

SENATE FILE **546**  
BY COMMITTEE ON APPROPRIATIONS

Passed Senate, Date 5/6/89 (p. 2033) Passed House, Date 5/7/89 (p. 2746)  
Vote: Ayes 20 Nays 20 Vote: Ayes 61 Nays 21  
Approved *Item Withdraw June 3, 1989*

A BILL FOR

1 An Act relating to budgetary matters by creating a legislative  
2 capital projects committee to review proposed capital projects  
3 and requires the governor to establish criteria for evaluating  
4 and funding the projects; increasing the size of the state  
5 revenue estimating council and the use of its estimates;  
6 establishing a coordinated leasing program; requiring  
7 notification to the department of management and  
8 appropriations committees of any request for or loss of  
9 federal or nonstate funds; repealing the authorization for  
10 intradepartmental transfers of appropriated funds; and  
11 extending the lottery.

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

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SF 546

1 Section 1. Section 2.45, Code 1989, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 4. The legislative capital projects  
4 committee which shall be composed of six members appointed as  
5 follows:

6 a. Two senate members of the legislative fiscal committee  
7 or the senate committee on appropriations, one to be appointed  
8 by the majority leader of the senate and one to be appointed  
9 by the minority leader of the senate.

10 b. Two house members of the legislative fiscal committee  
11 or the house committee on appropriations, one to be appointed  
12 by the speaker of the house and one to be appointed by the  
13 minority leader of the house.

14 c. The chairpersons of the senate and house committees on  
15 appropriations.

16 The chairperson of the legislative council shall designate  
17 the chairperson or chairpersons of the legislative capital  
18 projects committee.

19 Sec. 2. NEW SECTION. 2.47A POWERS OF LEGISLATIVE CAPITAL  
20 PROJECTS COMMITTEE.

21 1. The legislative capital projects committee shall do all  
22 of the following:

23 a. Receive the recommendations of the governor regarding  
24 the funding and priorities of proposed capital projects  
25 pursuant to section 8.3A, subsection 2, paragraph "b".

26 b. Receive the reports of all capital project budgeting  
27 requests of all state agencies, with individual state agency  
28 priorities noted, pursuant to section 8.6, subsection 13.

29 c. Receive the five-year capital project priority plan for  
30 all state agencies, pursuant to section 8.6, subsection 14.

31 d. Receive notifications of proposed transfers of excess  
32 bond revenues pursuant to section 8.39A.

33 e. Receive quarterly status reports for all ongoing  
34 capital projects of state agencies, pursuant to section 18.12,  
35 subsection 15.

1 f. Receive the annual report of acquisitions,  
2 dispositions, improvements, and construction relating to the  
3 inventory of real property and equipment of the state,  
4 pursuant to section 18.12A.

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5 2. The legislative capital projects committee, subject to  
6 the approval of the legislative council, may do all of the  
7 following:

8 a. Gather information relative to capital projects, as  
9 defined in section 8.3A, for the purpose of aiding the general  
10 assembly to properly appropriate moneys for capital projects.

11 b. Examine the reports and official acts of the state  
12 agencies, as defined in section 8.3A, with regard to capital  
13 project planning and budgeting and the receipt and  
14 disbursement of capital project funding.

15 c. Establish advisory bodies to the committee in areas  
16 where technical expertise is not otherwise readily available  
17 to the committee. Advisory body members may be reimbursed for  
18 actual and necessary expenses from funds appropriated pursuant  
19 to section 2.12, but only if the reimbursement is approved by  
20 the legislative council.

21 d. Compensate experts from outside state government for  
22 the provision of services to the committee from funds  
23 appropriated pursuant to section 2.12, but only if the  
24 compensation is approved by the legislative council.

25 e. Make recommendations to the legislative fiscal  
26 committee, legislative council, and the general assembly  
27 regarding issues relating to the planning, budgeting, and  
28 expenditure of capital project funding.

29 3. The capital projects committee shall determine its own  
30 method of procedure and shall keep a record of its proceedings  
31 which shall be open to public inspection. The committee shall  
32 meet as often as deemed necessary, subject to the approval of  
33 the legislative council, and the committee shall inform the  
34 legislative council in advance of its meeting dates.

35 Sec. 3. NEW SECTION. 8.3A CAPITAL PROJECT PLANNING AND

1 BUDGETING -- GOVERNOR'S DUTIES.

2 1. DEFINITIONS. For the purposes of this section:

4/7/ 3 a. "Capital project" means a project with a cost of one  
4 hundred thousand dollars or more undertaken by the state or a  
5 state agency, which meets one or more of the following  
6 descriptions:

7 (1) The project involves new construction, the acquisition  
8 or lease of land or buildings, the acquisition or lease of  
9 original equipment for a new facility, or the replacement, by  
10 purchase, lease, or other means, of original equipment for an  
11 existing facility.

12 (2) The project changes the nature or use of a facility.

13 (3) The project constitutes a major improvement or  
14 alteration to a facility, which may include the acquisition,  
15 lease, or replacement, by purchase, lease, or other means, of  
16 equipment, and the improvement or alteration has at least a  
17 fifteen-year life cycle.

18 (4) The project involves the improvement, alteration, or  
19 major maintenance of land or buildings received as a gift by  
20 the state or a state agency.

21 "Capital project" does not include highway and right-of-way  
22 projects or airport capital projects undertaken by the state  
23 department of transportation and financed from dedicated  
4/7/ 24 funds.

25 A capital project shall not be divided into smaller  
26 projects in such a manner as to thwart the intent of this  
27 section to provide for the evaluation of a capital project  
4/7/ 28 whose cost cumulatively equals or exceeds one hundred thousand  
29 dollars.

30 b. "Facility" means a distinct parcel of land or a  
31 building used by the state or a state agency for a specific  
32 purpose.

33 c. "State agency" means any executive, judicial, or  
34 legislative department, commission, board, institution,  
35 division, bureau, office, agency, or other entity of state

1 government.

2 2. DUTIES. The governor shall:

3 a. Develop criteria for the evaluation of proposed capital  
4 projects which shall include but not be limited to the  
5 following:

6 (1) Fiscal impacts on costs and revenues.

7 (2) Health and safety effects.

8 (3) Community economic effects.

9 (4) Environmental, aesthetic, and social effects.

10 (5) Amount of disruption and inconvenience caused by the  
11 capital project.

12 (6) Distributional effects.

13 (7) Feasibility, including public support and project  
14 readiness.

15 (8) Implications of deferring the project.

16 (9) Amount of uncertainty and risk.

17 (10) Effects on interjurisdictional relationships.

18 (11) Advantages accruing from relationships to other  
19 capital project proposals.

20 (12) Private sector contracting for construction,  
21 operation, or maintenance.

22 b. Make recommendations to the general assembly and the  
23 legislative capital projects committee regarding the funding  
24 and priorities of proposed capital projects.

25 c. Develop maintenance standards and guidelines for  
26 capital projects.

27 d. Review financing alternatives available to fund capital  
28 projects, including the evaluation of the advantages and  
29 disadvantages of bonding for all types of capital projects  
30 undertaken by all state agencies.

31 e. Monitor the debt of the state or a state agency.

32 Sec. 4. Section 8.6, Code 1989, is amended by adding the  
33 following new subsections:

34 NEW SUBSECTION. 13. CAPITAL PROJECT BUDGETING REQUESTS.

4/7/ 35 To compile annually, no later than September 1, all capital

1 project budgeting requests of all state agencies, as capital  
2 project and state agency are defined in section 8.3A, and to  
3 consolidate the requests, with individual state agency  
4 priorities noted, into a report for submission to the  
5 legislative capital projects committee not later than  
6/7/86 September 1, with any additional information regarding such  
7 capital project budgeting requests or priorities to be  
8 compiled and submitted in the same manner no later than  
9 November 1.

10 NEW SUBSECTION. 14. CAPITAL PROJECT PRIORITY PLAN. To  
11 prepare annually, in cooperation with the department of  
12 general services, a five-year capital project priority plan  
13 for all state agencies, as capital project and state agency  
14 are defined in section 8.3A, to be submitted no later than  
15 July 1, beginning in the year 1990, to the legislative capital  
16 projects committee. The plan shall include but not be limited  
17 to the following:

18 a. A detailed list of all proposed capital projects for  
19 all state agencies, which the department of management  
20 believes should be undertaken or continued for at least the  
21 next five fiscal years.

22 b. Background information regarding each proposed capital  
23 project and the need for the project.

24 c. Information regarding the fiscal effect of each capital  
25 project on future operating expenses of the affected state  
26 agency.

27 d. A notation of the priority listing of capital projects  
28 for each state agency.

29 e. The proposed means of funding each capital project.

30 f. A schedule for the planning and implementation or  
31 construction of each capital project.

32 g. A schedule for the next fiscal year of proposed debt  
33 service payments from issues of bonds previously authorized.

34 h. A review of capital projects which have recently been  
35 implemented or completed or are in the process of

1 implementation or completion.

2 i. Recommendations as to the maintenance of physical  
3 properties and equipment of state agencies.

4 j. Such other information as the department of management  
5 deems relevant to the foregoing matters.

6 NEW SUBSECTION. 15. CAPITAL PROJECT PLANNING AND  
7 BUDGETING AUTHORITY. To call upon any state agency, as  
8 defined in section 8.3A, for assistance the director may  
9 require in performing the director's duties under subsections  
10 13 and 14. All state agencies, upon the request of the  
11 director, shall assist the director and are authorized to make  
12 available to the director any existing studies, surveys,  
13 plans, data, and other materials in the possession of the  
14 state agencies which are relevant to the director's duties.

15 Sec. 5. Section 8.22, subsection 1, Code 1989, is amended  
16 by adding the following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. The governor's program shall  
18 include a single budget request for all capital projects, as  
19 defined in section 8.3A, proposed by the governor. The  
20 request shall include but not be limited to the following:

21 a. The purpose and need for each capital project.

22 b. A priority listing of capital projects.

23 c. The costs of acquisition, lease, construction,  
24 renovation, or demolition of each capital project.

25 d. The identification of the means and source of funding  
26 each capital project.

27 e. The estimated operating costs of each capital project  
28 after completion.

29 f. The estimated maintenance costs of each capital project  
30 after completion.

31 g. The consequences of delaying or abandoning each capital  
32 project.

33 h. Alternative approaches to meeting the purpose or need  
34 for each capital project.

35 i. Alternative financing mechanisms.

1 j. A cost-benefit analysis or economic impact of each  
2 capital project.

3 Sec. 6. Section 8.22A, unnumbered paragraphs 1 and 3, Code  
4 1989, are amended to read as follows:

5 The state revenue estimating conference is created  
6 consisting of the governor or the governor's designee, the  
7 director of the legislative fiscal bureau, ~~and a third member~~  
8 ~~agreed-to-by-the-other-two~~ a third member agreed to by the  
9 first two, and the treasurer of state or the treasurer's  
10 designee. All decisions of the conference shall require the  
11 approval of not less than three members of the conference.

12 By December 15, 1986 and each succeeding year the  
13 conference shall agree to a revenue estimate for the fiscal  
14 year beginning the following July 1. ~~That~~ The most recent  
15 estimate shall be used without revision by the governor in the  
16 preparation and presentation of the budget message under  
17 section 8.22 and by the ~~legislature~~ general assembly in the  
18 budget process.

