced persons~~
7 ~~which shall offer the services described in subsection 3 A~~
8 displacing agency shall ensure that relocation assistance
9 advisory services are made available to all persons displaced
10 by the displacing agency. If the department displacing agency
11 determines that any a person occupying property immediately
12 adjacent to the real property acquired where the displacing
13 activity occurs, is caused substantial economic injury because
14 as a result of the acquisition displacing activity, the
15 department displacing agency may offer such the person
16 relocation assistance advisory services under such program.

17 2. The department displacing agency shall co-operate to
18 the maximum extent feasible with federal, state, or local
19 agencies to assure ensure that such the displaced persons
20 receive the maximum assistance available to them.

21 3. Each relocation assistance advisory program required by
22 subsection 1 shall include such measures, facilities, or
23 services as may be necessary or appropriate in order to:

24 a. ~~Determine the need, if any, of displaced persons, for~~
25 ~~relocation assistance;~~

26 b. ~~Provide current and continuing information on the~~
27 ~~availability, prices, and rentals, of comparable decent, safe,~~
28 ~~and sanitary sales and rental housing, and of comparable~~
29 ~~commercial properties and locations for displaced businesses;~~

30 c. ~~Assure that, within a reasonable period of time, prior~~
31 ~~to displacement there will be available in areas not generally~~
32 ~~less desirable in regard to public utilities and public and~~
33 ~~commercial facilities and at rents or prices within the~~
34 ~~financial means of the families and individuals displaced,~~
35 ~~decent, safe, and sanitary dwellings, as defined by the~~

1 department, equal in number to the number of and available to
 2 such displaced persons who require such dwellings and
 3 reasonably accessible to their places of employment, except
 4 that the department may prescribe by departmental rules
 5 situations when such assurances may be waived;

6 d.--Assist a displaced person displaced from the person's
 7 business or farm operation in obtaining and becoming
 8 established in a suitable replacement location;

9 e.--Supply information concerning federal and state housing
 10 programs, and other federal or state programs offering
 11 assistance to displaced persons, and comply with the
 12 provisions of the federal Uniform Relocation Act and this
 13 chapter.

14 f 4. Provide The displacing agency shall provide other
 15 advisory services to displaced persons in order to minimize
 16 hardships to such the displaced persons in adjusting to
 17 relocation.

18 4 5. The department displacing agency shall co-ordinate
 19 relocation activities with project work, and other planned or
 20 proposed governmental actions or displacing activities in the
 21 community or nearby areas which may affect the carrying out of
 22 relocation assistance programs.

23 Sec. 12. Section 316.8, Code 1989, is amended to read as
 24 follows:

25 316.8 HOUSING REPLACEMENT BY DEPARTMENT THE DISPLACING
 26 AGENCY AS LAST RESORT.

27 1. If a highway project cannot proceed ~~to actual~~
 28 construction on a timely basis because comparable replacement
 29 ~~safe or rental housing is~~ dwellings are not available, and the
 30 department displacing agency determines that such housing
 31 dwellings cannot otherwise be made available, the department
 32 displacing agency may take such action as is necessary or
 33 appropriate to provide ~~such housing~~ the dwellings by use of
 34 funds authorized for ~~such~~ the program or project. The
 35 department displacing agency may let contracts for the

1 construction of ~~said-housing-to~~ the dwellings, approve plans
2 and specifications for the building ~~thereof~~ of the dwellings,
3 and to supervise, inspect, and approve the ~~housing~~ dwellings
4 once constructed in order that the ~~housing~~ dwellings so
5 constructed ~~complies~~ comply with the terms and conditions of
6 this chapter. The displacing agency may under this section
7 exceed the maximum amounts which may be paid under sections
8 316.5 and 316.6 on a case by case basis for good cause as
9 determined in accordance with administrative rules adopted by
10 the department.

11 2. No A person shall not be required to move from the
12 person's dwelling on or after July 1, 1971, on account of any
13 highway program or project, unless the department displacing
14 agency is satisfied that a comparable replacement housing, ~~in~~
15 ~~accordance with section 316.77, subsection 37, paragraph "c",~~
16 dwelling is available to such the person.

17 Sec. 13. Section 316.9, subsection 4, Code 1989, is
18 amended to read as follows:

19 4. Any A person aggrieved by a determination as to
20 eligibility for assistance or a payment authorized by this
21 chapter, or the amount of a payment, upon application may have
22 the ~~person's application~~ matter reviewed by ~~the department.~~
23 Rules governing reviews shall provide for a prompt one-step
24 uncomplicated fact-finding process. Such a review is an
25 appeal of an agency action as defined in section 17A.2,
26 subsection 9, and is not a contested case. The decision
27 rendered shall be the displacing agency's final agency action.

28 Sec. 14. Section 316.12, Code 1989, is amended to read as
29 follows:

30 316.12 PAYMENTS TO DISPLACED PERSONS NOT TO BE CONSIDERED
31 AS INCOME.

3040-32 No A payment received by a displaced person under this
33 chapter shall not be considered as income for the purpose of
34 determining the eligibility or extent of eligibility of any
35 person for assistance under any state law or for the purposes

1 of chapter 422.

2 Sec. 15. Section 316.13, Code 1989, is amended to read as
3 follows:

4 316.13 ADMINISTRATION.

5 In order to prevent unnecessary expenses and duplications
6 of functions, and to promote uniform and effective
7 administration of relocation assistance programs for displaced
8 persons, the department displacing agency may enter into
9 contracts with any individual, firm, association, or
10 corporation for services in connection with such the programs,
11 or may carry out its functions through any governmental
12 agency, political subdivision, or instrumentality having an
13 established organization for conducting relocation assistance
14 programs. ~~The department shall, in carrying out the~~
15 ~~relocation assistance activities described in section 316.8~~
16 whenever if practicable, utilize the services of state or
17 local housing agencies, or other agencies having experience in
18 the administration or conduct of similar housing assistance
19 activities shall be used.

20 Sec. 16. Section 316.14, Code 1989, is amended to read as
21 follows:

22 316.14 FUNDING.

23 Funds appropriated or otherwise available to any state
24 agency for a program or project shall also be available to
25 carry out the provisions of this chapter.

26 Payments and expenditures under this chapter for highway
27 projects are incident to and arise out of the construction,
28 maintenance, and supervision of public highways and streets,
29 and, in the case of any federal-aid highway project, may be
30 made by the department from the primary road fund and funds
31 made available by the federal government for the purpose of
32 carrying out this chapter. Payments made under ~~section 316.10~~
33 this chapter may be made from the primary road fund in case of
34 a primary road project only, and in other cases may be made
35 from appropriate funds under the control of a political

1 subdivision.

2 Sec. 17. Section 331.382, subsection 1, paragraph h, Code
3 1989, is amended to read as follows:

4 h. Provision of relocation programs and payments as
5 provided in ~~sections 316.10 and 316.11~~ chapter 316.

6 Sec. 18. Section 472.42, Code 1989, is amended to read as
7 follows:

8 472.42 EMINENT DOMAIN -- PAYMENT TO DISPLACED PERSONS.

9 1. Any A utility or railroad subject to section 327C.2,
10 chapter 479, or chapter 476, authorized by law to acquire
11 property by condemnation, ~~that does acquire~~ which acquires the
12 property of ~~any a person who is displaced thereby after July~~
13 ~~17-1971~~ or displaces a person for a program or project which
14 has received or will receive federal financial assistance as
15 defined in section 316.1, shall ~~pay provide~~ provide to ~~such~~ the person
16 in addition to ~~all any~~ any other sums of money in payment of just
17 compensation, the payments and assistance required by law, a
18 ~~displacement allowance~~ in accordance with ~~and in the same~~
19 ~~manner as provided for acquisition for highway projects in~~
20 ~~sections 316.4, 316.5, 316.6 and 316.8~~ chapter 316.

21 2. ~~The displacement allowance to be paid by a utility~~
22 ~~subject to the provisions of chapter 479 or 476, shall be paid~~
23 ~~in the manner provided in sections 316.4, 316.5, 316.6, and~~
24 ~~316.8 and pursuant to rules promulgated by the Iowa state~~
25 ~~commerce commission. Any A~~ person aggrieved by a
26 determination made by a utility as to eligibility for
27 relocation assistance, a payment, or the amount of the payment
28 may, upon application, may have the matter reviewed by the
29 ~~Iowa state~~ utilities division of the department of commerce
30 ~~commission. The decision of the Iowa state commerce~~
31 ~~commission upon review shall be final as to all parties.~~

32 3. ~~The displacement allowance to be paid by a railroad~~
33 ~~subject to section 327C.2, shall be paid in the manner~~
34 ~~provided in sections 316.4, 316.5, 316.6, and 316.8 and~~
35 ~~pursuant to rules promulgated by the transportation regulation~~

1 authority. Any A person aggrieved by a determination made by
2 a railroad as to eligibility for relocation assistance, a
3 payment, or the amount of the payment may, upon application,
4 may have the matter reviewed by the state department of
5 transportation regulation-authority. ~~The decision of the~~
6 ~~transportation-regulation-authority-upon-review-shall-be-final~~
7 ~~as-to-all-parties.~~

8 4. Any A utility or railroad subject to the ~~provisions of~~
9 this section that proposes to ~~acquire the property of any~~
10 ~~displace a person who will be displaced by such acquisition~~
11 shall inform the person of the person's right to receive a
12 ~~displacement allowance and, if the person's right to the~~
13 ~~displacement allowance or the amount of the allowance is in~~
14 ~~dispute, the relocation assistance and payments, and of an~~
15 aggrieved person's right to appeal to the Iowa state utilities
16 division of the department of commerce commission or the state
17 department of transportation regulation-authority.

18 Sec. 19. NEW SECTION. 472.54 FEDERALLY ASSISTED PROJECT
19 AND DISPLACING ACTIVITIES -- ACQUISITION POLICIES.

20 If a project or displacing activity has received or will
21 receive federal financial assistance as defined in section
22 316.1, an acquiring agency shall be guided by the following
23 policies:

- 24 1. Every reasonable effort shall be made to acquire
25 expeditiously real property by negotiation.
- 26 2. Real property shall be appraised as required by section
27 472.45 before the initiation of negotiations, and the owner or
28 the owner's designated representative shall be given an
29 opportunity to accompany at least one appraiser of the
30 acquiring agency during an inspection of the property, except
31 that the state department of transportation may prescribe a
32 procedure to waive the appraisal in cases involving the
33 acquisition of property with a low fair market value.
- 34 3. Before the initiation of negotiations for real
35 property, the acquiring agency shall establish an amount which

1 it believes to be just compensation for the real property, and
2 shall make a prompt offer to acquire the property for the full
3 amount established by the agency. In no event shall the
4 amount be less than the agency's approved appraisal of the
5 fair market value of the property.

6 4. The construction or development of a public improvement
7 shall be so scheduled that, to the greatest extent
8 practicable, no person lawfully occupying real property shall
9 be required to move from a dwelling or to move the person's
10 business or farm operation without at least ninety days
11 written notice of the date by which the move is required.

12 5. If an owner or tenant is permitted to occupy the real
13 property acquired on a rental basis for a short term or for a
14 period subject to termination on short notice, the amount of
15 rent required shall not exceed the fair rental value of the
16 property to a short-term occupier.

30XO-17 6. In no event shall the time of condemnation be advanced,
18 on negotiations or condemnation the deposit of funds in court
19 for the use of the owner be deferred, or any other coercive
20 action be taken to compel an agreement on the price to be paid
21 for the property.

22 7. If an interest in real property is to be acquired by
23 exercise of the power of eminent domain, formal condemnation
24 proceedings shall be instituted. The acquiring agency shall
25 not intentionally make it necessary for an owner to institute
26 legal proceedings to prove the fact of the taking of the
27 owner's real property.

28 8. If the acquisition of only a portion of property would
29 leave the owner with an uneconomical remnant, the head of the
30 agency concerned shall offer to acquire that remnant. For the
31 purposes of this chapter, an "uneconomical remnant" is a
32 parcel of real property in which the owner is left with an
33 interest after the partial acquisition of the owner's property
34 where the head of the agency concerned determines that the
35 parcel has little or no value or utility to the owner.

1 9. A person whose real property is being acquired in
2 accordance with this chapter, after the person has been fully
3 informed of the person's right to receive just compensation
4 for the property, may donate the property, any part of the
5 property, any interest in the property, or any compensation
6 paid for it to any agency as the person may determine.

7 10. As soon as practicable after the date of payment of
8 the purchase price or the date of deposit in court of funds to
9 satisfy the award of compensation in a condemnation proceeding
10 to acquire real property, whichever is earlier, the acquiring
11 agency shall reimburse the owner, to the extent the acquiring
12 agency deems fair and reasonable, for expenses the owner
13 necessarily incurred for all of the following:

14 a. Recording fees, transfer taxes, and similar expenses
15 incidental to conveying the real property to the acquiring
16 agency.

17 b. Penalty costs for full or partial prepayment of any
18 preexisting recorded mortgage entered into in good faith
19 encumbering the real property.