19 Sec. 7. NEW SECTION. 8.39A TRANSFER OF EXCESS BOND  
20 REVENUES.

21 1. If excess bond revenues relating to a capital project,  
22 as defined in section 8.3A, or relating to a noncapital  
23 project with a cost of one hundred thousand dollars or more,  
24 are available for transfer and use for purposes other than  
25 those designated in the bond sale, or for purposes not  
26 designated in the scope of the project, the excess revenues  
27 shall not be transferred or used for any other purpose unless  
28 the state agency, as defined in section 8.3A, in charge of the  
29 capital or noncapital project requests in writing and receives  
30 approval from the governor and the director of the department  
31 of management to transfer and use the excess revenues for  
32 another purpose.

33 Upon receipt of the written request, the director of the  
34 department of management shall notify the members of the  
35 legislative capital projects committee of the proposed

1 transfer. The notice shall include information concerning the  
2 amount of the proposed transfer, the state agencies affected  
3 by the proposed transfer, the proposed use of the revenues to  
4 be transferred, and the reasons for the transfer. The members  
5 shall be given at least two weeks to review and comment on the  
6 proposed transfer before the excess revenues are transferred.

7 2. The director shall report any transfer made under this  
8 section to the legislative capital projects committee on a  
9 monthly basis. The report shall cover each calendar month and  
10 shall be due the tenth day of the following month. The report  
11 shall contain the following: the amount of each transfer, the  
12 date of each transfer, the state agencies affected, a brief  
13 explanation of the reason for the transfer, the date of notice  
14 to the members of the legislative capital projects committee,  
15 and such other information as may be required by the  
16 legislative capital projects committee. A summary of all  
17 transfers made under this section shall be included in the  
18 annual report of the legislative capital projects committee.

19 Sec. 8. NEW SECTION. 12.45 SHORT TITLE.

20 This division shall be known as the "Iowa Leasing Program  
21 Act".

22 Sec. 9. NEW SECTION. 12.46 DEFINITIONS.

23 As used in this division, unless the context otherwise  
24 requires:

25 1. "Approved lease" means a financing lease involving a  
26 state agency which has been reviewed by the treasurer of state  
27 pursuant to this division and has been approved as meeting the  
28 criteria established by the treasurer of state for financing  
29 leases and for compliance with federal and state laws.

30 2. "Financing lease" means a lease in which the lessee may  
31 purchase the property leased at a price which is less than the  
32 fair market value of the property at the end of the lease term  
33 or a lease of property where the lease term is eighty percent  
34 or more of the anticipated economic life of the property, as  
35 more fully defined in rules adopted by the treasurer of state

1 pursuant to section 12.48.

2 3. "Leasing corporation" means a nonprofit corporation  
3 organized at the direction of the treasurer of state pursuant  
4 to this division to operate and finance a coordinated  
5 equipment leasing program for state agencies.

6 4. "Obligations" means bonds, notes, loan agreements,  
7 certificates of participation, commercial paper, and other  
8 evidences of indebtedness, including refunding bonds, issued  
9 under the provisions of this division.

10 5. "State agency" means the state or a state department,  
11 division, board, commission, institution, or authority, except  
12 it does not include the state board of regents.

13 Sec. 10. NEW SECTION. 12.47 LEGISLATIVE FINDINGS AND  
14 INTENT.

15 1. The general assembly finds the following:

16 a. State agencies are obligating the state by entering  
17 into financing leases for equipment and have been doing so  
18 without sufficient coordination and review to determine  
19 compliance with tax laws for tax-exempt financing.

20 b. There is a need to review and coordinate leasing  
21 activities by state agencies to achieve better lease terms and  
22 to ensure that the leases are in the best interests of the  
23 state.

24 c. It is in the interest and welfare of the citizens of  
25 the state for the treasurer of state to review all financing  
26 leases entered into by state agencies, to provide a mechanism  
27 for a coordinated leasing program therefor, and to achieve  
28 cost savings by coordinating the state's leasing activities.

29 2. The leasing program provided for in this division is  
30 intended to provide state agencies with better terms for their  
31 financing leases and to assure adequate review of financing  
32 leases entered into by state agencies for compliance with tax  
33 laws for tax-exempt financing.

34 Sec. 11. NEW SECTION. 12.48 LEASE CRITERIA.

35 The treasurer of state shall adopt rules pursuant to

1 chapter 17A setting forth criteria for all financing leases to  
2 be executed by state agencies. This criteria may include  
3 specific authorized lease terms and procedures for review of  
4 financing leases and may include a provision that some or all  
5 payments under financing leases are to be made through the  
6 office of the treasurer of state.

7 Sec. 12. NEW SECTION. 12.49 FINANCING LEASES.

8 Notwithstanding the provisions of section 18.12, all state  
9 agencies are authorized to enter into financing leases in  
10 accordance with this division, provided that a financing lease  
11 for a prison or prison-related facility shall be subject to  
12 the restrictions set forth in section 18.12. All financing  
13 leases to be executed by state agencies shall first be  
14 reviewed by the treasurer of state for compliance with federal  
15 and state laws and for compliance with the criteria  
16 established by the treasurer of state for financing leases  
17 before being executed. In addition, no state agency shall  
18 enter into a financing lease unless the department of  
19 management has provided the treasurer of state with written  
20 approval for the financing of the property which is the  
21 subject of the financing lease.

22 Sec. 13. NEW SECTION. 12.50 LEASING CORPORATIONS.

23 The treasurer of state is authorized to incorporate, and  
24 appoint a board of directors for, one or more nonprofit  
25 corporations under chapter 504A, which meet and comply with  
26 the requirements of this division. These corporations are  
27 subject to and have the powers and privileges conferred by  
28 this division and those provisions of chapter 504A which are  
29 not inconsistent with and to the extent not restricted or  
30 limited by this division. A corporation is not incorporated  
31 pursuant to and under this division unless incorporated by the  
32 treasurer of state and unless its articles of incorporation  
33 provide that it is incorporated pursuant to this division.  
34 The treasurer of state is authorized to provide staff support  
35 to leasing corporations and to charge leasing corporations for

1 its administrative costs in providing a leasing program and  
2 costs of providing staff support.

3 Sec. 14. NEW SECTION. 12.51 POWERS.

4 Any leasing corporation established pursuant to this  
5 division shall, subject to the restrictions and limits herein  
6 contained, have the following powers:

7 1. To enter into approved leases with state agencies. The  
8 leases may include provisions for payment as a part of the  
9 lease charges of the administrative charges and costs incurred  
10 by the treasurer of state and the leasing corporation.

11 2. To sell interests in approved leases subject to  
12 applicable provisions of state and federal law.

13 3. To purchase property for the purpose of leasing it to  
14 state agencies pursuant to approved leases.

15 4. To commingle and pledge as security for a series or  
16 issue of obligations approved leases for the purpose of  
17 funding property purchases. Obligations may be issued in  
18 series under one or more resolutions or trust agreements in  
19 the discretion of the leasing corporation.

20 5. To borrow working capital funds and other funds as  
21 necessary for start-up and continuing operations, provided  
22 that the funds are borrowed in the name of the leasing  
23 corporation only, and to issue obligations in connection  
24 therewith. Borrowings are limited obligations of the  
25 character described in section 12.54 and are payable solely  
26 from the revenues of the leasing corporation or the proceeds  
27 of obligations pledged for that purpose.

28 6. To establish, maintain, and set aside reserves which it  
29 deems necessary in connection with its operations or to  
30 enhance the security for its obligations.

31 7. To authorize its officers, agents, and employees to  
32 take any other action and do all things necessary or desirable  
33 to carry out the purposes of this division.

34 Sec. 15. NEW SECTION. 12.52 OBLIGATIONS.

35 1. A leasing corporation may from time to time issue

1 obligations for the purpose of funding property purchases and  
2 the obligations of the leasing corporations are negotiable for  
3 all purposes notwithstanding their payment from limited  
4 sources and without regard to any other law.

5 2. Each issue of obligations is payable solely out of the  
6 proceeds of the issue; revenues of the leasing corporation  
7 from the proceeds of authorized leases to state agencies;  
8 proceeds of refunding obligations; and fees, charges, and  
9 other revenues of the leasing corporation from the leasing  
10 program or otherwise available to the leasing corporation and  
11 pledged to the payment of the obligations.

12 3. Obligations may be issued as serial obligations or as  
13 term obligations, or both. Obligations shall be authorized by  
14 a bond resolution of the leasing corporation and shall bear  
15 dates; mature at times; bear interest at rates which may be  
16 fixed or variable as provided in the bond resolution; be  
17 payable at times; be in denominations; be in a form, either  
18 coupon or fully registered; carry registration and conversion  
19 privileges; be payable in such currencies; and be subject to  
20 terms of redemption as the bond resolution provides.

21 Obligations shall be executed by the manual or facsimile  
22 signatures of officers of the leasing corporation designated  
23 by its board of directors. Obligations shall be sold in a  
24 manner, at either public or private sale without regard to  
25 chapter 75, and at prices as the leasing corporation  
26 determines.

27 4. A bond resolution may contain provisions, which shall  
28 be a part of the contract with the holders of the obligations  
29 to be authorized, as to all of the following:

30 a. Pledging or assigning the revenues derived from the  
31 financing leases with respect to which the obligations are to  
32 be issued.

33 b. The fees and other amounts to be charged, and the sums  
34 to be raised in each year, and the use, investment, and  
35 disposition of the sums.

- 1 c. The setting aside of property funding deposits, debt  
2 service reserves, capitalized interest accounts, cost of  
3 insurance accounts, and sinking funds, and their regulation,  
4 investment, and disposition.
- 5 d. Limitations on the use of the property leased.
- 6 e. Limitations on the purpose to which or the investments  
7 in which the proceeds of sale of an issue of obligations then  
8 or thereafter to be issued may be applied.
- 9 f. Limitations on the issuance of additional obligations,  
10 the terms upon which additional obligations may be issued and  
11 secured, the terms upon which additional obligations may rank  
12 on a parity with, or be subordinate or superior to, other  
13 obligations.
- 14 g. The refunding of outstanding obligations.
- 15 h. The procedure, if any, by which the terms of a contract  
16 with holders of obligations may be amended or abrogated, the  
17 amount of obligations to which the holders must consent to the  
18 amendment or abrogation, and the manner in which the consent  
19 may be given.
- 20 i. Defining the acts or omissions to act which constitute  
21 a default in the duties of the leasing corporation to holders  
22 of obligations and providing the rights or remedies of holders  
23 in the event of a default.
- 24 j. Providing for security for the benefit of the holders  
25 of the obligations.
- 26 k. Any other matters relating to the obligations which the  
27 leasing corporation deems desirable.
- 28 5. Neither the board of the leasing corporation nor a  
29 person executing the obligations is liable personally on the  
30 obligations or subject to personal liability or accountability  
31 by reason of their issuance.
- 32 6. The leasing corporation may purchase its obligations  
33 out of funds available. The leasing corporation may hold,  
34 pledge, cancel, or resell obligations subject to and in  
35 accordance with agreements with holders of obligations.

1       7. The leasing corporation may refund any of its  
2 obligations. Refunding obligations shall be issued in the  
3 same manner as other obligations of the leasing corporation.

4       Sec. 16. NEW SECTION. 12.53 TRUST AGREEMENT TO SECURE  
5 OBLIGATIONS.

6       In the discretion of the treasurer of state, obligations  
7 may be secured by a trust agreement by and between a leasing  
8 corporation or the treasurer of state, and a corporate trustee  
9 or trustees, which may be a trust company or bank located in  
10 or outside of the state of Iowa that has the powers of a trust  
11 company. The trust agreement may pledge the revenues to be  
12 received by the leasing corporation, may contain provisions  
13 for protecting and enforcing the rights and remedies of the  
14 holders of obligations as reasonable and proper and not in  
15 violation of law, including provisions that have been  
16 authorized to be included in any bond resolution of the  
17 leasing corporation, and may restrict the individual right of  
18 action by holders of obligations. A trust agreement may  
19 contain other provisions the treasurer of state deems  
20 reasonable and proper for the security of the holders of  
21 obligations. Expenses incurred in carrying out the trust  
22 agreement may be treated as a part of the cost of the  
23 operation of the leasing program.