20 Payments and expenditures under this subsection are
21 incident to and arise out of the program or project for which
22 the acquisition activity takes place. Such payments and
23 expenditures may be made from the funds made available for the
24 program or project.

25 A person aggrieved by a determination as to the eligibility
26 for or amount of a reimbursement may have the matter reviewed
27 in accordance with section 316.9.

28 11. An owner shall not be required to surrender possession
29 of real property before the acquiring agency concerned pays
30 the agreed purchase price.

31 Sec. 20. NEW SECTION. 472.55 BUILDINGS, STRUCTURES, AND
32 IMPROVEMENTS ON FEDERALLY ASSISTED PROGRAMS AND PROJECTS.

33 If a program or project has received or will receive
34 federal financial assistance as defined in section 316.1, an
35 acquiring agency shall be guided by the following policies:

1 1. If an interest in real property is acquired, the
2 acquiring agency shall acquire an equal interest in all
3 buildings, structures, or other improvements located upon the
4 real property which are required to be removed from the real
5 property or which are determined to be adversely affected by
6 the use to which the real property will be put.

7 2. For the purpose of determining the just compensation to
8 be paid for any building, structure, or other improvement
9 required to be acquired under this section, the building,
10 structure, or other improvement shall be deemed to be a part
11 of the real property to be acquired, notwithstanding the right
12 or obligation of a tenant of the lands, as against the owner
13 of any other interest in the real property, to remove the
14 building, structure, or improvement at the expiration of the
15 tenant's term. The fair market value which the building,
16 structure, or improvement contributes to the fair market value
17 of the real property to be acquired, or the fair market value
18 of the building, structure, or improvement for removal from
19 the real property, whichever is the greater, shall be paid to
20 the owner of the building, structure, or improvement.

21 3. Payment for the building, structure, or improvement
22 under this section shall not result in duplication of any
23 payments otherwise authorized by state law. The payment shall
24 not be made unless the owner of the land involved disclaims
25 all interest in the improvements of the tenant. In
26 consideration for any such payment, the tenant shall assign,
27 transfer, and release all the tenant's right, title, and
28 interest in and to the improvements. Nothing with regard to
29 the above-mentioned acquisition of buildings, structures, or
30 other improvements shall be construed to deprive the tenant of
31 any rights to reject payment and to obtain payment for the
32 property interests in accordance with other laws of this
33 state.

34 Sec. 21. Sections 316.10 and 316.11, Code 1989, are
35 repealed.

1 Sec. 22. This Act, being deemed of immediate importance,
2 takes effect upon enactment.

3 EXPLANATION

4 This bill provides for relocation payments and relocation
5 advisory assistance for displaced persons and for real
6 property acquisition.

7 The bill rewrites chapter 316 of the Code and eliminates
8 the chapter's application to only highway programs undertaken
9 by the state department of transportation with federal highway
10 assistance and expands its application to many categories of
11 displaced persons.

12 The bill applies to displacing agencies which includes
13 political subdivisions of the state which creates certain
14 mandates of these agencies.

15 This bill takes effect upon its enactment.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

1 Section 1. Section 316.1, subsection 2, Code 1989, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 2. "Displaced person" means:

5 a. A person who moves from real property or moves the
6 person's personal property from real property in either of the
7 following circumstances:

8 (1) As a direct result of a written notice of intent to
9 acquire, the initiation of negotiations for, or the
10 acquisition of, the real property in whole or in part for a
11 program or project undertaken with federal financial
12 assistance.

13 (2) The person moved or moved the person's personal
14 property from real property on which the person is either a
15 residential tenant or conducts a small business, a farm
16 operation, or a business as defined in section 316.1,
17 subsection 3, paragraph "d", as a direct result of
18 rehabilitation or demolition for a program or project
19 undertaken with federal financial assistance in a case in
20 which the head of the displacing agency determines that the
21 displacement is permanent.

22 b. For purposes of section 316.4, subsections 1 and 2, and
23 section 316.7, a person who moves from real property, or moves
24 the person's personal property from real property in either of
25 the following circumstances:

26 (1) As a direct result of a written notice of intent to
27 acquire, the initiation of negotiations for, or the
28 acquisition of, other real property in whole or in part if the
29 person conducts a business or farm operation on the other real
30 property for a program or project undertaken with federal
31 financial assistance.

32 (2) As a direct result of rehabilitation or demolition of
33 other real property on which the person conducts a business or
34 a farm operation for a program or project undertaken with
35 federal financial assistance in a case in which the head of

1 the displacing agency determines that the displacement is
2 permanent.

3 c. The term "displaced person" does not include any of the
4 following:

5 (1) A person who has been determined to be either in
6 unlawful occupancy of the real property or who has occupied
7 the real property for the purpose of obtaining assistance
8 under this chapter.

9 (2) A person, other than the person who was the occupant
10 of the real property at the time it was acquired, who occupies
11 the real property on a rental basis for a short term or a
12 period subject to termination when the real property is needed
13 for the program or project.

14 (3) An owner-occupant who voluntarily sells the owner-
15 occupant's property, after being informed in writing that if a
16 mutually satisfactory agreement of sale cannot be reached the
17 state agency will not acquire the property.

18 (4) A person who retains the right of use and occupancy of
19 the real property for life following its acquisition by a
20 state agency.

21 Sec. 2. Section 316.1, subsection 3, paragraph d, Code
22 1989, is amended to read as follows:

23 d. Solely for the purposes of section 316.4, ~~subsection 17~~
24 for assisting in the purchase, sale, resale, manufacture,
25 processing, or marketing of products, commodities, personal
26 property, or services by the erection and maintenance of an
27 outdoor advertising display or displays, whether or not such
28 the display or displays are located on the premises on which
29 any of the above activities are conducted.

30 Sec. 3. Section 316.1, subsection 6, Code 1989, is amended
31 by striking the subsection and inserting in lieu thereof the
32 following:

33 6. "Displacing agency" means the state or a state agency
34 carrying out a program or project, or any person carrying out
35 a program or project with federal financial assistance, which

1 causes a person to be a displaced person.

2 Sec. 4. Section 316.1, subsection 3, Code 1989, is amended
3 by striking the subsection and inserting in lieu thereof the
4 following:

5 8. "State agency" means any of the following:

6 a. A department, agency, or instrumentality of the state
7 or of a political subdivision of the state.

8 b. A department, agency, or instrumentality of two or more
9 political subdivisions of the state, or states.

10 c. A person who has the authority to acquire property by
11 eminent domain under state law.

12 Sec. 5. Section 316.1, Code 1989, is amended by adding the
13 following new subsections:

14 NEW SUBSECTION. 10. "Federal Uniform Relocation Act"
15 means the federal Uniform Relocation Assistance and Real
16 Property Acquisition Policies Act of 1970, Pub. L. No. 91-646,
17 as amended by the Uniform Relocation Act Amendments of 1987,
18 Title IV, Pub. L. No. 100-17.

19 NEW SUBSECTION. 11. "Federal financial assistance" means
20 a grant, loan, or contribution provided by the United States,
21 however, "federal financial assistance" does not include any
22 federal guarantee or insurance and any interest reduction
23 payment to an individual in connection with the purchase and
24 occupancy of a residence by that individual.

25 NEW SUBSECTION. 12. "Comparable replacement dwelling"
26 means any single family residential unit that is all of the
27 following:

28 a. Decent, safe, and sanitary.

29 b. Adequate in size to accommodate the occupants.

30 c. Within the financial means of the displaced person.

31 d. Functionally equivalent to the displaced person's
32 dwelling.

33 e. In an area not subject to unreasonably adverse
34 environmental conditions.

35 f. In a location generally not less desirable than the

1 location of the displaced person's dwelling with respect to
2 public utilities, facilities, services, and the displaced
3 person's place of employment.

4 Sec. 6. Section 316.2, subsection 3, Code 1989, is amended
5 by striking the subsection and inserting in lieu thereof the
6 following:

7 3. A payment made or to be made under the authority
8 granted in this chapter shall be for compensating or
9 reimbursing the displaced person or owner of real property in
10 accordance with the requirements of the federal Uniform
11 Relocation Act and this chapter and the payments shall not for
12 any purpose be deemed or considered compensation for real
13 property acquired or compensation for damages to remaining
14 property.

15 Payments authorized to be made by the federal Uniform
16 Relocation Act and this chapter shall be made as relocation
17 payments and in order to prevent unjust enrichment or a
18 duplication of payments to any condemnee in any condemnation
19 proceeding or appeal from any condemnation proceeding, an
20 allowance shall not be made in determining just compensation
21 in a condemnation proceeding for any damages, for any item of
22 damage, or any cost, which is authorized to be paid as a
23 relocation payment.

24 Moving cost payments and allowances for personal property
25 which is damaged or destroyed or reduced in value by an
26 acquisition of property authorized under section 472.14 or any
27 other provision of the Code under the powers of eminent domain
28 on projects where relocation assistance payments are paid
29 under this chapter shall be those payments and allowances
30 authorized by this chapter and shall not be made or included
31 as part of an award of damages in any condemnation proceeding
32 or appeal from any condemnation proceeding.

33 Sec. 7. Section 316.3, Code 1989, is amended to read as
34 follows:

35 316.3 DECLARATION OF POLICY -- AUTHORIZATION --

1 DIVISIBILITY OF APPLICATION.

2 1. The purpose of this chapter is to establish a uniform
3 policy for the fair and equitable treatment of persons
4 displaced as a result of state-and federally assisted highway
5 programs or projects in order that such the persons shall not
6 suffer disproportionate injuries as a result of programs or
7 projects designed for the benefit of the public as a whole and
8 to minimize the hardship of displacement on the persons. The
9 general assembly declares that replacement-housing relocation
10 assistance for persons displaced by highway programs and
11 projects is a necessary and essential part of such-highway the
12 programs and projects. This chapter shall be known and may be
13 cited as the "Highway Relocation Assistance Law."

14 2. If a displacing agency subject to the provisions of the
15 federal Uniform Relocation Act, or if another entity required
16 or electing to provide any of the programs or payments
17 authorized by this chapter, undertakes a project which results
18 in the acquisition of real property or in a person being
19 displaced from the person's home, business, or farm, the
20 displacing agency or other entity may provide relocation
21 assistance, and make relocation payments to the displaced
22 person and do the other acts and follow the procedures and
23 practices as may be necessary to comply with the provisions of
24 the federal Uniform Relocation Act and this chapter.

25 Displacing agencies may provide all or a part of the program
26 and payments authorized under this chapter to persons
27 displaced by any program or project regardless of the funding
28 source. However, to the extent a program or a payment is
29 provided, the program or payment shall be provided on a
30 uniform basis to all displaced persons.

31 3. If a provision, clause, or phrase of this chapter, or
32 application of this chapter to a person or circumstance is
33 adjudged invalid by any court of competent jurisdiction, the
34 judgment shall not invalidate the remainder of the chapter,
35 and the application of the chapter to other persons or

1 circumstances shall not be affected by the adjudication.

2 Sec. 8. Section 316.4, Code 1989, is amended to read as
3 follows:

4 316.4 MOVING AND RELATED EXPENSES.

5 1. ~~Whenever the acquisition of real property for~~ If a
6 ~~program or project undertaken by the department~~ a displacing
7 ~~agency will result in the displacement of any a person, the~~
8 ~~department displacing agency shall make a payment to any the~~
9 ~~displaced person, upon proper application as approved by such~~
10 ~~department the displacing agency, for:~~

11 ~~a---~~ Actual actual reasonable and necessary expenses
12 incurred in moving the person, the person's family, business,
13 farm operation, or other personal property;

14 ~~b---~~ Actual subject to rules and limits established by the
15 department. The payment may also provide for actual direct
16 losses of tangible personal property, as a result of moving or
17 discontinuing a business or farm operation, but not to exceed
18 an amount equal to the reasonable expenses that would have
19 been required to relocate such property, as determined by the
20 department; and

21 ~~c---~~ Actual reasonable expenses purchase of substitute
22 personal property, business reestablishment expenses, storage
23 expenses, and expenses incurred in searching for a replacement
24 business or farm.

25 2. Any A displaced person eligible for payments under
26 subsection 1, who is displaced from a dwelling and who elects
27 to accept the payments authorized by this subsection in lieu
28 of the payments authorized by subsection 1, may receive a
29 moving expense and dislocation allowance, determined according
30 to a schedule established by the department not to exceed
31 three hundred dollars; and a dislocation allowance of two
32 hundred dollars.