24       Sec. 17. NEW SECTION. 12.54 PAYMENT OF OBLIGATIONS --  
25 NONLIABILITY OF STATE.

26       Obligations are obligations of a leasing corporation and  
27 not of the state of Iowa. Each obligation shall state that it  
28 represents and constitutes a debt of the leasing corporation,  
29 but not of the state of Iowa within the meaning of any  
30 constitutional or statutory limitation, and that it does not  
31 constitute a pledge of the full faith and credit of the state  
32 of Iowa. The obligations shall not grant to the owners or  
33 holders of the obligations the right to have the state levy  
34 taxes or appropriate funds for the payment of the principal or  
35 interest on the obligations. The obligations are payable, and

1 shall state that they are payable, solely from the revenues  
2 pledged for their payment in accordance with the bond  
3 resolution.

4 This division does not authorize a leasing corporation or  
5 the treasurer of state or any department, board, commission,  
6 or other agency to create an obligation of the state within  
7 the meaning of the constitution or laws of Iowa.

8 Sec. 18. NEW SECTION. 12.55 PLEDGE OF REVENUES.

9 A leasing corporation may fix, revise, charge, and collect  
10 fees and may contract with any person to do so.

11 The leasing corporation shall pledge the revenues from  
12 authorized leases as security for the issue of obligations  
13 relating to the leases. A pledge is valid and binding from  
14 the time when the pledge is made, the revenues pledged by the  
15 leasing corporation are immediately subject to the lien of the  
16 pledge without physical delivery of the pledge or further act,  
17 and the lien of the pledge is valid and binding against all  
18 parties having claims of any kind in tort, contract, or  
19 otherwise against the leasing corporation, irrespective of  
20 whether the parties have notice of the lien. The bond  
21 resolution or a financing statement, continuation statement,  
22 or other instrument by which the leasing corporation's  
23 interest in revenues is assigned need not be filed or recorded  
24 in public records in order to perfect the lien against third  
25 parties except that a copy of it shall be filed in the records  
26 of the leasing corporation and with the treasurer of state.

27 Sec. 19. NEW SECTION. 12.56 FUNDS FOR SALES OF  
28 OBLIGATIONS AS TRUST FUNDS -- APPLICATION OF FUNDS.

29 Moneys received by or on behalf of a leasing corporation  
30 under this division, whether as proceeds from the sale of  
31 obligations or as revenues, are trust funds to be held and  
32 applied as provided in this division. An officer with whom or  
33 a bank or trust company with which the moneys are deposited  
34 shall act as trustee of the moneys and shall hold and apply  
35 the moneys for the purposes of this division subject to rules

1 that this division and the bond resolution authorizing the  
2 obligations of an issue may provide.

3 Sec. 20. NEW SECTION. 12.57 RIGHTS OF HOLDERS OF  
4 OBLIGATIONS.

5 A holder of obligations or a trustee under a trust  
6 agreement entered into pursuant to this division, except to  
7 the extent that their rights are restricted by a bond  
8 resolution, may, by any suitable form or legal proceedings,  
9 protect and enforce rights under the laws of this state or  
10 granted by the bond resolution, may enjoin unlawful  
11 activities, and if there is a default on the payment of the  
12 principal of, premiums, if any, and interest on an obligation  
13 or in the performance of a covenant or agreement on the part  
14 of the leasing corporation in the bond resolution, may apply  
15 to the district court to appoint a receiver to administer and  
16 operate the leasing corporation, the revenues of which are  
17 pledged to the payment of principal of, premium, if any, and  
18 interest on the obligations, with full power to pay, and to  
19 provide for payment of principal of, premium, if any, and  
20 interest on the obligations, and with powers, subject to the  
21 direction of the court, as permitted by law and accorded to  
22 receivers, excluding the power to pledge additional revenues  
23 of the leasing corporation to the payment of the principal,  
24 premium, and interest.

25 Sec. 21. NEW SECTION. 12.58 REFUNDING BONDS -- PURPOSE -  
26 - PROCEEDS -- INVESTMENT OF PROCEEDS.

27 1. A leasing corporation may issue its obligations for the  
28 purpose of refunding obligations then outstanding, including  
29 the payment of a redemption premium on the obligations and  
30 interest accrued or to accrue to the earliest or a subsequent  
31 date of redemption, purchase, or maturity of the obligations.

32 2. The proceeds of obligations issued for the purpose of  
33 refunding outstanding obligations may, in the discretion of  
34 the leasing corporation, be applied to the purchase or  
35 retirement at maturity or redemption of the outstanding

1 obligations either on their earliest or a subsequent  
2 redemption date or upon the purchase or at the maturity of the  
3 obligations and may, pending an application, be placed in  
4 escrow to be applied to the purchase or retirement at maturity  
5 or redemption on a date determined by the leasing corporation.

6 3. Any escrowed proceeds, pending their use, may be  
7 invested and reinvested in direct obligations of the United  
8 States of America, maturing at times as appropriate to assure  
9 the prompt payment of the principal of and interest and  
10 redemption premium, if any, on the outstanding obligations to  
11 be refunded. The interest, income, and profits, if any,  
12 earned or realized on an investment may also be applied to the  
13 payment of the outstanding obligations to be refunded.

14 4. Refunding obligations are subject to this division in  
15 the same manner and to the same extent as other obligations  
16 issued pursuant to the division.

17 Sec. 22. NEW SECTION. 12.59 ANNUAL REPORT.

18 The treasurer shall annually provide a report to the  
19 governor and the members of the general assembly of the volume  
20 and nature of financing leases entered into by state agencies  
21 under this division.

22 Sec. 23. NEW SECTION. 12.60 OBLIGATIONS AS LEGAL  
23 INVESTMENTS.

24 Banks, bankers, trust companies, savings banks and  
25 institutions, building and loan associations, savings and loan  
26 associations, investment companies, and other persons carrying  
27 on a banking or investment business, insurance companies and  
28 insurance associations, and executors, administrators,  
29 guardians, trustees, and other fiduciaries may legally invest  
30 sinking funds, moneys, or other funds belonging to them or  
31 within their control in obligations of a leasing corporation.

32 Sec. 24. NEW SECTION. 12.61 NOTICE.

33 A leasing corporation shall publish a notice of its  
34 intention to issue obligations in a newspaper published in and  
35 with general circulation in the state. The notice shall

1 include a statement of the maximum amounts of obligations  
2 proposed to be issued, and in general terms, what receipts  
3 will be pledged to pay bond service charges on the  
4 obligations. An action which questions the legality or  
5 validity of the obligations or the power of the leasing  
6 corporation to issue the obligations or the effectiveness or  
7 validity of any proceedings adopted for the authorization or  
8 issuance of the obligations shall not be brought after thirty  
9 days from the date of publication of the notice.

10 Sec. 25. NEW SECTION. 12.62 LIBERAL CONSTRUCTION OF  
11 DIVISION.

12 This division, being necessary for the welfare of the state  
13 and its inhabitants, shall be liberally construed to effect  
14 its purpose.

15 Sec. 26. NEW SECTION. 12.63 EXERCISE OF POWERS AS  
16 ESSENTIAL PUBLIC FUNCTION -- EXEMPTION FROM TAXATION.

17 The exercise of the powers granted by this division will be  
18 in all respects for the benefit of the people of this state,  
19 for the increase of their commerce, welfare, and prosperity,  
20 and as the operation and maintenance of a program by the  
21 treasurer of state and leasing corporations organized under  
22 this division will constitute the performance of an essential  
23 public function. Income of a leasing corporation is exempt  
24 from all taxation in the state. Property of a leasing  
25 corporation, acquired or held for the purposes of this  
26 division, is exempt from all taxation and special assessments  
27 in the state if the property was exempt for the fiscal year in  
28 which the property was first acquired or held and the property  
29 shall continue to be exempt for subsequent fiscal years.

30 Property of a leasing corporation, acquired or held for the  
31 purpose of this division, is subject to taxation and special  
32 assessments in the state if the property was taxable for the  
33 fiscal year in which the property was first acquired or held  
34 and the property shall continue to be taxable for subsequent  
35 fiscal years.

1     Sec. 27. Section 18.12, Code 1989, is amended by adding  
2 the following new subsections after subsection 14 and  
3 renumbering the subsequent subsection:

4     NEW SUBSECTION. 15. Prepare quarterly status reports for  
5 all ongoing capital projects of all state agencies, as capital  
6 project and state agency are defined in section 8.3A, and  
7 submit the status reports to the legislative capital projects  
8 committee.

9     NEW SUBSECTION. 16. Call upon any state agency, as  
10 defined in section 8.3A, for assistance the director may  
11 require in performing the director's duties under subsection  
12 15 regarding capital project status reports and under section  
13 18.12A regarding the inventory of state property. All state  
14 agencies, upon the request of the director and with the  
15 approval of the director of the department of management,  
16 shall assist the director and are authorized to make available  
17 to the director any existing studies, surveys, plans, data,  
18 and other materials in the possession of the state agencies  
19 which are relevant to the director's duties.

20     Sec. 28. NEW SECTION. 18.12A INVENTORY OF STATE  
21 PROPERTY.

22     1. The director shall prepare and maintain a correct and  
23 current inventory of all real property and equipment, the  
24 acquisition or lease of which would constitute a capital  
25 project, as defined in section 8.3A, which is owned or leased  
26 by or held in trust for the state of Iowa or any state agency,  
27 as defined in section 8.3A. In addition, the director shall  
28 prepare and maintain the status on additional data elements  
29 relating to the real property and equipment designated by the  
30 department of revenue and finance which are necessary for use  
31 by the department of revenue and finance in preparation of the  
32 comprehensive annual financial report of the state. The  
33 inventory shall be indexed by location and control of the real  
34 property. The inventory shall include but not be limited to  
35 the following:

- 1 a. The location and legal description of the real
- 2 property.
- 3 b. The source of acquisition of the real property.
- 4 c. Improvements or construction relating to the real
- 5 property.
- 6 d. A functional description of the real property.
- 7 e. The condition and age, expected life cycle, and
- 8 maintenance needs of buildings on the real property.
- 9 f. If land or buildings are to be vacated, the current use
- 10 of the land or buildings, and other possible uses for the land
- 11 or buildings.
- 12 g. The continued need for and availability of alternatives
- 13 to meet the need for the land or buildings.
- 14 h. The state agency in control of the real property.
- 15 i. The location, source of acquisition, condition and age,
- 16 expected life cycle, and maintenance needs of the equipment
- 17 and the state agency in control of it.
- 18 2. The director shall establish procedures requiring each
- 19 state agency to report all acquisitions of real property,
- 20 improvements or construction relating to real property, and
- 21 dispositions of real property and all acquisitions and
- 22 dispositions of equipment, and the reporting of the additional
- 23 data elements necessary for the department of revenue and
- 24 finance to prepare the financial report, in order that the
- 25 inventory can be promptly corrected and accurately maintained.
- 26 Except in an emergency due to an act of nature or
- 27 insurrection, an acquisition or disposition of real property
- 28 or equipment shall not be made, construction shall not be
- 29 commenced, funds or valuable consideration shall not be given,
- 30 and a final document of conveyance of real property shall not
- 31 be transmitted until the state agency has complied with the
- 32 procedures required pursuant to this subsection for reporting
- 33 such an acquisition or disposition of real property or
- 34 construction or such an acquisition or disposition of
- 35 equipment and until the director has issued to the state

1 agency a written acknowledgement of the receipt of such  
2 report. The director shall issue the written acknowledgement  
417/ 3 of the receipt of the report without delay.