33 3. Any A displaced person, as defined in section 316.1,
34 subsection 2, paragraph "a", eligible for payments under
35 subsection 1, who is displaced from the person's place of

1 business or farm operation and who elects is eligible, may
2 elect to accept the payment authorized by this subsection in
3 lieu of the payment authorized by subsection 17, may receive.
4 The payment shall consist of a fixed payment in an amount
5 equal to the average annual net earnings of the business or
6 farm operation, except that such payment shall be not less
7 than two thousand five hundred dollars nor more than ten
8 thousand dollars to be determined according to criteria
9 established by the department. In the case of a business, no
10 payment shall be made under this subsection unless the
11 department is satisfied that the business cannot be relocated
12 without a substantial loss of its existing patronage, and is
13 not a part of a commercial enterprise having at least one
14 other establishment not being acquired for a highway project
15 which is engaged in the same or similar business. For
16 purposes of this subsection, the term "average annual net
17 earnings" means one-half of any net earnings of the business
18 or farm operation, before federal, state, and local income
19 taxes, during the two taxable years immediately preceding the
20 taxable year in which such business or farm operation moves
21 from the real property acquired for such project, or during
22 such other period as the department determines to be more
23 equitable for establishing such earnings, and includes any
24 compensation paid by the business or farm operation to the
25 owner, the owner's spouse, or the owner's dependents during
26 such period. A person whose sole business at the displaced
27 dwelling is the rental of the real property does not qualify
28 for a payment under this subsection.

29 Sec. 9. Section 316.5, Code 1989, is amended to read as
30 follows:

31 316.5 REPLACEMENT HOUSING FOR HOMEOWNER.

32 1. In addition to payments otherwise authorized by this
33 chapter, the department displacing agency shall make an
34 additional payment not in excess of fifteen thousand dollars
35 to any a displaced person who is displaced from a dwelling

1 actually owned and occupied by such the displaced person for
2 not less than one hundred eighty days immediately prior to the
3 initiation of negotiations for the acquisition of the
4 property. Such All determinations to carry out this section
5 shall be made in accordance with administrative rules adopted
6 by the department. The additional payment shall include the
7 following elements:

8 a. The amount, if any, which when added to the acquisition
9 cost of the dwelling acquired by the department displacing
10 agency, equals the reasonable cost of a comparable replacement
11 dwelling which is a decent, safe, and sanitary dwelling
12 adequate to accommodate such displaced person, reasonably
13 accessible to public services and places of employment and
14 available on the private market. All determinations required
15 to carry out this paragraph shall be made in accordance with
16 administrative rules established by the department in making
17 these additional payments.

18 b. The amount, if any, which will compensate such the
19 displaced person for any increased interest costs and other
20 debt service costs which such the displaced person is required
21 to pay for financing the acquisition of any such a comparable
22 replacement dwelling. Such The amount shall be paid only if
23 the dwelling acquired by the department displacing agency was
24 encumbered by a bona fide mortgage which was a valid lien on
25 such the dwelling for not less than one hundred and eighty
26 days immediately prior to the initiation of negotiations for
27 the acquisition of such the dwelling. Such amount shall be
28 equal to the excess in the aggregate interest and other debt
29 service costs of that amount of the principal of the mortgage
30 on the replacement dwelling which is equal to the unpaid
31 balance of the mortgage on the acquired dwelling, over the
32 remainder term of the mortgage on the acquired dwelling,
33 reduced to discounted present value. The discount rate shall
34 be the prevailing interest rate paid on savings deposits by
35 commercial banks in the general area in which the replacement

1 dwelling-is-located:

2 c. Reasonable Actual, reasonable, and necessary expenses
3 incurred by ~~such~~ the displaced person for evidence of title,
4 recording fees, and other closing costs incident to the
5 purchase of ~~the~~ a replacement dwelling, but not including
6 prepaid expenses.

7 2. The additional payment authorized by this section shall
8 be made only to such a displaced person who purchases and
9 occupies a decent, safe, and sanitary replacement dwelling
10 ~~which-is-decent,-safe,-and-sanitary-not-later-than-the-end-of~~
11 ~~the-one-year-period-beginning-on~~ within one year after the
12 date on which the person receives ~~from-the-department~~ final
13 payment from the displacing agency of all costs of the
14 acquired dwelling, or on the date on which the person ~~moves~~
15 ~~from-the-acquired-dwelling~~ obligation of the displacing agency
16 under section 316.8 is met, whichever is the later, date
17 except that the displacing agency may extend the eligibility
18 period for good cause. If the period is extended, the payment
19 under this section shall be based on the costs of relocating
20 the person to a comparable replacement dwelling within one
21 year of the applicable date.

22 Sec. 10. Section 316.6, Code 1989, is amended to read as
23 follows:

24 316.6 REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.

25 In addition to amounts otherwise authorized by this
26 chapter, the ~~department~~ displacing agency shall make a payment
27 to or for ~~any~~ a displaced person, displaced from ~~any~~ a
28 dwelling, not eligible to receive a payment under section
29 316.5, which dwelling was actually and lawfully occupied by
30 ~~such~~ the displaced person for not less than ninety days
31 immediately prior to the initiation of negotiations for
32 acquisition of ~~such~~ the dwelling, or as a result of the
33 written order of the displacing agency to vacate the real
34 property. Such-payment-shall-be All determinations to carry
35 out this section shall be made in accordance with

1 administrative rules adopted by the department. The displaced
2 person may elect either of the following:

3 1. The amount necessary to enable such the displaced
4 person to lease or rent for a period not to exceed four years,
5 a decent, safe, and sanitary dwelling of standards adequate to
6 accommodate such person in areas not generally less desirable
7 in regard to public utilities and public and commercial
8 facilities, and reasonably accessible to the person's place of
9 employment, but not to exceed four thousand dollars, or a
10 comparable replacement dwelling. At the discretion of the
11 displacing agency, a payment under this subsection may be made
12 in periodic installments. Computations of a payment under
13 this subsection to a low-income displaced person for a
14 comparable replacement dwelling shall take into account the
15 person's income.

16 2. The amount necessary to enable such the person to make
17 a down payment, including incidental expenses described in
18 section 316.5, subsection 1, paragraph "c", on the purchase of
19 a decent, safe, and sanitary dwelling of standards adequate to
20 accommodate such person in areas not generally less desirable
21 in regard to public utilities and public and commercial
22 facilities, but not to exceed four thousand dollars, except
23 that if such amount exceeds two thousand dollars, such person
24 must equally match any such amount in excess of two thousand
25 dollars, in making the down payment. The person may, at the
26 discretion of the displacing agency, be eligible under this
27 subsection for the maximum payment allowed under subsection 1,
28 except that, in the case of a displaced homeowner who has
29 owned and occupied the displaced dwelling for at least ninety
30 days but not more than one hundred and eighty days immediately
31 prior to the initiation of negotiations for the acquisition of
32 the dwelling, the payment shall not exceed the payment the
33 person would otherwise have received under section 316.5,
34 subsection 1, had the person owned and occupied the displaced
35 dwelling for one hundred and eighty days immediately prior to

1 the initiation of the negotiations.

2 Sec. 11. Section 316.7, Code 1989, is amended to read as
3 follows:

4 316.7 RELOCATION ASSISTANCE ADVISORY SERVICES.

5 1. ~~Whenever the acquisition of real property for a highway~~
6 ~~project undertaken by the department will result in the~~
7 ~~displacement of any person, the department shall provide a~~
8 ~~relocation assistance advisory program for displaced persons~~
9 ~~which shall offer the services described in subsection 3 A~~
10 displacing agency shall ensure that relocation assistance
11 advisory services are made available to all persons displaced
12 by the displacing agency. If the department displacing agency
13 determines that any a person occupying property immediately
14 adjacent to the real property acquired where the displacing
15 activity occurs, is caused substantial economic injury because
16 as a result of the acquisition displacing activity, the
17 department displacing agency may offer such the person
18 relocation assistance advisory services under such program.

19 2. The department displacing agency shall co-operate to
20 the maximum extent feasible with federal, state, or local
21 agencies to ~~assure~~ ensure that ~~such the~~ displaced persons
22 receive the maximum assistance available to them.

23 3. Each relocation assistance advisory program required by
24 subsection 1 shall include such measures, facilities, or
25 services as may be necessary or appropriate in order to:

26 ~~a. Determine the need, if any, of displaced persons, for~~
27 ~~relocation assistance;~~

28 ~~b. Provide current and continuing information on the~~
29 ~~availability, prices, and rents, of comparable decent, safe,~~
30 ~~and sanitary sales and rental housing, and of comparable~~
31 ~~commercial properties and locations for displaced businesses;~~

32 ~~c. Assure that, within a reasonable period of time, prior~~
33 ~~to displacement there will be available in areas not generally~~
34 ~~less desirable in regard to public utilities and public and~~
35 ~~commercial facilities and at rents or prices within the~~

1 financial means of the families and individuals displaced,
2 decent, safe, and sanitary dwellings, as defined by the
3 department, equal in number to the number of and available to
4 such displaced persons who require such dwellings and
5 reasonably accessible to their places of employment, except
6 that the department may prescribe by departmental rules
7 situations when such assurances may be waived;

8 d.--Assist a displaced person displaced from the person's
9 business or farm operation in obtaining and becoming
10 established in a suitable replacement location;

11 e.--Supply information concerning federal and state housing
12 programs, and other federal or state programs offering
13 assistance to displaced persons, and comply with the
14 provisions of the federal Uniform Relocation Act and this
15 chapter.

16 § 4. Provide The displacing agency shall provide other
17 advisory services to displaced persons in order to minimize
18 hardships to such the displaced persons in adjusting to
19 relocation.

20 § 5. The department displacing agency shall co-ordinate
21 relocation activities with project work, and other planned or
22 proposed governmental actions or displacing activities in the
23 community or nearby areas which may affect the carrying out of
24 relocation assistance programs.

25 Sec. 12. Section 316.8, Code 1989, is amended to read as
26 follows:

27 316.8 HOUSING REPLACEMENT BY DEPARTMENT THE DISPLACING
28 AGENCY AS LAST RESORT.

29 1. If a highway project cannot proceed to actual
30 construction on a timely basis because comparable replacement
31 sale or rental housing is dwellings are not available, and the
32 department displacing agency determines that such housing
33 dwellings cannot otherwise be made available, the department
34 displacing agency may take such action as is necessary or
35 appropriate to provide such housing the dwellings by use of

1 funds authorized for ~~such~~ the program or project. The
2 department displacing agency may let contracts for the
3 construction of ~~said-housing-to~~ the dwellings, approve plans
4 and specifications for the building ~~thereof~~ of the dwellings,
5 and ~~to~~ supervise, inspect, and approve the housing dwellings
6 once constructed in order that the housing dwellings so
7 constructed ~~complies~~ comply with the terms and conditions of
8 this chapter. The displacing agency may under this section
9 exceed the maximum amounts which may be paid under sections
10 316.5 and 316.6 on a case by case basis for good cause as
11 determined in accordance with administrative rules adopted by
12 the department.

13 2. No A person shall not be required to move from the
14 person's dwelling on or after July 1, 1971, on account of any
15 highway program or project, unless the department displacing
16 agency is satisfied that a comparable replacement housing
17 ~~in accordance with section 316.77, subsection 37, paragraph "e"~~
18 dwelling is available to such the person.

19 Sec. 13. Section 316.9, subsection 4, Code 1989, is
20 amended to read as follows:

21 4. Any A person aggrieved by a determination as to
22 eligibility for assistance or a payment authorized by this
23 chapter, or the amount of a payment, upon application may have
24 ~~the person's-application matter reviewed by the department.~~
25 Rules governing reviews shall provide for a prompt one-step
26 uncomplicated fact-finding process. Such a review is an
27 appeal of an agency action as defined in section 17A.2,
28 subsection 9, and is not a contested case. The decision
29 rendered shall be the displacing agency's final agency action.

30 Sec. 14. Section 316.12, Code 1989, is amended to read as
31 follows:

32 316.12 PAYMENTS TO DISPLACED PERSONS NOT TO BE CONSIDERED
33 AS INCOME.

34 No Except for any federal or state law providing low-income
35 housing assistance, a payment received by a displaced person

1 under this chapter shall not be considered as income for the
2 purpose of determining the eligibility or extent of
3 eligibility of any person for assistance under any federal or
4 state law or for the purposes of chapter 422.

5 Sec. 15. Section 316.13, Code 1989, is amended to read as
6 follows:

7 316.13 ADMINISTRATION.

8 In order to prevent unnecessary expenses and duplications
9 of functions, and to promote uniform and effective
10 administration of relocation assistance programs for displaced
11 persons, the department displacing agency may enter into
12 contracts with any individual, firm, association, or
13 corporation for services in connection with such the programs,
14 or may carry out its functions through any governmental
15 agency, political subdivision, or instrumentality having an
16 established organization for conducting relocation assistance
17 programs. ~~The department shall, in carrying out the~~
18 ~~relocation assistance activities described in section 316.8~~
19 whenever If practicable, ~~utilize~~ the services of state or
20 local housing agencies, or other agencies having experience in
21 the administration or conduct of similar housing assistance
22 activities shall be used.

23 Sec. 16. Section 316.14, Code 1989, is amended to read as
24 follows:

25 316.14 FUNDING.

26 Funds appropriated or otherwise available to any state
27 agency for a program or project shall also be available to
28 carry out the provisions of this chapter.

29 Payments and expenditures under this chapter for highway
30 projects are incident to and arise out of the construction,
31 maintenance, and supervision of public highways and streets,
32 and, in the case of any federal-aid highway project, may be
33 made by the department from the primary road fund and funds
34 made available by the federal government for the purpose of
35 carrying out this chapter. ~~Payments made under section 316.10~~

1 this chapter may be made from the primary road fund in case of
2 a primary road project only, and in other cases may be made
3 from appropriate funds under the control of a political
4 subdivision.

5 Sec. 17. Section 331.382, subsection 1, paragraph h, Code
6 1989, is amended to read as follows:

7 h. Provision of relocation programs and payments as
8 provided in ~~sections-316.10-and-316.11~~ chapter 316.

9 Sec. 18. Section 472.42, Code 1989, is amended to read as
10 follows:

11 472.42 EMINENT DOMAIN -- PAYMENT TO DISPLACED PERSONS.

12 1. Any A utility or railroad subject to section 327C.2,
13 chapter 479, or chapter 476, authorized by law to acquire
14 property by condemnation, ~~that does acquire~~ which acquires the
15 property of any a person ~~who is displaced thereby after July~~
16 17, 1971 or displaces a person for a program or project which
17 has received or will receive federal financial assistance as
18 defined in section 316.1, shall pay provide to such the person
19 in addition to all any other sums of money in payment of just
20 compensation, the payments and assistance required by law, a
21 displacement-allowance in accordance with and-in-the-same
22 manner-as-provided-for-acquisition-for-highway-projects-in
23 sections-316.47-316.57-316.6-and-316.8 chapter 316.

24 2. ~~The displacement-allowance-to-be-paid-by-a-utility~~
25 ~~subject-to-the-provisions-of-chapter-479-or-476,-shall-be-paid~~
26 ~~in-the-manner-provided-in-sections-316.47-316.57-316.6,-and~~
27 ~~316.8-and-pursuant-to-rules-promulgated-by-the-Iowa-state~~
28 ~~commerce-commission.--Any A person aggrieved by a~~
29 ~~determination made by a utility as to eligibility for~~
30 ~~relocation assistance, a payment, or the amount of the payment~~
31 ~~may, upon application, may have the matter reviewed by the~~
32 ~~Iowa-state utilities division of the department of commerce~~
33 ~~commission. The decision-of-the-Iowa-state-commerce~~
34 ~~commission-upon-review-shall-be-final-as-to-all-parties.~~

35 3. ~~The displacement-allowance-to-be-paid-by-a-railroad~~

1 subject-to-section-327C-2,-shall-be-paid-in-the-manner
2 provided-in-sections-316-4,-316-5,-316-6,-and-316-8-and
3 pursuant-to-rules-promulgated-by-the-transportation-regulation
4 authority. Any A person aggrieved by a determination made by
5 a railroad as to eligibility for relocation assistance, a
6 payment, or the amount of the payment may, upon application,
7 may have the matter reviewed by the state department of
8 transportation regulation-authority. ~~The decision of the~~
9 ~~transportation-regulation-authority-upon-review-shall-be-final~~
10 ~~as-to-all-parties.~~

11 4. Any A utility or railroad subject to the-provisions-of
12 this section that proposes to ~~acquire-the-property-of-any~~
13 displace a person who-will-be-displaced-by-such-acquisition
14 shall inform the person of the person's right to receive a
15 ~~displacement-allowance-and,-if-the-person's-right-to-the~~
16 ~~displacement-allowance-or-the-amount-of-the-allowance-is-in~~
17 ~~dispute,-the~~ relocation assistance and payments, and of an
18 aggrieved person's right to appeal to the Iowa-state utilities
19 division of the department of commerce commission or the state
20 department of transportation regulation-authority.

21 Sec. 19. NEW SECTION. 472.54 FEDERALLY ASSISTED PROJECT
22 AND DISPLACING ACTIVITIES -- ACQUISITION POLICIES.

23 If a project or displacing activity has received or will
24 receive federal financial assistance as defined in section
25 316.1, an acquiring agency shall be guided by the following
26 policies:

27 1. Every reasonable effort shall be made to acquire
28 expeditiously real property by negotiation.

29 2. Real property shall be appraised as required by section
30 472.45 before the initiation of negotiations, and the owner or
31 the owner's designated representative shall be given an
32 opportunity to accompany at least one appraiser of the
33 acquiring agency during an inspection of the property, except
34 that the state department of transportation may prescribe a
35 procedure to waive the appraisal in cases involving the

1 acquisition of property with a low fair market value.

2 3. Before the initiation of negotiations for real
3 property, the acquiring agency shall establish an amount which
4 it believes to be just compensation for the real property, and
5 shall make a prompt offer to acquire the property for the full
6 amount established by the agency. In no event shall the
7 amount be less than the agency's approved appraisal of the
8 fair market value of the property.

9 4. The construction or development of a public improvement
10 shall be so scheduled that, to the greatest extent
11 practicable, no person lawfully occupying real property shall
12 be required to move from a dwelling or to move the person's
13 business or farm operation without at least ninety days
14 written notice of the date by which the move is required.

15 5. If an owner or tenant is permitted to occupy the real
16 property acquired on a rental basis for a short term or for a
17 period subject to termination on short notice, the amount of
18 rent required shall not exceed the fair rental value of the
19 property to a short-term occupier.

20 6. In no event shall the time of condemnation be advanced,
21 or negotiations or condemnation and the deposit of funds in
22 court for the use of the owner be deferred, or any other
23 coercive action be taken to compel an agreement on the price
24 to be paid for the property.

25 7. If an interest in real property is to be acquired by
26 exercise of the power of eminent domain, formal condemnation
27 proceedings shall be instituted. The acquiring agency shall
28 not intentionally make it necessary for an owner to institute
29 legal proceedings to prove the fact of the taking of the
30 owner's real property.

31 8. If the acquisition of only a portion of property would
32 leave the owner with an uneconomical remnant, the head of the
33 agency concerned shall offer to acquire that remnant. For the
34 purposes of this chapter, an "uneconomical remnant" is a
35 parcel of real property in which the owner is left with an

1 interest after the partial acquisition of the owner's property
2 where the head of the agency concerned determines that the
3 parcel has little or no value or utility to the owner.

4 9. A person whose real property is being acquired in
5 accordance with this chapter, after the person has been fully
6 informed of the person's right to receive just compensation
7 for the property, may donate the property, any part of the
8 property, any interest in the property, or any compensation
9 paid for it to any agency as the person may determine.

10 10. As soon as practicable after the date of payment of
11 the purchase price or the date of deposit in court of funds to
12 satisfy the award of compensation in a condemnation proceeding
13 to acquire real property, whichever is earlier, the acquiring
14 agency shall reimburse the owner, to the extent the acquiring
15 agency deems fair and reasonable, for expenses the owner
16 necessarily incurred for all of the following:

17 a. Recording fees, transfer taxes, and similar expenses
18 incidental to conveying the real property to the acquiring
19 agency.

20 b. Penalty costs for full or partial prepayment of any
21 preexisting recorded mortgage entered into in good faith
22 encumbering the real property.

23 Payments and expenditures under this subsection are
24 incident to and arise out of the program or project for which
25 the acquisition activity takes place. Such payments and
26 expenditures may be made from the funds made available for the
27 program or project.

28 A person aggrieved by a determination as to the eligibility
29 for or amount of a reimbursement may have the matter reviewed
30 in accordance with section 316.9.

31 11. An owner shall not be required to surrender possession
32 of real property before the acquiring agency concerned pays
33 the agreed purchase price.

34 Sec. 20. NEW SECTION. 472.55 BUILDINGS, STRUCTURES, AND
35 IMPROVEMENTS ON FEDERALLY ASSISTED PROGRAMS AND PROJECTS.

1 If a program or project has received or will receive
2 federal financial assistance as defined in section 316.1, an
3 acquiring agency shall be guided by the following policies:

4 1. If an interest in real property is acquired, the
5 acquiring agency shall acquire an equal interest in all
6 buildings, structures, or other improvements located upon the
7 real property which are required to be removed from the real
8 property or which are determined to be adversely affected by
9 the use to which the real property will be put.

10 2. For the purpose of determining the just compensation to
11 be paid for any building, structure, or other improvement
12 required to be acquired under this section, the building,
13 structure, or other improvement shall be deemed to be a part
14 of the real property to be acquired, notwithstanding the right
15 or obligation of a tenant of the lands, as against the owner
16 of any other interest in the real property, to remove the
17 building, structure, or improvement at the expiration of the
18 tenant's term. The fair market value which the building,
19 structure, or improvement contributes to the fair market value
20 of the real property to be acquired, or the fair market value
21 of the building, structure, or improvement for removal from
22 the real property, whichever is the greater, shall be paid to
23 the owner of the building, structure, or improvement.

24 3. Payment for the building, structure, or improvement
25 under this section shall not result in duplication of any
26 payments otherwise authorized by state law. The payment shall
27 not be made unless the owner of the land involved disclaims
28 all interest in the improvements of the tenant. In
29 consideration for any such payment, the tenant shall assign,
30 transfer, and release all the tenant's right, title, and
31 interest in and to the improvements. Nothing with regard to
32 the above-mentioned acquisition of buildings, structures, or
33 other improvements shall be construed to deprive the tenant of
34 any rights to reject payment and to obtain payment for the
35 property interests in accordance with other laws of this

1 state.

2 Sec. 21. Sections 316.10 and 316.11, Code 1989, are
3 repealed.

4 Sec. 22. This Act, being deemed of immediate importance,
5 takes effect upon enactment.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

Drake, Ch.
CARR
NYSTROM

SSB 162
STATE GOVERNMENT

SENATE FILE 152
BY (PROPOSED STATE DEPARTMENT
OF TRANSPORTATION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to relocation payments and relocation advisory
2 assistance for displaced persons, and real property
3 acquisition, and providing an effective date.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. Section 316.1, subsection 2, Code 1989, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 2. "Displaced person" means:

5 a. A person who moves from real property or moves the
6 person's personal property from real property in either of the
7 following circumstances:

8 (1) As a direct result of a written notice of intent to
9 acquire, the initiation of negotiations for, or the
10 acquisition of, the real property in whole or in part for a
11 program or project undertaken with federal financial
12 assistance.

13 (2) The person moved or moved the person's personal
14 property from real property on which the person is either a
15 residential tenant or conducts a small business, a farm
16 operation, or a business as defined in section 316.1,
17 subsection 3, paragraph "d", as a direct result of
18 rehabilitation or demolition for a program or project
19 undertaken with federal financial assistance in a case in
20 which the head of the displacing agency determines that the
21 displacement is permanent.

22 b. For purposes of section 316.4, subsections 1 and 2, and
23 section 316.7, a person who moves from real property, or moves
24 the person's personal property from real property in either of
25 the following circumstances:

26 (1) As a direct result of a written notice of intent to
27 acquire, the initiation of negotiations for, or the
28 acquisition of, the real property in whole or in part if the
29 person conducts a business or farm operation on the real
30 property for a program or project undertaken with federal
31 financial assistance.

32 (2) As a direct result of rehabilitation or demolition for
33 a program or project undertaken with federal financial
34 assistance in a case in which the head of the displacing
35 agency determines that the displacement is permanent.

1 c. The term "displaced person" does not include any of the
2 following:

3 (1) A person who has been determined to be either in
4 unlawful occupancy of the real property or who has occupied
5 the real property for the purpose of obtaining assistance
6 under this chapter.

7 (2) A person, other than the person who was the occupant
8 of the real property at the time it was acquired, who occupies
9 the real property on a rental basis for a short term or a
10 period subject to termination when the real property is needed
11 for the program or project.

12 (3) An owner-occupant who voluntarily sells the owner-
13 occupant's property, after being informed in writing that if a
14 mutually satisfactory agreement of sale cannot be reached the
15 state agency will not acquire the property.

16 (4) A person who retains the right of use and occupancy of
17 the real property for life following its acquisition by a
18 state agency.

19 Sec. 2. Section 316.1, subsection 3, paragraph d, Code
20 1989, is amended to read as follows:

21 d. Solely for the purposes of section 316.4, ~~subsection-17~~
22 for assisting in the purchase, sale, resale, manufacture,
23 processing, or marketing of products, commodities, personal
24 property, or services by the erection and maintenance of an
25 outdoor advertising display or displays, whether or not such
26 the display or displays are located on the premises on which
27 any of the above activities are conducted.

28 Sec. 3. Section 316.1, subsection 6, Code 1989, is amended
29 by striking the subsection and inserting in lieu thereof the
30 following:

31 6. "Displacing agency" means the state or a state agency
32 carrying out a program or project, or any person carrying out
33 a program or project with federal financial assistance, which
34 causes a person to be a displaced person.

35 Sec. 4. Section 316.1, subsection 8, Code 1989, is amended

1 by striking the subsection and inserting in lieu thereof the
2 following:

3 8. "State agency" means any of the following:

4 a. A department, agency, or instrumentality of the state
5 or of a political subdivision of the state.

6 b. A department, agency, or instrumentality of two or more
7 political subdivisions of the state, or states.

8 c. A person who has the authority to acquire property by
9 eminent domain under state law.

10 Sec. 5. Section 316.1, Code 1989, is amended by adding the
11 following new subsections:

12 NEW SUBSECTION. 10. "Federal Uniform Relocation Act"
13 means the federal Uniform Relocation Assistance and Real
14 Property Acquisition Policies Act of 1970, Pub. L. No. 91-646,
15 as amended by the Uniform Relocation Act Amendments of 1987,
16 Title IV, Pub. L. No. 100-17.