4 3. The director shall prepare and submit annually to the  
5 governor, the department of revenue and finance, and the  
6 legislative capital projects committee a report of the  
7 acquisitions and dispositions of real property and equipment  
8 and improvements and construction relating to real property  
9 subject to this section.

10 Sec. 29. NOTIFICATION OF RECEIPT OF NONSTATE FUNDS. All  
11 constitutional and statutory offices, administrative  
12 departments, and independent agencies, except those  
13 institutions governed by chapter 262, shall notify the  
14 department of management, the chairpersons, vice chairpersons,  
15 and ranking members of the senate and house of  
16 representatives' committees on appropriations and of the  
17 appropriate joint appropriations subcommittees, and the  
18 legislative fiscal bureau of any request for, approval of, or  
19 an award of federal or other nonstate funds, or of the loss of  
20 federal or other nonstate funds during the fiscal period  
21 beginning October 1, 1988, and ending September 30, 1989. The  
22 notification shall be made no later than December 15, 1989,  
23 and shall include the name of the grantor and of the funding  
24 grant, the estimated amount of funds, and the planned  
25 expenditures for the funds. Institutions governed by chapter  
26 262 shall provide this notification only for those awards of  
27 funds which specifically require a commitment of additional  
28 state resources.

29 Sec. 30. Section 8.39, Code 1989, is repealed.

30 Sec. 31. 1985 Iowa Acts, chapter 33, section 129, is  
31 repealed.

4154>

32 EXPLANATION

33 Sections 1 through 5, 7, 27, and 28 of the bill create a  
34 six-member legislative capital projects committee of the  
35 legislative council. The purpose of the new committee is to

1 review proposed capital projects, costing \$100,000 or more, of  
2 all state agencies. The bill requires the governor to  
3 establish criteria for the evaluation of proposed projects and  
4 to make recommendations to the legislature and the committee  
5 regarding funding and priorities for the projects. The  
6 director of the department of general services is required to  
7 maintain and keep current a capital projects inventory.

8 Section 6 of the bill increases the state revenue  
9 estimating conference from 3 to 4 members and provides that  
10 the most recent revenue estimate agreed to by the revenue  
11 estimating conference for a coming fiscal year is to be used  
12 without revision by the governor in the preparation and  
13 presentation of the budget and by the general assembly in the  
14 budget process.

15 Sections 11 through 26 of the bill establish a coordinated  
16 leasing program under the treasurer of state. The bill  
17 authorizes state agencies to enter into financing leases and  
18 requires that all state agencies proposing to lease property  
19 do so in conformance with the rules of the treasurer and with  
20 review of the proposed lease by the treasurer. Any lease of a  
21 prison or prison-related facility will continue to be subject  
22 to approval by the governor and general assembly. The  
23 department of management also must approve the financing of  
24 the property. The bill authorizes the treasurer to establish  
25 a nonprofit corporation in order to operate and finance  
26 leasing activities for state agencies. The nonprofit  
27 corporation is authorized to issue obligations to finance  
28 leased property. Such obligations are not a liability of the  
29 state. The treasurer is annually required to report to the  
30 governor and the general assembly on leasing activities by  
31 state agencies.

32 Section 29 of the bill requires state agencies other than  
33 the state board of regents to notify the department of  
34 management and members of the appropriations committees of any  
35 request for or loss of federal or nonstate funds during the

1 federal fiscal year beginning October 1, 1988.

2 Section 30 of the bill repeals the authorization for  
3 intradepartmental transfers of appropriations.

4 Section 31 of the bill repeals the lottery repealer.

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## SENATE FILE 546

S-4171

1 Amend Senate File 546 as follows:

2 1. Page 3, by striking lines 3 and 4 and  
3 inserting the following:

4 "a. "Capital project" means a project funded by  
5 state appropriations or bonding authorized by the  
6 general assembly with a cost of two hundred fifty  
7 thousand dollars or more undertaken by the state or  
8 a".

9 2. Page 3, line 24, by inserting after the word  
10 "funds" the following: "or capital projects funded by  
11 nonstate grants, gifts, or contracts obtained at or  
12 through state universities, if the projects do not  
13 require a commitment of additional state resources for  
14 maintenance, operations, or staffing".

15 3. Page 3, line 28, by striking the words "one  
16 hundred" and inserting the following: "two hundred  
17 fifty".

18 4. Page 4, line 35, by striking the word  
19 "September" and inserting the following: "October".

20 5. Page 5, line 6, by striking the word  
21 "September" and inserting the following: "October".

22 6. Page 21, line 3, by striking the words  
23 "without delay." and inserting the following: "within  
24 five days of the receipt of the report. Nothing in  
25 this subsection requires nor in the procedures  
26 established by the director shall require prior  
27 notification to the director of the state agency's  
28 intent to apply or the state agency's applying for  
29 federal, private or nonstate funds for a capital  
30 project."

By RICHARD VARN  
LARRY MURPHY  
JOE WELSH

S-4171 FILED MAY 6, 1989

ADOPTED (p. 2032)

SENATE FILE 546

S-4150

1 Amend Senate File 546 as follows:

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

4 "\_\_\_\_. Review the reasons for and the frequency of  
5 cost overruns and restarting of capital projects by  
6 state agencies.

7 \_\_\_\_\_. Examine and evaluate, on a continuing basis,  
8 the state's system of contracting and subcontracting  
9 in regard to capital projects."

By RICHARD RUNNING  
CHARLES BRUNER  
JIM RIORDAN

MICHAEL E. GRONSTAL  
JOE WELSH

S-4150 FILED MAY 5, 1989

*Adopted 5/6 (p. 2027)*

SENATE FILE 546

S-4154

1 Amend Senate File 546 as follows:

2 1. Page 21, by inserting after line 31 the  
3 following:

4 "Sec. \_\_\_\_\_. Chapter 99E is repealed on July 1,  
5 1995, other than to implement the winding down of the  
6 operations of the Iowa lottery board."

By MICHAEL E. GRONSTAL

S-4154 FILED MAY 5, 1989

*Adopted 5/6 (p. 2028)*



1 Section 1. Section 2.45, Code 1989, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 4. The legislative capital projects  
4498 4 committee which shall be composed of six members appointed as  
5 follows:

6 a. Two senate members of the legislative fiscal committee  
7 or the senate committee on appropriations, one to be appointed  
8 by the majority leader of the senate and one to be appointed  
9 by the minority leader of the senate.

10 b. Two house members of the legislative fiscal committee  
11 or the house committee on appropriations, one to be appointed  
12 by the speaker of the house and one to be appointed by the  
13 minority leader of the house.

14 c. The chairpersons of the senate and house committees on  
15 appropriations.

4498 > 16 The chairperson of the legislative council shall designate  
17 the chairperson or chairpersons of the legislative capital  
18 projects committee.

4498 > 19 Sec. 2. NEW SECTION. 2.47A POWERS OF LEGISLATIVE CAPITAL  
20 PROJECTS COMMITTEE.

21 1. The legislative capital projects committee shall do all  
22 of the following:

23 a. Receive the recommendations of the governor regarding  
24 the funding and priorities of proposed capital projects  
25 pursuant to section 8.3A, subsection 2, paragraph "b".

26 b. Receive the reports of all capital project budgeting  
27 requests of all state agencies, with individual state agency  
28 priorities noted, pursuant to section 8.6, subsection 13.

29 c. Receive the five-year capital project priority plan for  
30 all state agencies, pursuant to section 8.6, subsection 14.

31 d. Receive notifications of proposed transfers of excess  
32 bond revenues pursuant to section 8.39A.

33 e. Receive quarterly status reports for all ongoing  
34 capital projects of state agencies, pursuant to section 18.12,  
35 subsection 15.

1 f. Receive the annual report of acquisitions,  
2 dispositions, improvements, and construction relating to the  
3 inventory of real property and equipment of the state,  
4 pursuant to section 18.12A.

5 g. Review the reasons for and the frequency of cost  
6 overruns and restarting of capital projects by state agencies.

7 h. Examine and evaluate, on a continuing basis, the  
8 state's system of contracting and subcontracting in regard to  
9 capital projects.

10 2. The legislative capital projects committee, subject to  
11 the approval of the legislative council, may do all of the  
12 following:

13 a. Gather information relative to capital projects, as  
14 defined in section 8.3A, for the purpose of aiding the general  
15 assembly to properly appropriate moneys for capital projects.

16 b. Examine the reports and official acts of the state  
17 agencies, as defined in section 8.3A, with regard to capital  
18 project planning and budgeting and the receipt and  
19 disbursement of capital project funding.

20 c. Establish advisory bodies to the committee in areas  
21 where technical expertise is not otherwise readily available  
22 to the committee. Advisory body members may be reimbursed for  
23 actual and necessary expenses from funds appropriated pursuant  
24 to section 2.12, but only if the reimbursement is approved by  
25 the legislative council.

26 d. Compensate experts from outside state government for  
27 the provision of services to the committee from funds  
28 appropriated pursuant to section 2.12, but only if the  
29 compensation is approved by the legislative council.

30 e. Make recommendations to the legislative fiscal  
31 committee, legislative council, and the general assembly  
32 regarding issues relating to the planning, budgeting, and  
33 expenditure of capital project funding.

34 3. The capital projects committee shall determine its own  
35 method of procedure and shall keep a record of its proceedings

1 which shall be open to public inspection. The committee shall  
2 meet as often as deemed necessary, subject to the approval of  
3 the legislative council, and the committee shall inform the  
4 legislative council in advance of its meeting dates.

5 Sec. 3. NEW SECTION. 8.3A CAPITAL PROJECT PLANNING AND  
6 BUDGETING -- GOVERNOR'S DUTIES.

7 1. DEFINITIONS. For the purposes of this section:

8 a. "Capital project" means a project funded by state  
9 appropriations or bonding authorized by the general assembly  
10 with a cost of two hundred fifty thousand dollars or more  
11 undertaken by the state or a state agency, which meets one or  
12 more of the following descriptions:

13 (1) The project involves new construction, the acquisition  
14 or lease of land or buildings, the acquisition or lease of  
15 original equipment for a new facility, or the replacement, by  
16 purchase, lease, or other means, of original equipment for an  
17 existing facility.

18 (2) The project changes the nature or use of a facility.

19 (3) The project constitutes a major improvement or  
20 alteration to a facility, which may include the acquisition,  
21 lease, or replacement, by purchase, lease, or other means, of  
22 equipment, and the improvement or alteration has at least a  
23 fifteen-year life cycle.

24 (4) The project involves the improvement, alteration, or  
25 major maintenance of land or buildings received as a gift by  
26 the state or a state agency.

27 "Capital project" does not include highway and right-of-way  
28 projects or airport capital projects undertaken by the state  
29 department of transportation and financed from dedicated funds  
30 or capital projects funded by nonstate grants, gifts, or  
31 contracts obtained at or through state universities, if the  
32 projects do not require a commitment of additional state  
33 resources for maintenance, operations, or staffing.

34 A capital project shall not be divided into smaller  
35 projects in such a manner as to thwart the intent of this

1 section to provide for the evaluation of a capital project  
2 whose cost cumulatively equals or exceeds two hundred fifty  
3 thousand dollars.

4 b. "Facility" means a distinct parcel of land or a  
5 building used by the state or a state agency for a specific  
6 purpose.