17 NEW SUBSECTION. 11. "Federal financial assistance" means
18 a grant, loan, or contribution provided by the United States,
19 however, "federal financial assistance" does not include any
20 federal guarantee or insurance and any interest reduction
21 payment to an individual in connection with the purchase and
22 occupancy of a residence by that individual.

23 NEW SUBSECTION. 12. "Comparable replacement dwelling"
24 means any single family residential unit that is all of the
25 following:

26 a. Decent, safe, and sanitary.

27 b. Adequate in size to accommodate the occupants.

28 c. Within the financial means of the displaced person.

29 d. Functionally equivalent to the displaced person's
30 dwelling.

31 e. In an area not subject to unreasonably adverse
32 environmental conditions.

33 f. In a location generally not less desirable than the
34 location of the displaced person's dwelling with respect to
35 public utilities, facilities, services, and the displaced

1 person's place of employment.

2 Sec. 6. Section 316.2, subsection 3, Code 1989, is amended
3 by striking the subsection and inserting in lieu thereof the
4 following:

5 3. A payment made or to be made under the authority
6 granted in this chapter shall be for compensating or
7 reimbursing the displaced person or owner of real property in
8 accordance with the requirements of the federal Uniform
9 Relocation Act and this chapter and the payments shall not for
10 any purpose be deemed or considered compensation for real
11 property acquired or compensation for damages to remaining
12 property.

13 Payments authorized to be made by the federal Uniform
14 Relocation Act and this chapter shall be made as relocation
15 payments and in order to prevent unjust enrichment or a
16 duplication of payments to any condemnee in any condemnation
17 proceeding or appeal from any condemnation proceeding, an
18 allowance shall not be made in determining just compensation
19 in a condemnation proceeding for any damages, for any item of
20 damage, or any cost, which is authorized to be paid as a
21 relocation payment.

22 Moving cost payments and allowances for personal property
23 which is damaged or destroyed or reduced in value by an
24 acquisition of property authorized under section 472.14 or any
25 other provision of the Code under the powers of eminent domain
26 on projects where relocation assistance payments are paid
27 under this chapter shall be those payments and allowances
28 authorized by this chapter and shall not be made or included
29 as part of an award of damages in any condemnation proceeding
30 or appeal from any condemnation proceeding.

31 Sec. 7. Section 316.3, Code 1989, is amended to read as
32 follows:

33 316.3 DECLARATION OF POLICY -- AUTHORIZATION --
34 DIVISIBILITY OF APPLICATION.

35 1. The purpose of this chapter is to establish a uniform

1 policy for the fair and equitable treatment of persons
2 displaced as a result of ~~state-and~~ federally assisted highway
3 programs or projects in order that ~~such~~ the persons shall not
4 suffer disproportionate injuries as a result of programs or
5 projects designed for the benefit of the public as a whole and
6 to minimize the hardship of displacement on the persons. The
7 general assembly declares that replacement-housing relocation
8 assistance for persons displaced by highway programs and
9 projects is a necessary and essential part of ~~such-highway~~ the
10 programs and projects. This chapter shall be known and may be
11 cited as the "Highway Relocation Assistance Law."

12 2. If a displacing agency subject to the provisions of the
13 federal Uniform Relocation Act, or if another entity required
14 or electing to provide any of the programs or payments
15 authorized by this chapter, undertakes a project which results
16 in the acquisition of real property or in a person being
17 displaced from the person's home, business, or farm, the
18 displacing agency or other entity may provide relocation
19 assistance, and make relocation payments to the displaced
20 person and do the other acts and follow the procedures and
21 practices as may be necessary to comply with the provisions of
22 the federal Uniform Relocation Act and this chapter.
23 Displacing agencies may provide all or a part of the program
24 and payments authorized under this chapter to persons
25 displaced by any program or project regardless of the funding
26 source. However, to the extent a program or a payment is
27 provided, the program or payment shall be provided on a
28 uniform basis to all displaced persons.

29 3. If a provision, clause, or phrase of this chapter, or
30 application of this chapter to a person or circumstance is
31 adjudged invalid by any court of competent jurisdiction, the
32 judgment shall not invalidate the remainder of the chapter,
33 and the application of the chapter to other persons or
34 circumstances shall not be affected by the adjudication.

35 Sec. 8. Section 316.4, Code 1989, is amended to read as

1 follows:

2 316.4 MOVING AND RELATED EXPENSES.

3 1. ~~Whenever the acquisition of real property for~~ If a
4 program or project undertaken by ~~the department~~ a displacing
5 agency will result in the displacement of any a person, the
6 ~~department~~ displacing agency shall make a payment to any the
7 displaced person, upon proper application as approved by such
8 ~~department~~ the displacing agency, for:

9 a:--~~Actual~~ actual reasonable and necessary expenses
10 incurred in moving the person, the person's family, business,
11 farm operation, or other personal property;

12 b:--~~Actual~~ subject to rules and limits established by the
13 department. The payment may also provide for actual direct
14 losses of tangible personal property, as a result of moving or
15 discontinuing a business or farm operation, but not to exceed
16 an amount equal to the reasonable expenses that would have
17 been required to relocate such property, as determined by the
18 department, and

19 c:--~~Actual~~ reasonable expenses purchase of substitute
20 personal property, business reestablishment expenses, storage
21 expenses, and expenses incurred in searching for a replacement
22 business or farm.

23 2. Any A displaced person eligible for payments under
24 subsection 1, who is displaced from a dwelling and who elects
25 to accept the payments authorized by this subsection in lieu
26 of the payments authorized by subsection 1, may receive a
27 moving expense and dislocation allowance, determined according
28 to a schedule established by the department not to exceed
29 three hundred dollars, and a dislocation allowance of two
30 hundred dollars.

31 3. Any A displaced person, as defined in section 316.1,
32 subsection 2, paragraph "a", eligible for payments under
33 subsection 1, who is displaced from the person's place of
34 business or farm operation and who elects is eligible, may
35 elect to accept the payment authorized by this subsection in

1 lieu of the payment authorized by subsection 1, may receive.
2 The payment shall consist of a fixed payment in an amount
3 equal to the average annual net earnings of the business or
4 farm operation, except that such payment shall be not less
5 than two thousand five hundred dollars nor more than ten
6 thousand dollars to be determined according to criteria
7 established by the department. In the case of a business, no
8 payment shall be made under this subsection unless the
9 department is satisfied that the business cannot be relocated
10 without a substantial loss of its existing patronage, and is
11 not a part of a commercial enterprise having at least one
12 other establishment not being acquired for a highway project
13 which is engaged in the same or similar business. For
14 purposes of this subsection, the term "average annual net
15 earnings" means one-half of any net earnings of the business
16 or farm operation, before federal, state, and local income
17 taxes, during the two taxable years immediately preceding the
18 taxable year in which such business or farm operation moves
19 from the real property acquired for such project, or during
20 such other period as the department determines to be more
21 equitable for establishing such earnings, and includes any
22 compensation paid by the business or farm operation to the
23 owner, the owner's spouse, or the owner's dependents during
24 such period. A person whose sole business at the displaced
25 dwelling is the rental of the real property does not qualify
26 for a payment under this subsection.

27 Sec. 9. Section 316.5, Code 1989, is amended to read as
28 follows:

29 316.5 REPLACEMENT HOUSING FOR HOMEOWNER.

30 1. In addition to payments otherwise authorized by this
31 chapter, the department displacing agency shall make an
32 additional payment not in excess of fifteen thousand dollars
33 to any a displaced person who is displaced from a dwelling
34 actually owned and occupied by such the displaced person for
35 not less than one hundred eighty days immediately prior to the

1 initiation of negotiations for the acquisition of the
2 property. Such All determinations to carry out this section
3 shall be made in accordance with administrative rules adopted
4 by the department. The additional payment shall include the
5 following elements:

6 a. The amount, if any, which when added to the acquisition
7 cost of the dwelling acquired by the department displacing
8 agency, equals the reasonable cost of a comparable replacement
9 ~~dwelling which is a decent, safe, and sanitary dwelling~~
10 ~~adequate to accommodate such displaced person, reasonably~~
11 ~~accessible to public services and places of employment and~~
12 ~~available on the private market.~~ All determinations required
13 ~~to carry out this paragraph shall be made in accordance with~~
14 ~~administrative rules established by the department in making~~
15 ~~these additional payments.~~

16 b. The amount, if any, which will compensate such the
17 displaced person for any increased interest costs and other
18 debt service costs which such the displaced person is required
19 to pay for financing the acquisition of any such a comparable
20 replacement dwelling. Such The amount shall be paid only if
21 the dwelling acquired by the department displacing agency was
22 encumbered by a bona fide mortgage which was a valid lien on
23 such the dwelling for not less than one hundred and eighty
24 days immediately prior to the initiation of negotiations for
25 the acquisition of such the dwelling. ~~Such amount shall be~~
26 ~~equal to the excess in the aggregate interest and other debt~~
27 ~~service costs of that amount of the principal of the mortgage~~
28 ~~on the replacement dwelling which is equal to the unpaid~~
29 ~~balance of the mortgage on the acquired dwelling, over the~~
30 ~~remainder term of the mortgage on the acquired dwelling,~~
31 ~~reduced to discounted present value. The discount rate shall~~
32 ~~be the prevailing interest rate paid on savings deposits by~~
33 ~~commercial banks in the general area in which the replacement~~
34 ~~dwelling is located.~~

35 c. Reasonable Actual, reasonable, and necessary expenses

1 incurred by ~~such~~ the displaced person for evidence of title,
2 recording fees, and other closing costs incident to the
3 purchase of the a replacement dwelling, but not including
4 prepaid expenses.

5 2. The additional payment authorized by this section shall
6 be made only to ~~such~~ a displaced person who purchases and
7 occupies a decent, safe, and sanitary replacement dwelling
8 ~~which-is-decent,-safe,-and-sanitary-not-later-than-the-end-of~~
9 ~~the-one-year-period-beginning-on~~ within one year after the
10 date on which the person receives ~~from-the-department~~ final
11 payment from the displacing agency of all costs of the
12 acquired dwelling, or on the date on which the ~~person-moves~~
13 ~~from-the-acquired-dwelling~~ obligation of the displacing agency
14 under section 316.8 is met, whichever is the later, date
15 except that the displacing agency may extend the eligibility
16 period for good cause. If the period is extended, the payment
17 under this section shall be based on the costs of relocating
18 the person to a comparable replacement dwelling within one
19 year of the applicable date.

20 Sec. 10. Section 316.6, Code 1989, is amended to read as
21 follows:

22 316.6 REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.

23 In addition to amounts otherwise authorized by this
24 chapter, the ~~department~~ displacing agency shall make a payment
25 to or for ~~any~~ a displaced person, displaced from ~~any~~ a
26 dwelling, not eligible to receive a payment under section
27 316.5, which dwelling was actually and lawfully occupied by
28 ~~such~~ the displaced person for not less than ninety days
29 immediately prior to the initiation of negotiations for
30 acquisition of ~~such~~ the dwelling, or as a result of the
31 written order of the displacing agency to vacate the real
32 property. Such-payment-shall-be All determinations to carry
33 out this section shall be made in accordance with
34 administrative rules adopted by the department. The displaced
35 person may elect either of the following:

1 1. The amount necessary to enable such the displaced
2 person to lease or rent ~~for a period not to exceed four years,~~
3 ~~a decent, safe, and sanitary dwelling of standards adequate to~~
4 ~~accommodate such person in areas not generally less desirable~~
5 ~~in regard to public utilities and public and commercial~~
6 ~~facilities, and reasonably accessible to the person's place of~~
7 ~~employment, but not to exceed four thousand dollars, or a~~
8 comparable replacement dwelling. At the discretion of the
9 displacing agency, a payment under this subsection may be made
10 in periodic installments. Computations of a payment under
11 this subsection to a low-income displaced person for a
12 comparable replacement dwelling shall take into account the
13 person's income.

14 2. The amount necessary to enable such the person to make
15 a down payment, including incidental expenses described in
16 section 316.5, subsection 1, paragraph "c", on the purchase of
17 a decent, safe, and sanitary dwelling ~~of standards adequate to~~
18 ~~accommodate such person in areas not generally less desirable~~
19 ~~in regard to public utilities and public and commercial~~
20 ~~facilities, but not to exceed four thousand dollars, except~~
21 ~~that if such amount exceeds two thousand dollars, such person~~
22 ~~must equally match any such amount in excess of two thousand~~
23 ~~dollars, in making the down payment. The person may, at the~~
24 discretion of the displacing agency, be eligible under this
25 subsection for the maximum payment allowed under subsection 1,
26 except that, in the case of a displaced homeowner who has
27 owned and occupied the displaced dwelling for at least ninety
28 days but not more than one hundred and eighty days immediately
29 prior to the initiation of negotiations for the acquisition of
30 the dwelling, the payment shall not exceed the payment the
31 person would otherwise have received under section 316.5,
32 subsection 1, had the person owned and occupied the displaced
33 dwelling for one hundred and eighty days immediately prior to
34 the initiation of the negotiations.