7 c. "State agency" means any executive, judicial, or  
8 legislative department, commission, board, institution,  
9 division, bureau, office, agency, or other entity of state  
10 government.

11 2. DUTIES. The governor shall:

12 a. Develop criteria for the evaluation of proposed capital  
13 projects which shall include but not be limited to the  
14 following:

15 (1) Fiscal impacts on costs and revenues.

16 (2) Health and safety effects.

17 (3) Community economic effects.

18 (4) Environmental, aesthetic, and social effects.

19 (5) Amount of disruption and inconvenience caused by the  
20 capital project.

21 (6) Distributional effects.

22 (7) Feasibility, including public support and project  
23 readiness.

24 (8) Implications of deferring the project.

25 (9) Amount of uncertainty and risk.

26 (10) Effects on interjurisdictional relationships.

27 (11) Advantages accruing from relationships to other  
28 capital project proposals.

29 (12) Private sector contracting for construction,  
30 operation, or maintenance.

31 b. Make recommendations to the general assembly and the  
32 legislative capital projects committee regarding the funding  
33 and priorities of proposed capital projects.

34 c. Develop maintenance standards and guidelines for  
35 capital projects.

1 d. Review financing alternatives available to fund capital  
2 projects, including the evaluation of the advantages and  
3 disadvantages of bonding for all types of capital projects  
4 undertaken by all state agencies.

5 e. Monitor the debt of the state or a state agency.

6 Sec. 4. Section 8.6, Code 1989, is amended by adding the  
7 following new subsections:

8 NEW SUBSECTION. 13. CAPITAL PROJECT BUDGETING REQUESTS.

9 To compile annually, no later than October 1, all capital  
10 project budgeting requests of all state agencies, as capital  
11 project and state agency are defined in section 8.3A, and to  
12 consolidate the requests, with individual state agency  
13 priorities noted, into a report for submission to the  
14 legislative capital projects committee not later than October  
15 1, with any additional information regarding such capital  
16 project budgeting requests or priorities to be compiled and  
17 submitted in the same manner no later than November 1.

18 NEW SUBSECTION. 14. CAPITAL PROJECT PRIORITY PLAN. To  
19 prepare annually, in cooperation with the department of  
20 general services, a five-year capital project priority plan  
21 for all state agencies, as capital project and state agency  
22 are defined in section 8.3A, to be submitted no later than  
23 July 1, beginning in the year 1990, to the legislative capital  
24 projects committee. The plan shall include but not be limited  
25 to the following:

26 a. A detailed list of all proposed capital projects for  
27 all state agencies, which the department of management  
28 believes should be undertaken or continued for at least the  
29 next five fiscal years.

30 b. Background information regarding each proposed capital  
31 project and the need for the project.

32 c. Information regarding the fiscal effect of each capital  
33 project on future operating expenses of the affected state  
34 agency.

35 d. A notation of the priority listing of capital projects

1 for each state agency.

2 e. The proposed means of funding each capital project.

3 f. A schedule for the planning and implementation or  
4 construction of each capital project.

5 g. A schedule for the next fiscal year of proposed debt  
6 service payments from issues of bonds previously authorized.

7 h. A review of capital projects which have recently been  
8 implemented or completed or are in the process of  
9 implementation or completion.

10 i. Recommendations as to the maintenance of physical  
11 properties and equipment of state agencies.

12 j. Such other information as the department of management  
13 deems relevant to the foregoing matters.

14 NEW SUBSECTION. 15. CAPITAL PROJECT PLANNING AND  
15 BUDGETING AUTHORITY. To call upon any state agency, as  
16 defined in section 8.3A, for assistance the director may  
17 require in performing the director's duties under subsections  
18 13 and 14. All state agencies, upon the request of the  
19 director, shall assist the director and are authorized to make  
20 available to the director any existing studies, surveys,  
21 plans, data, and other materials in the possession of the  
22 state agencies which are relevant to the director's duties.

23 Sec. 5. Section 8.22, subsection 1, Code 1989, is amended  
24 by adding the following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. The governor's program shall  
26 include a single budget request for all capital projects, as  
27 defined in section 8.3A, proposed by the governor. The  
28 request shall include but not be limited to the following:

29 a. The purpose and need for each capital project.

30 b. A priority listing of capital projects.

31 c. The costs of acquisition, lease, construction,  
32 renovation, or demolition of each capital project.

33 d. The identification of the means and source of funding  
34 each capital project.

35 e. The estimated operating costs of each capital project

1 after completion.

2 f. The estimated maintenance costs of each capital project  
3 after completion.

4 g. The consequences of delaying or abandoning each capital  
5 project.

6 h. Alternative approaches to meeting the purpose or need  
7 for each capital project.

8 i. Alternative financing mechanisms.

9 j. A cost-benefit analysis or economic impact of each  
10 capital project.

4498 11 Sec. 6. Section 8.22A, unnumbered paragraphs 1 and 3, Code  
12 1989, are amended to read as follows:

13 The state revenue estimating conference is created  
14 consisting of the governor or the governor's designee, the  
15 director of the legislative fiscal bureau, ~~and a third member~~  
16 ~~agreed to by the other two~~ a third member agreed to by the  
17 first two, and the treasurer of state or the treasurer's  
18 designee. All decisions of the conference shall require the  
19 approval of not less than three members of the conference.

20 By December 15, 1986 and each succeeding year the  
21 conference shall agree to a revenue estimate for the fiscal  
22 year beginning the following July 1. ~~That~~ The most recent  
23 estimate shall be used without revision by the governor in the  
24 preparation and presentation of the budget message under  
25 section 8.22 and by the ~~legislature~~ general assembly in the  
26 budget process.

27 Sec. 7. NEW SECTION. 8.39A TRANSFER OF EXCESS BOND  
28 REVENUES.

29 1. If excess bond revenues relating to a capital project,  
30 as defined in section 8.3A, or relating to a noncapital  
31 project with a cost of one hundred thousand dollars or more,  
32 are available for transfer and use for purposes other than  
33 those designated in the bond sale, or for purposes not  
34 designated in the scope of the project, the excess revenues  
35 shall not be transferred or used for any other purpose unless

1 the state agency, as defined in section 8.3A, in charge of the  
2 capital or noncapital project requests in writing and receives  
3 approval from the governor and the director of the department  
4 of management to transfer and use the excess revenues for  
5 another purpose.

6 Upon receipt of the written request, the director of the  
7 department of management shall notify the members of the  
8 legislative capital projects committee of the proposed  
9 transfer. The notice shall include information concerning the  
10 amount of the proposed transfer, the state agencies affected  
11 by the proposed transfer, the proposed use of the revenues to  
12 be transferred, and the reasons for the transfer. The members  
13 shall be given at least two weeks to review and comment on the  
14 proposed transfer before the excess revenues are transferred.

15 2. The director shall report any transfer made under this  
16 section to the legislative capital projects committee on a  
17 monthly basis. The report shall cover each calendar month and  
18 shall be due the tenth day of the following month. The report  
19 shall contain the following: the amount of each transfer, the  
20 date of each transfer, the state agencies affected, a brief  
21 explanation of the reason for the transfer, the date of notice  
22 to the members of the legislative capital projects committee,  
23 and such other information as may be required by the  
24 legislative capital projects committee. A summary of all  
25 transfers made under this section shall be included in the  
26 annual report of the legislative capital projects committee.

27 Sec. 8. NEW SECTION. 12.45 SHORT TITLE.

28 This division shall be known as the "Iowa Leasing Program  
29 Act".

30 Sec. 9. NEW SECTION. 12.46 DEFINITIONS.

31 As used in this division, unless the context otherwise  
32 requires:

33 1. "Approved lease" means a financing lease involving a  
34 state agency which has been reviewed by the treasurer of state  
35 pursuant to this division and has been approved as meeting the

1 criteria established by the treasurer of state for financing  
2 leases and for compliance with federal and state laws.

3 2. "Financing lease" means a lease in which the lessee may  
4 purchase the property leased at a price which is less than the  
5 fair market value of the property at the end of the lease term  
6 or a lease of property where the lease term is eighty percent  
7 or more of the anticipated economic life of the property, as  
8 more fully defined in rules adopted by the treasurer of state  
9 pursuant to section 12.48.

10 3. "Leasing corporation" means a nonprofit corporation  
11 organized at the direction of the treasurer of state pursuant  
12 to this division to operate and finance a coordinated  
13 equipment leasing program for state agencies.

14 4. "Obligations" means bonds, notes, loan agreements,  
15 certificates of participation, commercial paper, and other  
16 evidences of indebtedness, including refunding bonds, issued  
17 under the provisions of this division.

18 5. "State agency" means the state or a state department,  
19 division, board, commission, institution, or authority, except  
20 it does not include the state board of regents.

21 Sec. 10. NEW SECTION. 12.47 LEGISLATIVE FINDINGS AND  
22 INTENT.

23 1. The general assembly finds the following:

24 a. State agencies are obligating the state by entering  
25 into financing leases for equipment and have been doing so  
26 without sufficient coordination and review to determine  
27 compliance with tax laws for tax-exempt financing.

28 b. There is a need to review and coordinate leasing  
29 activities by state agencies to achieve better lease terms and  
30 to ensure that the leases are in the best interests of the  
31 state.

32 c. It is in the interest and welfare of the citizens of  
33 the state for the treasurer of state to review all financing  
34 leases entered into by state agencies, to provide a mechanism  
35 for a coordinated leasing program therefor, and to achieve

1 cost savings by coordinating the state's leasing activities.

2 2. The leasing program provided for in this division is  
3 intended to provide state agencies with better terms for their  
4 financing leases and to assure adequate review of financing  
5 leases entered into by state agencies for compliance with tax  
6 laws for tax-exempt financing.

7 Sec. 11. NEW SECTION. 12.48 LEASE CRITERIA.

8 The treasurer of state shall adopt rules pursuant to  
9 chapter 17A setting forth criteria for all financing leases to  
10 be executed by state agencies. This criteria may include  
11 specific authorized lease terms and procedures for review of  
12 financing leases and may include a provision that some or all  
13 payments under financing leases are to be made through the  
14 office of the treasurer of state.

15 Sec. 12. NEW SECTION. 12.49 FINANCING LEASES.

16 Notwithstanding the provisions of section 18.12, all state  
17 agencies are authorized to enter into financing leases in  
18 accordance with this division, provided that a financing lease  
19 for a prison or prison-related facility shall be subject to  
20 the restrictions set forth in section 18.12. All financing  
21 leases to be executed by state agencies shall first be  
22 reviewed by the treasurer of state for compliance with federal  
23 and state laws and for compliance with the criteria  
24 established by the treasurer of state for financing leases  
25 before being executed. In addition, no state agency shall  
26 enter into a financing lease unless the department of  
27 management has provided the treasurer of state with written  
28 approval for the financing of the property which is the  
29 subject of the financing lease.

30 Sec. 13. NEW SECTION. 12.50 LEASING CORPORATIONS.

31 The treasurer of state is authorized to incorporate, and  
32 appoint a board of directors for, one or more nonprofit  
33 corporations under chapter 504A, which meet and comply with  
34 the requirements of this division. These corporations are  
35 subject to and have the powers and privileges conferred by

1 this division and those provisions of chapter 504A which are  
2 not inconsistent with and to the extent not restricted or  
3 limited by this division. A corporation is not incorporated  
4 pursuant to and under this division unless incorporated by the  
5 treasurer of state and unless its articles of incorporation  
6 provide that it is incorporated pursuant to this division.  
7 The treasurer of state is authorized to provide staff support  
8 to leasing corporations and to charge leasing corporations for  
9 its administrative costs in providing a leasing program and  
10 costs of providing staff support.