35 Sec. 11. Section 316.7, Code 1989, is amended to read as

1 follows:

2 316.7 RELOCATION ASSISTANCE ADVISORY SERVICES.

3 1. ~~Whenever the acquisition of real property for a highway~~
4 ~~project undertaken by the department will result in the~~
5 ~~displacement of any person, the department shall provide a~~
6 ~~relocation assistance advisory program for displaced persons~~
7 ~~which shall offer the services described in subsection 3 A~~
8 displacing agency shall ensure that relocation assistance
9 advisory services are made available to all persons displaced
10 by the displacing agency. If the department displacing agency
11 determines that any a person occupying property immediately
12 adjacent to the real property acquired where the displacing
13 activity occurs, is caused substantial economic injury because
14 as a result of the acquisition displacing activity, the
15 department displacing agency may offer such the person
16 relocation assistance advisory services under such program.

17 2. The department displacing agency shall co-operate to
18 the maximum extent feasible with federal, state, or local
19 agencies to assure ensure that such the displaced persons
20 receive the maximum assistance available to them.

21 3. Each relocation assistance advisory program required by
22 subsection 1 shall include such measures, facilities, or
23 services as may be necessary or appropriate in order to:

24 a. ~~Determine the need, if any, of displaced persons, for~~
25 ~~relocation assistance;~~

26 b. ~~Provide current and continuing information on the~~
27 ~~availability, prices, and rentals, of comparable decent, safe,~~
28 ~~and sanitary sales and rental housing, and of comparable~~
29 ~~commercial properties and locations for displaced businesses;~~

30 c. ~~Assure that, within a reasonable period of time, prior~~
31 ~~to displacement there will be available in areas not generally~~
32 ~~less desirable in regard to public utilities and public and~~
33 ~~commercial facilities and at rents or prices within the~~
34 ~~financial means of the families and individuals displaced,~~
35 ~~decent, safe, and sanitary dwellings, as defined by the~~

1 department, equal in number to the number of and available to
2 such displaced persons who require such dwellings and
3 reasonably accessible to their places of employment, except
4 that the department may prescribe by departmental rules
5 situations when such assurances may be waived;

6 d. -- Assist a displaced person displaced from the person's
7 business or farm operation in obtaining and becoming
8 established in a suitable replacement location;

9 e. -- Supply information concerning federal and state housing
10 programs, and other federal or state programs offering
11 assistance to displaced persons, and comply with the
12 provisions of the federal Uniform Relocation Act and this
13 chapter.

14 f 4. Provide The displacing agency shall provide other
15 advisory services to displaced persons in order to minimize
16 hardships to such the displaced persons in adjusting to
17 relocation.

18 4 5. The department displacing agency shall co-ordinate
19 relocation activities with project work, and other planned or
20 proposed governmental actions or displacing activities in the
21 community or nearby areas which may affect the carrying out of
22 relocation assistance programs.

23 Sec. 12. Section 316.8, Code 1989, is amended to read as
24 follows:

25 316.8 HOUSING REPLACEMENT BY DEPARTMENT THE DISPLACING
26 AGENCY AS LAST RESORT.

27 1. If a highway project cannot proceed to actual
28 construction on a timely basis because comparable replacement
29 sale or rental housing is dwellings are not available, and the
30 department displacing agency determines that such housing
31 dwellings cannot otherwise be made available, the department
32 displacing agency may take such action as is necessary or
33 appropriate to provide such housing the dwellings by use of
34 funds authorized for such the program or project. The
35 department displacing agency may let contracts for the

1 construction of ~~said-housing-to~~ the dwellings, approve plans
2 and specifications for the building ~~thereof~~ of the dwellings,
3 and ~~to~~ supervise, inspect, and approve the housing dwellings
4 once constructed in order that the housing dwellings so
5 constructed ~~complies~~ comply with the terms and conditions of
6 this chapter. The displacing agency may under this section
7 exceed the maximum amounts which may be paid under sections
8 316.5 and 316.6 on a case by case basis for good cause as
9 determined in accordance with administrative rules adopted by
10 the department.

11 2. No A person shall not be required to move from the
12 person's dwelling on or after July 1, 1971, on account of any
13 highway program or project, unless the department displacing
14 agency is satisfied that a comparable replacement housing ~~in~~
15 ~~accordance with section 316.77-subsection 37-paragraph "c"~~,
16 dwelling is available to such the person.

17 Sec. 13. Section 316.9, subsection 4, Code 1989, is
18 amended to read as follows:

19 4. Any A person aggrieved by a determination as to
20 eligibility for assistance or a payment authorized by this
21 chapter, or the amount of a payment, upon application may have
22 ~~the person's application matter reviewed by the department.~~
23 Rules governing reviews shall provide for a prompt one-step
24 uncomplicated fact-finding process. Such a review is an
25 appeal of an agency action as defined in section 17A.2,
26 subsection 9, and is not a contested case. The decision
27 rendered shall be the displacing agency's final agency action.

28 Sec. 14. Section 316.12, Code 1989, is amended to read as
29 follows:

30 316.12 PAYMENTS TO DISPLACED PERSONS NOT TO BE CONSIDERED
31 AS INCOME.

32 No A payment received by a displaced person under this
33 chapter shall not be considered as income for the purpose of
34 determining the eligibility or extent of eligibility of any
35 person for assistance under any state law or for the purposes

1 of chapter 422.

2 Sec. 15. Section 316.13, Code 1989, is amended to read as
3 follows:

4 316.13 ADMINISTRATION.

5 In order to prevent unnecessary expenses and duplications
6 of functions, and to promote uniform and effective
7 administration of relocation assistance programs for displaced
8 persons, the department displacing agency may enter into
9 contracts with any individual, firm, association, or
10 corporation for services in connection with such the programs,
11 or may carry out its functions through any governmental
12 agency, political subdivision, or instrumentality having an
13 established organization for conducting relocation assistance
14 programs. ~~The department shall, in carrying out the~~
15 ~~relocation assistance activities described in section 316.8~~
16 ~~whenever~~ If practicable, utilize the services of state or
17 local housing agencies, or other agencies having experience in
18 the administration or conduct of similar housing assistance
19 activities shall be used.

20 Sec. 16. Section 316.14, Code 1989, is amended to read as
21 follows:

22 316.14 FUNDING.

23 Funds appropriated or otherwise available to any state
24 agency for a program or project shall also be available to
25 carry out the provisions of this chapter.

26 Payments and expenditures under this chapter for highway
27 projects are incident to and arise out of the construction,
28 maintenance, and supervision of public highways and streets,
29 and, in the case of any federal-aid highway project, may be
30 made by the department from the primary road fund and funds
31 made available by the federal government for the purpose of
32 carrying out this chapter. Payments made under ~~section 316.10~~
33 this chapter may be made from the primary road fund in case of
34 a primary road project only, and in other cases may be made
35 from appropriate funds under the control of a political

1 subdivision.

2 Sec. 17. Section 331.382, subsection 1, paragraph h, Code
3 1989, is amended to read as follows:

4 h. Provision of relocation programs and payments as
5 provided in ~~sections 316.10 and 316.11~~ chapter 316.

6 Sec. 18. Section 472.42, Code 1989, is amended to read as
7 follows:

8 472.42 EMINENT DOMAIN -- PAYMENT TO DISPLACED PERSONS.

9 1. Any A utility or railroad subject to section 327C.2,
10 chapter 479, or chapter 476, authorized by law to acquire
11 property by condemnation, ~~that does acquire~~ which acquires the
12 property of ~~any a~~ any a person ~~who is displaced thereby after July~~
13 ~~17, 1971~~ or displaces a person for a program or project which
14 has received or will receive federal financial assistance as
15 defined in section 316.1, shall pay provide to such the person
16 in addition to ~~all~~ any other sums of money in payment of just
17 compensation, the payments and assistance required by law, a
18 ~~displacement allowance in accordance with and in the same~~
19 ~~manner as provided for acquisition for highway projects in~~
20 ~~sections 316.47, 316.57, 316.6 and 316.8~~ chapter 316.

21 2. ~~The displacement allowance to be paid by a utility~~
22 ~~subject to the provisions of chapter 479 or 476, shall be paid~~
23 ~~in the manner provided in sections 316.47, 316.57, 316.67 and~~
24 ~~316.8 and pursuant to rules promulgated by the Iowa state~~
25 ~~commerce commission.~~ Any A person aggrieved by a
26 determination made by a utility as to eligibility for
27 relocation assistance, a payment, or the amount of the payment
28 may, upon application, may have the matter reviewed by the
29 Iowa state department of commerce commission. The decision of
30 ~~the Iowa state commerce commission upon review shall be final~~
31 ~~as to all parties.~~

32 3. ~~The displacement allowance to be paid by a railroad~~
33 ~~subject to section 327C.2, shall be paid in the manner~~
34 ~~provided in sections 316.47, 316.57, 316.67 and 316.8 and~~
35 ~~pursuant to rules promulgated by the transportation regulation~~

1 authority. Any A person aggrieved by a determination made by
2 a railroad as to eligibility for relocation assistance, a
3 payment, or the amount of the payment may, upon application,
4 may have the matter reviewed by the state department of
5 transportation regulation-authority. ~~The decision of the~~
6 ~~transportation regulation-authority upon review shall be final~~
7 ~~as to all parties.~~

8 4. Any A utility or railroad subject to the provisions of
9 this section that proposes to ~~acquire the property of any~~
10 ~~displace a person who will be displaced by such acquisition~~
11 shall inform the person of the person's right to receive a
12 ~~displacement allowance and, if the person's right to the~~
13 ~~displacement allowance or the amount of the allowance is in~~
14 ~~dispute, the~~ relocation assistance and payments, and of an
15 aggrieved person's right to appeal to the Iowa state
16 department of commerce commission or the state department of
17 transportation regulation-authority.

18 Sec. 19. NEW SECTION. 472.54 FEDERALLY ASSISTED PROJECT
19 AND DISPLACING ACTIVITIES -- ACQUISITION POLICIES.

20 If a project or displacing activity has received or will
21 receive federal financial assistance as defined in section
22 316.1, an acquiring agency shall be guided by the following
23 policies:

24 1. Every reasonable effort shall be made to acquire
25 expeditiously real property by negotiation.

26 2. Real property shall be appraised as required by section
27 472.45 before the initiation of negotiations, and the owner or
28 the owner's designated representative shall be given an
29 opportunity to accompany at least one appraiser of the
30 acquiring agency during an inspection of the property, except
31 that the state department of transportation may prescribe a
32 procedure to waive the appraisal in cases involving the
33 acquisition of property with a low fair market value.

34 3. Before the initiation of negotiations for real
35 property, the acquiring agency shall establish an amount which

1 it believes to be just compensation for the real property, and
2 shall make a prompt offer to acquire the property for the full
3 amount established by the agency. In no event shall the
4 amount be less than the agency's approved appraisal of the
5 fair market value of the property.

6 4. The construction or development of a public improvement
7 shall be so scheduled that, to the greatest extent
8 practicable, no person lawfully occupying real property shall
9 be required to move from a dwelling or to move the person's
10 business or farm operation without at least ninety days
11 written notice of the date by which the move is required.

12 5. If an owner or tenant is permitted to occupy the real
13 property acquired on a rental basis for a short term or for a
14 period subject to termination on short notice, the amount of
15 rent required shall not exceed the fair rental value of the
16 property to a short-term occupier.

17 6. In no event shall the time of condemnation be advanced,
18 on negotiations or condemnation the deposit of funds in court
19 for the use of the owner be deferred, or any other coercive
20 action be taken to compel an agreement on the price to be paid
21 for the property.

22 7. If an interest in real property is to be acquired by
23 exercise of the power of eminent domain, formal condemnation
24 proceedings shall be instituted. The acquiring agency shall
25 not intentionally make it necessary for an owner to institute
26 legal proceedings to prove the fact of the taking of the
27 owner's real property.

28 8. If the acquisition of only a portion of property would
29 leave the owner with an uneconomical remnant, the head of the
30 agency concerned shall offer to acquire that remnant. For the
31 purposes of this chapter, an "uneconomical remnant" is a
32 parcel of real property in which the owner is left with an
33 interest after the partial acquisition of the owner's property
34 where the head of the agency concerned determines that the
35 parcel has little or no value or utility to the owner.

1 9. A person whose real property is being acquired in
2 accordance with this chapter, after the person has been fully
3 informed of the person's right to receive just compensation
4 for the property, may donate the property, any part of the
5 property, any interest in the property, or any compensation
6 paid for it to any agency as the person may determine.

7 10. As soon as practicable after the date of payment of
8 the purchase price or the date of deposit in court of funds to
9 satisfy the award of compensation in a condemnation proceeding
10 to acquire real property, whichever is earlier, the acquiring
11 agency shall reimburse the owner, to the extent the acquiring
12 agency deems fair and reasonable, for expenses the owner
13 necessarily incurred for all of the following:

14 a. Recording fees, transfer taxes, and similar expenses
15 incidental to conveying the real property to the acquiring
16 agency.

17 b. Penalty costs for full or partial prepayment of any
18 preexisting recorded mortgage entered into in good faith
19 encumbering the real property.

20 Payments and expenditures under this subsection are
21 incident to and arise out of the program or project for which
22 the acquisition activity takes place. Such payments and
23 expenditures may be made from the funds made available for the
24 program or project.

25 A person aggrieved by a determination as to the eligibility
26 for or amount of a reimbursement may have the matter reviewed
27 in accordance with section 316.9.

28 11. An owner shall not be required to surrender possession
29 of real property before the acquiring agency concerned pays
30 the agreed purchase price.

31 Sec. 20. NEW SECTION. 472.55 BUILDINGS, STRUCTURES, AND
32 IMPROVEMENTS ON FEDERALLY ASSISTED PROGRAMS AND PROJECTS.

33 If a program or project has received or will receive
34 federal financial assistance as defined in section 316.1, an
35 acquiring agency shall be guided by the following policies:

1 1. If an interest in real property is acquired, the
2 acquiring agency shall acquire an equal interest in all
3 buildings, structures, or other improvements located upon the
4 real property which are required to be removed from the real
5 property or which are determined to be adversely affected by
6 the use to which the real property will be put.

7 2. For the purpose of determining the just compensation to
8 be paid for any building, structure, or other improvement
9 required to be acquired under this section, the building,
10 structure, or other improvement shall be deemed to be a part
11 of the real property to be acquired, notwithstanding the right
12 or obligation of a tenant of the lands, as against the owner
13 of any other interest in the real property, to remove the
14 building, structure, or improvement at the expiration of the
15 tenant's term. The fair market value which the building,
16 structure, or improvement contributes to the fair market value
17 of the real property to be acquired, or the fair market value
18 of the building, structure, or improvement for removal from
19 the real property, whichever is the greater, shall be paid to
20 the owner of the building, structure, or improvement.

21 3. Payment for the building, structure, or improvement
22 under this section shall not result in duplication of any
23 payments otherwise authorized by state law. The payment shall
24 not be made unless the owner of the land involved disclaims
25 all interest in the improvements of the tenant. In
26 consideration for any such payment, the tenant shall assign,
27 transfer, and release all the tenant's right, title, and
28 interest in and to the improvements. Nothing with regard to
29 the above-mentioned acquisition of buildings, structures, or
30 other improvements shall be construed to deprive the tenant of
31 any rights to reject payment and to obtain payment for the
32 property interests in accordance with other laws of this
33 state.

34 Sec. 21. Sections 316.10 and 316.11, Code 1989, are
35 repealed.

1 by the different federally assisted programs. The statutory
2 changes to the Uniform Act made by the 1987 amendments
3 designated the U.S. DOT as the federal lead agency and
4 required them to issue rules and establish procedures to
5 implement provisions of the Uniform Act which will apply
6 uniformly to all federal programs.

7 The result is a single regulation published by the Federal
8 Highway Administration (FHWA) of the U.S. DOT which applies to
9 all federal government agencies. States are required to be in
10 compliance with this federal regulation by April 2, 1989.
11 This applies not only to the state DOT but also to all other
12 state agencies, cities and counties using federal assistance
13 on any project.

14 After April 2, 1989, any eminent domain taking of real
15 property for a public works project not performed in
16 compliance with the 1987 amendments will render the project
17 ineligible for federal financial assistance for any and all
18 phases of the project.

19 A significant change is brought about by this newly-amended
20 Act: any individual, partnership, corporation or association
21 that has the authority to acquire property by eminent domain
22 under state law and using federal financial assistance must
23 comply with the federal regulations after April 2, 1989.

24 Other important aspects of the 1987 amendments include the
25 following:

26 Amends the definition of "displacing agency" to include
27 projects advanced by private parties without the power of
28 eminent domain if the project is federally assisted.

29 Amends the definition of "displaced person" to include
30 persons displaced by activities other than acquisitions, such
31 as rehabilitation and demolition.

32 Continues to allow cities and counties the option to not
33 provide relocation assistance when there is no federal
34 financial assistance in any cost of a project.

35 Adds a new provision to provide compensation for reasonable

1 expenses, up to \$10,000, necessary to reestablish a displaced
2 farm, nonprofit organization, or small business at its new
3 site. Under current law such displacements are eligible for
4 moving costs only.

5 Raises the \$10,000 ceiling and lowers the \$2,500 minimum on
6 the amount a displaced business or farm operation may receive
7 in lieu of itemized moving expenses. The new limits are a
8 maximum of \$20,000 and minimum of \$1,000.

9 Raises the ceiling of \$15,000 on replacement housing
10 assistance for a displaced homeowner who has owned and
11 occupied the dwelling for 180 days or more. The new ceiling
12 is \$22,500 for these price differential payments.

13 Increases the \$4,000 maximum rental assistance entitlement
14 to \$5,250 based on a new subsidy period of three and one-half
15 years instead of the current four years, and allows the agency
16 to make payments in installments.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 152

AN ACT

RELATING TO RELOCATION PAYMENTS AND RELOCATION ADVISORY
ASSISTANCE FOR DISPLACED PERSONS, AND REAL PROPERTY
ACQUISITION, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 316.1, subsection 2, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Displaced person" means:

a. A person who moves from real property or moves the person's personal property from real property in either of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, the real property in whole or in part for a program or project undertaken with federal financial assistance.

(2) The person moved or moved the person's personal property from real property on which the person is either a residential tenant or conducts a small business, a farm operation, or a business as defined in section 316.1, subsection 3, paragraph "d", as a direct result of rehabilitation or demolition for a program or project undertaken with federal financial assistance in a case in

which the head of the displacing agency determines that the displacement is permanent.

b. For purposes of section 316.4, subsections 1 and 2, and section 316.7, a person who moves from real property, or moves the person's personal property from real property in either of the following circumstances:

(1) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, other real property in whole or in part if the person conducts a business or farm operation on the other real property for a program or project undertaken with federal financial assistance.

(2) As a direct result of rehabilitation or demolition of other real property on which the person conducts a business or a farm operation for a program or project undertaken with federal financial assistance in a case in which the head of the displacing agency determines that the displacement is permanent.

c. The term "displaced person" does not include any of the following:

(1) A person who has been determined to be either in unlawful occupancy of the real property or who has occupied the real property for the purpose of obtaining assistance under this chapter.

(2) A person, other than the person who was the occupant of the real property at the time it was acquired, who occupies the real property on a rental basis for a short term or a period subject to termination when the real property is needed for the program or project.

(3) An owner-occupant who voluntarily sells the owner-occupant's property, after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached the state agency will not acquire the property.

(4) A person who retains the right of use and occupancy of the real property for life following its acquisition by a state agency.

Sec. 2. Section 316.1, subsection 3, paragraph d, Code 1989, is amended to read as follows:

d. Solely for the purposes of section 316.4, subsection 4, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such the display or displays are located on the premises on which any of the above activities are conducted.

Sec. 3. Section 316.1, subsection 6, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

6. "Displacing agency" means the state or a state agency carrying out a program or project, or any person carrying out a program or project with federal financial assistance, which causes a person to be a displaced person.

Sec. 4. Section 316.1, subsection 8, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

8. "State agency" means any of the following:

- a. A department, agency, or instrumentality of the state or of a political subdivision of the state.
- b. A department, agency, or instrumentality of two or more political subdivisions of the state, or states.
- c. A person who has the authority to acquire property by eminent domain under state law.

Sec. 5. Section 316.1, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 10. "Federal Uniform Relocation Act" means the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. No. 91-646, as amended by the Uniform Relocation Act Amendments of 1987, Title IV, Pub. L. No. 100-17.

NEW SUBSECTION. 11. "Federal financial assistance" means a grant, loan, or contribution provided by the United States, however, "federal financial assistance" does not include any

federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

NEW SUBSECTION. 12. "Comparable replacement dwelling" means any single family residential unit that is all of the following:

- a. Decent, safe, and sanitary.
- b. Adequate in size to accommodate the occupants.
- c. Within the financial means of the displaced person.
- d. Functionally equivalent to the displaced person's dwelling.
- e. In an area not subject to unreasonably adverse environmental conditions.
- f. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

Sec. 6. Section 316.2, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

3. A payment made or to be made under the authority granted in this chapter shall be for compensating or reimbursing the displaced person or owner of real property in accordance with the requirements of the federal Uniform Relocation Act and this chapter and the payments shall not for any purpose be deemed or considered compensation for real property acquired or compensation for damages to remaining property.

Payments authorized to be made by the federal Uniform Relocation Act and this chapter shall be made as relocation payments and in order to prevent unjust enrichment or a duplication of payments to any condemnee in any condemnation proceeding or appeal from any condemnation proceeding, an allowance shall not be made in determining just compensation in a condemnation proceeding for any damages, for any item of damage, or any cost, which is authorized to be paid as a relocation payment.

Moving cost payments and allowances for personal property which is damaged or destroyed or reduced in value by an acquisition of property authorized under section 472.14 or any other provision of the Code under the powers of eminent domain on projects where relocation assistance payments are paid under this chapter shall be those payments and allowances authorized by this chapter and shall not be made or included as part of an award of damages in any condemnation proceeding or appeal from any condemnation proceeding.

Sec. 7. Section 316.3, Code 1989, is amended to read as follows:

316.3 DECLARATION OF POLICY -- AUTHORIZATION -- DIVISIBILITY OF APPLICATION.

1. The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced as a result of state-and federally assisted highway programs or projects in order that such the persons shall not suffer disproportionate injuries as a result of programs or projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on the persons. The general assembly declares that replacement-housing relocation assistance for persons displaced by highway programs and projects is a necessary and essential part of such-highway the programs and projects. This chapter shall be known and may be cited as the "Highway Relocation Assistance Law."

2. If a displacing agency subject to the provisions of the federal Uniform Relocation Act, or if another entity required or electing to provide any of the programs or payments authorized by this chapter, undertakes a project which results in the acquisition of real property or in a person being displaced from the person's home, business, or farm, the displacing agency or other entity may provide relocation assistance, and make relocation payments to the displaced person and do the other acts and follow the procedures and practices as may be necessary to comply with the provisions of the federal Uniform Relocation Act and this chapter.

Displacing agencies may provide all or a part of the program and payments authorized under this chapter to persons displaced by any program or project regardless of the funding source. However, to the extent a program or a payment is provided, the program or payment shall be provided on a uniform basis to all displaced persons.

3. If a provision, clause, or phrase of this chapter, or application of this chapter to a person or circumstance is adjudged invalid by any court of competent jurisdiction, the judgment shall not invalidate the remainder of the chapter, and the application of the chapter to other persons or circumstances shall not be affected by the adjudication.

Sec. 8. Section 316.4, Code 1989, is amended to read as follows:

316.4 MOVING AND RELATED EXPENSES.

1. Whenever the acquisition of real property for If a program or project undertaken by the department a displacing agency will result in the displacement of any a person, the department displacing agency shall make a payment to any the displaced person, upon proper application as approved by such department the displacing agency, for:

a--Actual actual reasonable and necessary expenses incurred in moving the person, the person's family, business, farm operation, or other personal property;

b--Actual subject to rules and limits established by the department. The payment may also provide for actual direct losses of tangible personal property, as-a-result-of-moving-or discontinuing-a-business-or-farm-operation; but-not-to-exceed an-amount-equal-to-the-reasonable-expenses-that-would-have been-required-to-relocate-such-property; as-determined-by-the department; and

c--Actual-reasonable-expenses purchase of substitute personal property, business reestablishment expenses, storage expenses, and expenses incurred in searching for a replacement business or farm.

2. Any A displaced person eligible for payments under subsection 1₂ who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection 1₂ may receive a moving expense and dislocation allowance determined according to a schedule established by the department not to exceed three-hundred-dollars; and a dislocation allowance of two hundred-dollars.

3. Any A displaced person, as defined in section 316.1, subsection 2, paragraph "a", eligible for payments under subsection 1₂ who is displaced from the person's place of business or farm operation and who elects is eligible, may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection 1₂ may receive. The payment shall consist of a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars to be determined according to criteria established by the department. In the case of a business, no payment shall be made under this subsection unless the department is satisfied that the business cannot be relocated without a substantial loss of its existing patronage, and is not a part of a commercial enterprise having at least one other establishment not being acquired for a highway project which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before federal, state, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, nor during such other period as the department determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, the owner's spouse, or the owner's dependents during

such period. A person whose sole business at the displaced dwelling is the rental of the real property does not qualify for a payment under this subsection.