11 Sec. 14. NEW SECTION. 12.51 POWERS.

12 Any leasing corporation established pursuant to this  
13 division shall, subject to the restrictions and limits herein  
14 contained, have the following powers:

15 1. To enter into approved leases with state agencies. The  
16 leases may include provisions for payment as a part of the  
17 lease charges of the administrative charges and costs incurred  
18 by the treasurer of state and the leasing corporation.

19 2. To sell interests in approved leases subject to  
20 applicable provisions of state and federal law.

21 3. To purchase property for the purpose of leasing it to  
22 state agencies pursuant to approved leases.

23 4. To commingle and pledge as security for a series or  
24 issue of obligations approved leases for the purpose of  
25 funding property purchases. Obligations may be issued in  
26 series under one or more resolutions or trust agreements in  
27 the discretion of the leasing corporation.

28 5. To borrow working capital funds and other funds as  
29 necessary for start-up and continuing operations, provided  
30 that the funds are borrowed in the name of the leasing  
31 corporation only, and to issue obligations in connection  
32 therewith. Borrowings are limited obligations of the  
33 character described in section 12.54 and are payable solely  
34 from the revenues of the leasing corporation or the proceeds  
35 of obligations pledged for that purpose.

1 6. To establish, maintain, and set aside reserves which it  
2 deems necessary in connection with its operations or to  
3 enhance the security for its obligations.

4 7. To authorize its officers, agents, and employees to  
5 take any other action and do all things necessary or desirable  
6 to carry out the purposes of this division.

7 Sec. 15. NEW SECTION. 12.52 OBLIGATIONS.

8 1. A leasing corporation may from time to time issue  
9 obligations for the purpose of funding property purchases and  
10 the obligations of the leasing corporations are negotiable for  
11 all purposes notwithstanding their payment from limited  
12 sources and without regard to any other law.

13 2. Each issue of obligations is payable solely out of the  
14 proceeds of the issue; revenues of the leasing corporation  
15 from the proceeds of authorized leases to state agencies;  
16 proceeds of refunding obligations; and fees, charges, and  
17 other revenues of the leasing corporation from the leasing  
18 program or otherwise available to the leasing corporation and  
19 pledged to the payment of the obligations.

20 3. Obligations may be issued as serial obligations or as  
21 term obligations, or both. Obligations shall be authorized by  
22 a bond resolution of the leasing corporation and shall bear  
23 dates; mature at times; bear interest at rates which may be  
24 fixed or variable as provided in the bond resolution; be  
25 payable at times; be in denominations; be in a form, either  
26 coupon or fully registered; carry registration and conversion  
27 privileges; be payable in such currencies; and be subject to  
28 terms of redemption as the bond resolution provides.

29 Obligations shall be executed by the manual or facsimile  
30 signatures of officers of the leasing corporation designated  
31 by its board of directors. Obligations shall be sold in a  
32 manner, at either public or private sale without regard to  
33 chapter 75, and at prices as the leasing corporation  
34 determines.

35 4. A bond resolution may contain provisions, which shall

1 be a part of the contract with the holders of the obligations  
2 to be authorized, as to all of the following:

3 a. Pledging or assigning the revenues derived from the  
4 financing leases with respect to which the obligations are to  
5 be issued.

6 b. The fees and other amounts to be charged, and the sums  
7 to be raised in each year, and the use, investment, and  
8 disposition of the sums.

9 c. The setting aside of property funding deposits, debt  
10 service reserves, capitalized interest accounts, cost of  
11 insurance accounts, and sinking funds, and their regulation,  
12 investment, and disposition.

13 d. Limitations on the use of the property leased.

14 e. Limitations on the purpose to which or the investments  
15 in which the proceeds of sale of an issue of obligations then  
16 or thereafter to be issued may be applied.

17 f. Limitations on the issuance of additional obligations,  
18 the terms upon which additional obligations may be issued and  
19 secured, the terms upon which additional obligations may rank  
20 on a parity with, or be subordinate or superior to, other  
21 obligations.

22 g. The refunding of outstanding obligations.

23 h. The procedure, if any, by which the terms of a contract  
24 with holders of obligations may be amended or abrogated, the  
25 amount of obligations to which the holders must consent to the  
26 amendment or abrogation, and the manner in which the consent  
27 may be given.

28 i. Defining the acts or omissions to act which constitute  
29 a default in the duties of the leasing corporation to holders  
30 of obligations and providing the rights or remedies of holders  
31 in the event of a default.

32 j. Providing for security for the benefit of the holders  
33 of the obligations.

34 k. Any other matters relating to the obligations which the  
35 leasing corporation deems desirable.

1 5. Neither the board of the leasing corporation nor a  
2 person executing the obligations is liable personally on the  
3 obligations or subject to personal liability or accountability  
4 by reason of their issuance.

5 6. The leasing corporation may purchase its obligations  
6 out of funds available. The leasing corporation may hold,  
7 pledge, cancel, or resell obligations subject to and in  
8 accordance with agreements with holders of obligations.

9 7. The leasing corporation may refund any of its  
10 obligations. Refunding obligations shall be issued in the  
11 same manner as other obligations of the leasing corporation.

12 Sec. 16. NEW SECTION. 12.53 TRUST AGREEMENT TO SECURE  
13 OBLIGATIONS.

14 In the discretion of the treasurer of state, obligations  
15 may be secured by a trust agreement by and between a leasing  
16 corporation or the treasurer of state, and a corporate trustee  
17 or trustees, which may be a trust company or bank located in  
18 or outside of the state of Iowa that has the powers of a trust  
19 company. The trust agreement may pledge the revenues to be  
20 received by the leasing corporation, may contain provisions  
21 for protecting and enforcing the rights and remedies of the  
22 holders of obligations as reasonable and proper and not in  
23 violation of law, including provisions that have been  
24 authorized to be included in any bond resolution of the  
25 leasing corporation, and may restrict the individual right of  
26 action by holders of obligations. A trust agreement may  
27 contain other provisions the treasurer of state deems  
28 reasonable and proper for the security of the holders of  
29 obligations. Expenses incurred in carrying out the trust  
30 agreement may be treated as a part of the cost of the  
31 operation of the leasing program.

32 Sec. 17. NEW SECTION. 12.54 PAYMENT OF OBLIGATIONS --  
33 NONLIABILITY OF STATE.

34 Obligations are obligations of a leasing corporation and  
35 not of the state of Iowa. Each obligation shall state that it

1 represents and constitutes a debt of the leasing corporation,  
2 but not of the state of Iowa within the meaning of any  
3 constitutional or statutory limitation, and that it does not  
4 constitute a pledge of the full faith and credit of the state  
5 of Iowa. The obligations shall not grant to the owners or  
6 holders of the obligations the right to have the state levy  
7 taxes or appropriate funds for the payment of the principal or  
8 interest on the obligations. The obligations are payable, and  
9 shall state that they are payable, solely from the revenues  
10 pledged for their payment in accordance with the bond  
11 resolution.

12 This division does not authorize a leasing corporation or  
13 the treasurer of state or any department, board, commission,  
14 or other agency to create an obligation of the state within  
15 the meaning of the constitution or laws of Iowa.

16 Sec. 18. NEW SECTION. 12.55 PLEDGE OF REVENUES.

17 A leasing corporation may fix, revise, charge, and collect  
18 fees and may contract with any person to do so.

19 The leasing corporation shall pledge the revenues from  
20 authorized leases as security for the issue of obligations  
21 relating to the leases. A pledge is valid and binding from  
22 the time when the pledge is made, the revenues pledged by the  
23 leasing corporation are immediately subject to the lien of the  
24 pledge without physical delivery of the pledge or further act,  
25 and the lien of the pledge is valid and binding against all  
26 parties having claims of any kind in tort, contract, or  
27 otherwise against the leasing corporation, irrespective of  
28 whether the parties have notice of the lien. The bond  
29 resolution or a financing statement, continuation statement,  
30 or other instrument by which the leasing corporation's  
31 interest in revenues is assigned need not be filed or recorded  
32 in public records in order to perfect the lien against third  
33 parties except that a copy of it shall be filed in the records  
34 of the leasing corporation and with the treasurer of state.

35 Sec. 19. NEW SECTION. 12.56 FUNDS FOR SALES OF

## 1 OBLIGATIONS AS TRUST FUNDS -- APPLICATION OF FUNDS.

2 Moneys received by or on behalf of a leasing corporation  
3 under this division, whether as proceeds from the sale of  
4 obligations or as revenues, are trust funds to be held and  
5 applied as provided in this division. An officer with whom or  
6 a bank or trust company with which the moneys are deposited  
7 shall act as trustee of the moneys and shall hold and apply  
8 the moneys for the purposes of this division subject to rules  
9 that this division and the bond resolution authorizing the  
10 obligations of an issue may provide.

11 Sec. 20. NEW SECTION. 12.57 RIGHTS OF HOLDERS OF  
12 OBLIGATIONS.

13 A holder of obligations or a trustee under a trust  
14 agreement entered into pursuant to this division, except to  
15 the extent that their rights are restricted by a bond  
16 resolution, may, by any suitable form or legal proceedings,  
17 protect and enforce rights under the laws of this state or  
18 granted by the bond resolution, may enjoin unlawful  
19 activities, and if there is a default on the payment of the  
20 principal of, premiums, if any, and interest on an obligation  
21 or in the performance of a covenant or agreement on the part  
22 of the leasing corporation in the bond resolution, may apply  
23 to the district court to appoint a receiver to administer and  
24 operate the leasing corporation, the revenues of which are  
25 pledged to the payment of principal of, premium, if any, and  
26 interest on the obligations, with full power to pay, and to  
27 provide for payment of principal of, premium, if any, and  
28 interest on the obligations, and with powers, subject to the  
29 direction of the court, as permitted by law and accorded to  
30 receivers, excluding the power to pledge additional revenues  
31 of the leasing corporation to the payment of the principal,  
32 premium, and interest.

33 Sec. 21. NEW SECTION. 12.58 REFUNDING BONDS -- PURPOSE -  
34 -PROCEEDS -- INVESTMENT OF PROCEEDS.

35 1. A leasing corporation may issue its obligations for the

1 purpose of refunding obligations then outstanding, including  
2 the payment of a redemption premium on the obligations and  
3 interest accrued or to accrue to the earliest or a subsequent  
4 date of redemption, purchase, or maturity of the obligations.

5 2. The proceeds of obligations issued for the purpose of  
6 refunding outstanding obligations may, in the discretion of  
7 the leasing corporation, be applied to the purchase or  
8 retirement at maturity or redemption of the outstanding  
9 obligations either on their earliest or a subsequent  
10 redemption date or upon the purchase or at the maturity of the  
11 obligations and may, pending an application, be placed in  
12 escrow to be applied to the purchase or retirement at maturity  
13 or redemption on a date determined by the leasing corporation.

14 3. Any escrowed proceeds, pending their use, may be  
15 invested and reinvested in direct obligations of the United  
16 States of America, maturing at times as appropriate to assure  
17 the prompt payment of the principal of and interest and  
18 redemption premium, if any, on the outstanding obligations to  
19 be refunded. The interest, income, and profits, if any,  
20 earned or realized on an investment may also be applied to the  
21 payment of the outstanding obligations to be refunded.

22 4. Refunding obligations are subject to this division in  
23 the same manner and to the same extent as other obligations  
24 issued pursuant to the division.

25 Sec. 22. NEW SECTION. 12.59 ANNUAL REPORT.

26 The treasurer shall annually provide a report to the  
27 governor and the members of the general assembly of the volume  
28 and nature of financing leases entered into by state agencies  
29 under this division.

30 Sec. 23. NEW SECTION. 12.60 OBLIGATIONS AS LEGAL  
31 INVESTMENTS.

32 Banks, bankers, trust companies, savings banks and  
33 institutions, building and loan associations, savings and loan  
34 associations, investment companies, and other persons carrying  
35 on a banking or investment business, insurance companies and

1 insurance associations, and executors, administrators,  
2 guardians, trustees, and other fiduciaries may legally invest  
3 sinking funds, moneys, or other funds belonging to them or  
4 within their control in obligations of a leasing corporation.

5 Sec. 24. NEW SECTION. 12.61 NOTICE.

6 A leasing corporation shall publish a notice of its  
7 intention to issue obligations in a newspaper published in and  
8 with general circulation in the state. The notice shall  
9 include a statement of the maximum amounts of obligations  
10 proposed to be issued, and in general terms, what receipts  
11 will be pledged to pay bond service charges on the  
12 obligations. An action which questions the legality or  
13 validity of the obligations or the power of the leasing  
14 corporation to issue the obligations or the effectiveness or  
15 validity of any proceedings adopted for the authorization or  
16 issuance of the obligations shall not be brought after thirty  
17 days from the date of publication of the notice.

18 Sec. 25. NEW SECTION. 12.62 LIBERAL CONSTRUCTION OF  
19 DIVISION.

20 This division, being necessary for the welfare of the state  
21 and its inhabitants, shall be liberally construed to effect  
22 its purpose.

23 Sec. 26. NEW SECTION. 12.63 EXERCISE OF POWERS AS  
24 ESSENTIAL PUBLIC FUNCTION -- EXEMPTION FROM TAXATION.

25 The exercise of the powers granted by this division will be  
26 in all respects for the benefit of the people of this state,  
27 for the increase of their commerce, welfare, and prosperity,  
28 and as the operation and maintenance of a program by the  
29 treasurer of state and leasing corporations organized under  
30 this division will constitute the performance of an essential  
31 public function. Income of a leasing corporation is exempt  
32 from all taxation in the state. Property of a leasing  
33 corporation, acquired or held for the purposes of this  
34 division, is exempt from all taxation and special assessments  
35 in the state if the property was exempt for the fiscal year in

1 which the property was first acquired or held and the property  
2 shall continue to be exempt for subsequent fiscal years.  
3 Property of a leasing corporation, acquired or held for the  
4 purpose of this division, is subject to taxation and special  
5 assessments in the state if the property was taxable for the  
6 fiscal year in which the property was first acquired or held  
7 and the property shall continue to be taxable for subsequent  
8 fiscal years.

9 Sec. 27. Section 18.12, Code 1989, is amended by adding  
10 the following new subsections after subsection 14 and  
11 renumbering the subsequent subsection:

12 NEW SUBSECTION. 15. Prepare quarterly status reports for  
13 all ongoing capital projects of all state agencies, as capital  
14 project and state agency are defined in section 8.3A, and  
15 submit the status reports to the legislative capital projects  
16 committee.

17 NEW SUBSECTION. 16. Call upon any state agency, as  
18 defined in section 8.3A, for assistance the director may  
19 require in performing the director's duties under subsection  
20 15 regarding capital project status reports and under section  
21 18.12A regarding the inventory of state property. All state  
22 agencies, upon the request of the director and with the  
23 approval of the director of the department of management,  
24 shall assist the director and are authorized to make available  
25 to the director any existing studies, surveys, plans, data,  
26 and other materials in the possession of the state agencies  
27 which are relevant to the director's duties.

28 Sec. 28. NEW SECTION. 18.12A INVENTORY OF STATE  
29 PROPERTY.

30 1. The director shall prepare and maintain a correct and  
31 current inventory of all real property and equipment, the  
32 acquisition or lease of which would constitute a capital  
33 project, as defined in section 8.3A, which is owned or leased  
34 by or held in trust for the state of Iowa or any state agency,  
35 as defined in section 8.3A. In addition, the director shall

1 prepare and maintain the status on additional data elements  
2 relating to the real property and equipment designated by the  
3 department of revenue and finance which are necessary for use  
4 by the department of revenue and finance in preparation of the  
5 comprehensive annual financial report of the state. The  
6 inventory shall be indexed by location and control of the real  
7 property. The inventory shall include but not be limited to  
8 the following:

- 9 a. The location and legal description of the real  
10 property.
  - 11 b. The source of acquisition of the real property.
  - 12 c. Improvements or construction relating to the real  
13 property.
  - 14 d. A functional description of the real property.
  - 15 e. The condition and age, expected life cycle, and  
16 maintenance needs of buildings on the real property.
  - 17 f. If land or buildings are to be vacated, the current use  
18 of the land or buildings, and other possible uses for the land  
19 or buildings.
  - 20 g. The continued need for and availability of alternatives  
21 to meet the need for the land or buildings.
  - 22 h. The state agency in control of the real property.
  - 23 i. The location, source of acquisition, condition and age,  
24 expected life cycle, and maintenance needs of the equipment  
25 and the state agency in control of it.
- 26 2. The director shall establish procedures requiring each  
27 state agency to report all acquisitions of real property,  
28 improvements or construction relating to real property, and  
29 dispositions of real property and all acquisitions and  
30 dispositions of equipment, and the reporting of the additional  
31 data elements necessary for the department of revenue and  
32 finance to prepare the financial report, in order that the  
33 inventory can be promptly corrected and accurately maintained.  
34 Except in an emergency due to an act of nature or  
35 insurrection, an acquisition or disposition of real property

1 or equipment shall not be made, construction shall not be  
2 commenced, funds or valuable consideration shall not be given,  
3 and a final document of conveyance of real property shall not  
4 be transmitted until the state agency has complied with the  
5 procedures required pursuant to this subsection for reporting  
6 such an acquisition or disposition of real property or  
7 construction or such an acquisition or disposition of  
8 equipment and until the director has issued to the state  
9 agency a written acknowledgement of the receipt of such  
10 report. The director shall issue the written acknowledgement  
11 of the receipt of the report within five days of the receipt  
12 of the report. Nothing in this subsection requires nor in the  
13 procedures established by the director shall require prior  
14 notification to the director of the state agency's intent to  
15 apply or the state agency's applying for federal, private or  
16 nonstate funds for a capital project.

17 3. The director shall prepare and submit annually to the  
18 governor, the department of revenue and finance, and the  
19 legislative capital projects committee a report of the  
20 acquisitions and dispositions of real property and equipment  
21 and improvements and construction relating to real property  
22 subject to this section.

23 Sec. 29. NOTIFICATION OF RECEIPT OF NONSTATE FUNDS. All  
24 constitutional and statutory offices, administrative  
25 departments, and independent agencies, except those  
26 institutions governed by chapter 262, shall notify the  
27 department of management, the chairpersons, vice chairpersons,  
28 and ranking members of the senate and house of  
29 representatives' committees on appropriations and of the  
30 appropriate joint appropriations subcommittees, and the  
31 legislative fiscal bureau of any request for, approval of, or  
32 an award of federal or other nonstate funds, or of the loss of  
33 federal or other nonstate funds during the fiscal period  
34 beginning October 1, 1988, and ending September 30, 1989. The  
35 notification shall be made no later than December 15, 1989,

1 and shall include the name of the grantor and of the funding  
2 grant, the estimated amount of funds, and the planned  
3 expenditures for the funds. Institutions governed by chapter  
4 262 shall provide this notification only for those awards of  
5 funds which specifically require a commitment of additional  
6 state resources.

4499 >

4498 7

Sec. 30. Section 8.39, Code 1989, is repealed.

4500 8

Sec. 31. 1985 Iowa Acts, chapter 33, section 129, is  
9 repealed.

4498 10

Sec. 32. Chapter 99E is repealed on July 1, 1995, other  
than to implement the winding down of the operations of the  
Iowa lottery board.

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## SENATE FILE 546

H-4499

- 1 Amend Senate File 546, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 22, by inserting after line 6 the  
4 following:  
5 "Sec. \_\_\_\_ . Section 99E.10, subsection 1, Code  
6 1989, is amended by adding the following new  
7 paragraph:  
8 NEW PARAGRAPH. e. The sum of one million two  
9 hundred thousand dollars for the fiscal year beginning  
10 July 1, 1989, to the department of general services  
11 for the purchase of capital equipment necessary to  
12 perform the ordinary and normal functions of the  
13 department of general services."  
14 2. By renumbering sections.

By STROMER of Hancock

H-4499 FILED MAY 7, 1989

NOT GERMANE (j. 2795)

## SENATE FILE 546

H-4500

- 1 Amend Senate File 546 as follows:  
2 1. Page 22, by striking lines 8 and 9.  
3 2. Title page, lines 10 and 11 by striking the  
4 words "; and extending the lottery".

By MILLER of Cherokee

H-4500 FILED MAY 7, 1989

LOST (j. 2795)

SENATE FILE NO. 546

H-4498

1 Amend Senate File 546, as introduced, passed, and re-  
2 printed by the Senate, as follows:

3 1. Page 1, line 4, by striking the word "six" and  
4 inserting the following: "ten".

5 2. Page 1, by inserting after line 15 the fol-  
6 lowing:

7 "\_\_\_\_. Four members of the legislative council, one  
8 appointed by the speaker of the house, one by the  
9 majority leader of the senate, one by the minority  
10 leader of the house, and one by the minority leader of  
11 the senate."

12 3. Page 1, by inserting after line 18 the follow-  
13 ing:

14 "Sec. \_\_\_\_ . Section 2.46, subsection 2, Code 1989,  
15 is amended to read as follows:

16 2. EXAMINATION. Examine the reports and official  
17 acts of the executive council and of each officer,  
18 board, commission, and department of the state, in  
19 respect to the conduct and expenditures thereof and  
20 the receipts and disbursements of public funds  
21 thereby. All state departments and agencies are  
22 required to immediately notify the legislative fiscal  
23 committee of the legislative council and the director  
24 of the legislative fiscal bureau if any state  
25 facilities within their jurisdiction have been cited  
26 for violations of any federal, state, or local laws or  
27 regulations or have been decertified or notified of  
28 the threat of decertification from compliance with any  
29 state, federal, or other nationally recognized  
30 certification or accreditation agency or  
31 organization."

32 4. Page 7, line 11, by striking the words and  
33 figure "paragraphs 1 and" and inserting the following:  
34 "paragraph".

35 5. Page 7, line 12, by striking the word "are"  
36 and inserting the following: "is".

37 6. Page 7, by striking lines 13 through 19.

38 7. Page 22, by striking line 7.

39 8. Page 22, by striking lines 10 through 12.

40 9. Title page, by striking lines 4 and 5 and  
41 inserting the following: "and funding the projects;  
42 requiring the use of the most recent estimate of the  
43 revenue estimating conference in the budget process;".

44 10. Title page, by striking lines 9 and 10 and  
45 inserting the following: "federal or nonstate funds;  
46 and".