Sec. 9. Section 316.5, Code 1989, is amended to read as follows:

316.5 REPLACEMENT HOUSING FOR HOMEOWNER.

1. In addition to payments otherwise authorized by this chapter, the department displacing agency shall make an additional payment not in excess of fifteen thousand dollars to any a displaced person who is displaced from a dwelling actually owned and occupied by such the displaced person for not less than one hundred eighty days immediately prior to the initiation of negotiations for the acquisition of the property. Such All determinations to carry out this section shall be made in accordance with administrative rules adopted by the department. The additional payment shall include the following elements:

a. The amount, if any, which when added to the acquisition cost of the dwelling acquired by the department displacing agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this paragraph shall be made in accordance with administrative rules established by the department in making these additional payments.

b. The amount, if any, which will compensate such the displaced person for any increased interest costs and other debt service costs which such the displaced person is required to pay for financing the acquisition of any such a comparable replacement dwelling. Such The amount shall be paid only if the dwelling acquired by the department displacing agency was encumbered by a bona fide mortgage which was a valid lien on such the dwelling for not less than one hundred and eighty days immediately prior to the initiation of negotiations for

the acquisition of such the dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

c. Reasonable Actual, reasonable, and necessary expenses incurred by such the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the a replacement dwelling, but not including prepaid expenses.

2. The additional payment authorized by this section shall be made only to such a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling which is decent, safe, and sanitary not later than the end of the one-year period beginning on within one year after the date on which the person receives from the department final payment from the displacing agency of all costs of the acquired dwelling, or on the date on which the person moves from the acquired dwelling obligation of the displacing agency under section 316.8 is met, whichever is the later, date except that the displacing agency may extend the eligibility period for good cause. If the period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of the applicable date.

Sec. 10. Section 316.6, Code 1989, is amended to read as follows:

316.6 REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.

In addition to amounts otherwise authorized by this chapter, the department displacing agency shall make a payment to or for any a displaced person, displaced from any a

dwelling, not eligible to receive a payment under section 316.5, which dwelling was actually and lawfully occupied by such the displaced person for not less than ninety days immediately prior to the initiation of negotiations for acquisition of such the dwelling, or as a result of the written order of the displacing agency to vacate the real property. Such payment shall be All determinations to carry out this section shall be made in accordance with administrative rules adopted by the department. The displaced person may elect either of the following:

1. The amount necessary to enable such the displaced person to lease or rent for a period not to exceed four years, a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to the person's place of employment, but not to exceed four thousand dollars, or a comparable replacement dwelling. At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computations of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

2. The amount necessary to enable such the person to make a down payment, including incidental expenses described in section 316.5, subsection 1, paragraph "c", on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, but not to exceed four thousand dollars, except that if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment. The person may, at the discretion of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection 1, except that, in the case of a displaced homeowner who has

owned and occupied the displaced dwelling for at least ninety days but not more than one hundred and eighty days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment the person would otherwise have received under section 316.5, subsection 1, had the person owned and occupied the displaced dwelling for one hundred and eighty days immediately prior to the initiation of the negotiations.

Sec. 11. Section 316.7, Code 1989, is amended to read as follows:

316.7 RELOCATION ASSISTANCE ADVISORY SERVICES.

1. Whenever the acquisition of real property for a highway project undertaken by the department will result in the displacement of any person, the department shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in subsection 3. A displacing agency shall ensure that relocation assistance advisory services are made available to all persons displaced by the displacing agency. If the department displacing agency determines that any a person occupying property immediately adjacent to the real property acquired where the displacing activity occurs, is caused substantial economic injury because as a result of the acquisition displacing activity, the department displacing agency may offer such the person relocation assistance advisory services under such program.

2. The department displacing agency shall co-operate to the maximum extent feasible with federal, state, or local agencies to assure ensure that such the displaced persons receive the maximum assistance available to them.

3. Each relocation assistance advisory program required by subsection 1 shall include such measures, facilities, or services as may be necessary or appropriate in order to:

a. Determine the need, if any, of displaced persons, for relocation assistance;

b. Provide current and continuing information on the availability, process and benefits of comparable decent, safe

and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

c. Assure that within a reasonable period of time prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced; decent, safe and sanitary dwellings, as defined by the department, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment, except that the department may prescribe by departmental rules situations when such assurances may be waived;

d. Assist a displaced person displaced from the person's business or farm operation in obtaining and becoming established in a suitable replacement location;

e. Supply information concerning federal and state housing programs, and other federal or state programs offering assistance to displaced persons, and comply with the provisions of the federal Uniform Relocation Act and this chapter.

f. Provide The displacing agency shall provide other advisory services to displaced persons in order to minimize hardships to such the displaced persons in adjusting to relocation.

4. The department displacing agency shall co-ordinate relocation activities with project work, and other planned or proposed governmental actions or displacing activities in the community or nearby areas which may affect the carrying out of relocation assistance programs.

Sec. 12. Section 316.8, Code 1989, is amended to read as follows:

316.8 HOUSING REPLACEMENT BY DEPARTMENTS THE DISPLACING AGENCY AS LAST RESORT.

1. If a highway project cannot proceed to actual construction on a timely basis because comparable replacement

said or rental housing is dwellings are not available, and the department displacing agency determines that such housing dwellings cannot otherwise be made available, the department displacing agency may take such action as is necessary or appropriate to provide such housing the dwellings by use of funds authorized for such the program or project. The department displacing agency may let contracts for the construction of said housing to the dwellings, approve plans and specifications for the building thereof of the dwellings, and to supervise, inspect, and approve the housing dwellings once constructed in order that the housing dwellings so constructed comply with the terms and conditions of this chapter. The displacing agency may under this section exceed the maximum amounts which may be paid under sections 316.5 and 316.6 on a case by case basis for good cause as determined in accordance with administrative rules adopted by the department.

2. No A person shall not be required to move from the person's dwelling on or after July 1, 1971, on account of any highway program or project, unless the department displacing agency is satisfied that a comparable replacement housing in accordance with section 316.7, subsection 3, paragraph "e", dwelling is available to such the person.

Sec. 13. Section 316.9, subsection 4, Code 1989, is amended to read as follows:

4. Any A person aggrieved by a determination as to eligibility for assistance or a payment authorized by this chapter, or the amount of a payment, upon application may have the person's application matter reviewed by the department. Rules governing reviews shall provide for a prompt one-step uncomplicated fact-finding process. Such a review is an appeal of an agency action as defined in section 17A.2, subsection 9, and is not a contested case. The decision rendered shall be the displacing agency's final agency action.

Sec. 14. Section 316.12, Code 1989, is amended to read as follows:

316.12 PAYMENTS TO DISPLACED PERSONS NOT TO BE CONSIDERED AS INCOME.

No except for any federal or state law providing low-income housing assistance, a payment received by a displaced person under this chapter shall not be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any federal or state law or for the purposes of chapter 422.

Sec. 15. Section 316.13, Code 1989, is amended to read as follows:

316.13 ADMINISTRATION.

In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, the department displacing agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such the programs, or may carry out its functions through any governmental agency, political subdivision, or instrumentality having an established organization for conducting relocation assistance programs. ~~The department shall, in carrying out the relocation assistance activities described in section 316.6~~ whenever if practicable, utilize the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities shall be used.

Sec. 16. Section 316.14, Code 1989, is amended to read as follows:

316.14 FUNDING.

Funds appropriated or otherwise available to any state agency for a program or project shall also be available to carry out the provisions of this chapter.

Payments and expenditures under this chapter for highway projects are incident to and arise out of the construction, maintenance, and supervision of public highways and streets, and, in the case of any federal-aid highway project, may be

made by the department from the primary road fund and funds made available by the federal government for the purpose of carrying out this chapter. Payments made under section 316-10 ~~this chapter~~ may be made from the primary road fund in case of a primary road project only, and in other cases may be made from appropriate funds under the control of a political subdivision.

Sec. 17. Section 331.382, subsection 1, paragraph h, Code 1989, is amended to read as follows:

h. Provision of relocation programs and payments as provided in sections 316-10 and 316-11 ~~chapter 316.~~

Sec. 18. Section 472.42, Code 1989, is amended to read as follows:

472.42 EMINENT DOMAIN -- PAYMENT TO DISPLACED PERSONS.

1. Any A utility or railroad subject to section 327C.2, chapter 479, or chapter 476, authorized by law to acquire property by condemnation, that does acquire which acquires the property of any a person who is displaced thereby after July 1, 1977, or displaces a person for a program or project which has received or will receive federal financial assistance as defined in section 316.1, shall pay provide to such the person in addition to ~~all~~ any other sums of money in payment of just compensation, the payments and assistance required by law, a displacement allowance in accordance with and in the same manner as provided for acquisition for highway projects in sections 316-47, 316-57, 316-6 and 316-8 ~~chapter 316.~~

2. ~~The displacement allowance to be paid by a utility subject to the provisions of chapter 479 or 476 shall be paid in the manner provided in sections 316-47, 316-57, 316-67 and 316-8 and pursuant to rules promulgated by the Iowa state commerce commission. Any A person aggrieved by a determination made by a utility as to eligibility for relocation assistance, a payment, or the amount of the payment may, upon application, may have the matter reviewed by the Iowa state utilities division of the department of commerce commission. The decision of the Iowa state commerce commission upon review shall be final as to all parties.~~

3. ~~The displacement allowance to be paid by a railroad subject to section 327C.2, shall be paid in the manner provided in sections 316-47, 316-57, 316-67, and 316-8 and pursuant to rules promulgated by the transportation regulation authority. Any A person aggrieved by a determination made by a railroad as to eligibility for relocation assistance, a payment, or the amount of the payment may, upon application, may have the matter reviewed by the state department of transportation regulation authority. The decision of the transportation regulation authority upon review shall be final as to all parties.~~

4. Any A utility or railroad subject to the provisions of this section that proposes to acquire the property of any displace a person who will be displaced by such acquisition shall inform the person of the person's right to receive a displacement allowance and, if the person's right to the displacement allowance or the amount of the allowance is in dispute, the relocation assistance and payments, and of an aggrieved person's right to appeal to the Iowa state utilities division of the department of commerce commission or the state department of transportation regulation authority.

Sec. 19. NEW SECTION. 472.54 FEDERALLY ASSISTED PROJECT AND DISPLACING ACTIVITIES -- ACQUISITION POLICIES.

If a project or displacing activity has received or will receive federal financial assistance as defined in section 316.1, an acquiring agency shall be guided by the following policies:

1. Every reasonable effort shall be made to acquire expeditiously real property by negotiation.
2. Real property shall be appraised as required by section 472.45 before the initiation of negotiations, and the owner or the owner's designated representative shall be given an opportunity to accompany at least one appraiser of the acquiring agency during an inspection of the property, except that the state department of transportation may prescribe a procedure to waive the appraisal in cases involving the acquisition of property with a low fair market value.

3. Before the initiation of negotiations for real property, the acquiring agency shall establish an amount which it believes to be just compensation for the real property, and shall make a prompt offer to acquire the property for the full amount established by the agency. In no event shall the amount be less than the agency's approved appraisal of the fair market value of the property.

4. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move the person's business or farm operation without at least ninety days' written notice of the date by which the move is required.

5. If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

6. In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

7. If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of the owner's real property.

8. If the acquisition of only a portion of property would leave the owner with an uneconomical remnant, the head of the agency concerned shall offer to acquire that remnant. For the purposes of this chapter, an "uneconomical remnant" is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property where the head of the agency concerned determines that the parcel has little or no value or utility to the owner.

9. A person whose real property is being acquired in accordance with this chapter, after the person has been fully informed of the person's right to receive just compensation for the property, may donate the property, any part of the property, any interest in the property, or any compensation paid for it to any agency as the person may determine.

10. As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, the acquiring agency shall reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses the owner necessarily incurred for all of the following:

a. Recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the acquiring agency.

b. Penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property.

Payments and expenditures under this subsection are incident to and arise out of the program or project for which the acquisition activity takes place. Such payments and expenditures may be made from the funds made available for the program or project.

A person aggrieved by a determination as to the eligibility for or amount of a reimbursement may have the matter reviewed in accordance with section 316.9.

11. An owner shall not be required to surrender possession of real property before the acquiring agency concerned pays the agreed purchase price.

Sec. 20. NEW SECTION. 472.55 BUILDINGS, STRUCTURES, AND IMPROVEMENTS ON FEDERALLY ASSISTED PROGRAMS AND PROJECTS.

If a program or project has received or will receive federal financial assistance as defined in section 316.1, an acquiring agency shall be guided by the following policies:

1. If an interest in real property is acquired, the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements located upon the real property which are required to be removed from the real property or which are determined to be adversely affected by the use to which the real property will be put.

2. For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired under this section, the building, structure, or other improvement shall be deemed to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant of the lands, as against the owner of any other interest in the real property, to remove the building, structure, or improvement at the expiration of the tenant's term. The fair market value which the building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of the building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the owner of the building, structure, or improvement.

3. Payment for the building, structure, or improvement under this section shall not result in duplication of any payments otherwise authorized by state law. The payment shall not be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release all the tenant's right, title, and interest in and to the improvements. Nothing with regard to the above-mentioned acquisition of buildings, structures, or other improvements shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for the property interests in accordance with other laws of this state.

Sec. 21. Sections 316.10 and 316.11, Code 1989, are repealed.

Sec. 22. This Act, being deemed of immediate importance, takes effect upon enactment.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 152, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved March 27, 1989

TERRY E. BRANSTAD
Governor