By COMMITTEE ON APPROPRIATIONS  
JOCHUM of Dubuque, Chairperson

H-4498 FILED MAY 7, 1989

ADOPTED (p. 2794)

HOUSE AMENDMENT TO  
SENATE FILE 546

S-4194

- 1 Amend Senate File 546, as amended, passed, and re-  
2 printed by the Senate, as follows:
- 3 1. Page 1, line 4, by striking the word "six" and  
4 inserting the following: "ten".
- 5 2. Page 1, by inserting after line 15 the fol-  
6 lowing:  
7 "\_\_\_\_\_. Four members of the legislative council, one  
8 appointed by the speaker of the house, one by the  
9 majority leader of the senate, one by the minority  
10 leader of the house, and one by the minority leader of  
11 the senate."
- 12 3. Page 1, by inserting after line 18 the follow-  
13 ing:  
14 "Sec. \_\_\_\_\_. Section 2.46, subsection 2, Code 1989,  
15 is amended to read as follows:  
16 2. EXAMINATION. Examine the reports and official  
17 acts of the executive council and of each officer,  
18 board, commission, and department of the state, in  
19 respect to the conduct and expenditures thereof and  
20 the receipts and disbursements of public funds  
21 thereby. All state departments and agencies are  
22 required to immediately notify the legislative fiscal  
23 committee of the legislative council and the director  
24 of the legislative fiscal bureau if any state  
25 facilities within their jurisdiction have been cited  
26 for violations of any federal, state, or local laws or  
27 regulations or have been decertified or notified of  
28 the threat of decertification from compliance with any  
29 state, federal, or other nationally recognized  
30 certification or accreditation agency or  
31 organization."
- 32 4. Page 7, line 11, by striking the words and  
33 figure "paragraphs 1 and" and inserting the following:  
34 "paragraph".
- 35 5. Page 7, line 12, by striking the word "are"  
36 and inserting the following: "is".
- 37 6. Page 7, by striking lines 13 through 19.
- 38 7. Page 22, by striking line 7.
- 39 8. Page 22, by striking lines 10 through 12.
- 40 9. Title page, by striking lines 4 and 5 and  
41 inserting the following: "and funding the projects;  
42 requiring the use of the most recent estimate of the  
43 revenue estimating conference in the budget process;".
- 44 10. Title page, by striking lines 9 and 10 and  
45 inserting the following: "federal or nonstate funds;  
46 and".

RECEIVED FROM THE HOUSE

S-4194 FILED MAY 7, 1989  
CONCURRED (p. 2098)



OFFICE OF THE GOVERNOR

STATE CAPITOL  
DES MOINES, IOWA 50319

515 281-5211

TERRY E. BRANSTAD  
GOVERNOR

June 3, 1989

The Honorable Elaine Baxter  
Secretary of State  
State Capitol Building  
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 546, an act relating to budgetary matters by creating a legislative capital projects committee to review proposed capital projects and requires the Governor to establish criteria for evaluating and funding the projects; requiring the use of the most recent estimate of the revenue estimating conference in the budget process; establishing a coordinated leasing program; requiring notification to the department of management and appropriations committees of any request for or loss of federal or nonstate funds; and extending the lottery.

Senate File 546 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 7, in its entirety. By requiring the Governor to use the most recent estimate of the Revenue Estimating Conference "without revision", this provision would prevent me from presenting a budget which reflects proposed changes in current revenue streams. If the Governor had no ability to propose changes in revenue from that forecast by the Revenue Estimating Conference, it would be impossible to propose tax cuts or adjustments in revenues should such appear necessary. Clearly, the law now requires the Governor to base the budget on the Revenue Estimating Conference's projections and that will continue to be done. But explicit adjustments in those projections based on proposed revenues must be permitted.

I am unable to approve the item designated as Section 3, subsections d and g; the designated portion of Section 4, referring to the definition of "capital project"; and Section 8, in its entirety. While the concept of coordinated capital project planning and budgeting is important, these provisions relating to the evaluation and review of proposed capital projects would impose an inappropriate intrusion on executive branch administrative responsibilities.

The Honorable Elaine Baxter

June 3, 1989

Page 2

I am unable to approve the items designated as Sections 9 through 27, in their entirety. These items would establish the Iowa Leasing Program Act and grant the State Treasurer coordination and oversight responsibilities of leasing arrangements in the executive branch. The creation of the Leasing Program would reduce the current powers of the Department of General Services to coordinate lease arrangements through its procurement responsibilities. The added bureaucracy created by this program would confuse the administration of this increasingly critical area.

Further, the Treasurer's Office was established as a separate elected position to assure its independence in the investment of state funds. Extending the Treasurer's role in the fundamental purchasing and procurement decisions of the executive branch would destroy that independence.

I am unable to approve the item designated as Section 3, subsection f; the designated portion of Section 28; and the item designated as Section 29, in its entirety. These provisions require the Department of General Services to maintain a statewide inventory of property, to receive reports from all state agencies regarding any addition or deletion from that inventory, and to report that inventory to the legislature. The legislature did not provide any resources for the Department of General Services to assume the significant responsibilities created by this item. Each agency now is required to maintain separate inventories of property in a manner adequate to be incorporated in the Comprehensive Annual Financial Report of the State. Until adequate resources are provided to consolidate this function in the Department of General Services, each agency will have to continue to undertake this responsibility.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the constitution of the State of Iowa. All other items in Senate File 546 are hereby approved as of this date.

Sincerely,



Terry E. Branstad  
Governor

TEB/ps

cc: Secretary of the Senate  
Chief Clerk of the House

Watch out  
Gov IV'd this  
Quite a bit!

SENATE FILE 546

AN ACT

RELATING TO BUDGETARY MATTERS BY CREATING A LEGISLATIVE CAPITAL PROJECTS COMMITTEE TO REVIEW PROPOSED CAPITAL PROJECTS AND REQUIRES THE GOVERNOR TO ESTABLISH CRITERIA FOR EVALUATING AND FUNDING THE PROJECTS; REQUIRING THE USE OF THE MOST RECENT ESTIMATE OF THE REVENUE ESTIMATING CONFERENCE IN THE BUDGET PROCESS; ESTABLISHING A COORDINATED LEASING PROGRAM; REQUIRING NOTIFICATION TO THE DEPARTMENT OF MANAGEMENT AND APPROPRIATIONS COMMITTEES OF ANY REQUEST FOR OR LOSS OF FEDERAL OR NONSTATE FUNDS; AND EXTENDING THE LOTTERY.

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

Section 1. Section 2.45, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The legislative capital projects committee which shall be composed of ten members appointed as follows:

a. Two senate members of the legislative fiscal committee or the senate committee on appropriations, one to be appointed by the majority leader of the senate and one to be appointed by the minority leader of the senate.

b. Two house members of the legislative fiscal committee or the house committee on appropriations, one to be appointed by the speaker of the house and one to be appointed by the minority leader of the house.

c. The chairpersons of the senate and house committees on appropriations.

d. Four members of the legislative council, one appointed by the speaker of the house, one by the majority leader of the senate, one by the minority leader of the house, and one by the minority leader of the senate.

The chairperson of the legislative council shall designate the chairperson or chairpersons of the legislative capital projects committee.

Sec. 2. Section 2.46, subsection 2, Code 1989, is amended to read as follows:

2. EXAMINATION. Examine the reports and official acts of the executive council and of each officer, board, commission, and department of the state, in respect to the conduct and expenditures thereof and the receipts and disbursements of public funds thereby. All state departments and agencies are required to immediately notify the legislative fiscal committee of the legislative council and the director of the legislative fiscal bureau if any state facilities within their jurisdiction have been cited for violations of any federal, state, or local laws or regulations or have been decertified or notified of the threat of decertification from compliance with any state, federal, or other nationally recognized certification or accreditation agency or organization.

Sec. 3. NEW SECTION. 2.47A POWERS OF LEGISLATIVE CAPITAL PROJECTS COMMITTEE.

1. The legislative capital projects committee shall do all of the following:

a. Receive the recommendations of the governor regarding the funding and priorities of proposed capital projects pursuant to section 8.3A, subsection 2, paragraph "b".

b. Receive the reports of all capital project budgeting requests of all state agencies, with individual state agency priorities noted, pursuant to section 8.6, subsection 1).

c. Receive the five-year capital project priority plan for all state agencies, pursuant to section 8.6, subsection 14.

d. Receive notifications of proposed transfers of excess bond revenues pursuant to section 8.39A.

e. Receive quarterly status reports for all ongoing capital projects of state agencies, pursuant to section 18.12, subsection 15.

f. Receive the annual report of acquisitions, dispositions, improvements, and construction relating to the inventory of real property and equipment of the state, pursuant to section 18.12A.

g. Review the reasons for and the frequency of cost overruns and restarting of capital projects by state agencies.

h. Examine and evaluate, on a continuing basis, the state's system of contracting and subcontracting in regard to capital projects.

2. The legislative capital projects committee, subject to the approval of the legislative council, may do all of the following:

a. Gather information relative to capital projects, as defined in section 8.3A, for the purpose of aiding the general assembly to properly appropriate moneys for capital projects.

b. Examine the reports and official acts of the state agencies, as defined in section 8.3A, with regard to capital project planning and budgeting and the receipt and disbursement of capital project funding.

c. Establish advisory bodies to the committee in areas where technical expertise is not otherwise readily available to the committee. Advisory body members may be reimbursed for actual and necessary expenses from funds appropriated pursuant to section 2.12, but only if the reimbursement is approved by the legislative council.

d. Compensate experts from outside state government for the provision of services to the committee from funds appropriated pursuant to section 2.12, but only if the compensation is approved by the legislative council.

e. Make recommendations to the legislative fiscal committee, legislative council, and the general assembly regarding issues relating to the planning, budgeting, and expenditure of capital project funding.

3. The capital projects committee shall determine its own method of procedure and shall keep a record of its proceedings which shall be open to public inspection. The committee shall meet as often as deemed necessary, subject to the approval of the legislative council, and the committee shall inform the legislative council in advance of its meeting dates.

Sec. 4. NEW SECTION. 8.3A CAPITAL PROJECT PLANNING AND BUDGETING -- GOVERNOR'S DUTIES.

1. DEFINITIONS. For the purposes of this section:

a. "Capital project" means a project funded by state appropriations or bonding authorized by the general assembly with a cost of two hundred fifty thousand dollars or more undertaken by the state or a state agency, which meets one or more of the following descriptions:

(1) The project involves new construction, the acquisition or lease of land or buildings, the acquisition or lease of original equipment for a new facility, or the replacement, by purchase, lease, or other means, of original equipment for an existing facility.

(2) The project changes the nature or use of a facility.

(3) The project constitutes a major improvement or alteration to a facility, which may include the acquisition, lease, or replacement, by purchase, lease, or other means, of equipment, and the improvement or alteration has at least a fifteen-year life cycle.

(4) The project involves the improvement, alteration, or major maintenance of land or buildings received as a gift by the state or a state agency.

"Capital project" does not include highway and right-of-way projects or airport capital projects undertaken by the state department of transportation and financed from dedicated funds

or capital projects funded by nonstate grants, gifts, or contracts obtained at or through state universities, if the projects do not require a commitment of additional state resources for maintenance, operations, or staffing.

A capital project shall not be divided into smaller projects in such a manner as to thwart the intent of this section to provide for the evaluation of a capital project whose cost cumulatively equals or exceeds two hundred fifty thousand dollars.

b. "Facility" means a distinct parcel of land or a building used by the state or a state agency for a specific purpose.

c. "State agency" means any executive, judicial, or legislative department, commission, board, institution, division, bureau, office, agency, or other entity of state government.

2. DUTIES. The governor shall:

a. Develop criteria for the evaluation of proposed capital projects which shall include but not be limited to the following:

- (1) Fiscal impacts on costs and revenues.
- (2) Health and safety effects.
- (3) Community economic effects.
- (4) Environmental, aesthetic, and social effects.
- (5) Amount of disruption and inconvenience caused by the capital project.
- (6) Distributional effects.
- (7) Feasibility, including public support and project readiness.
- (8) Implications of deferring the project.
- (9) Amount of uncertainty and risk.
- (10) Effects on interjurisdictional relationships.
- (11) Advantages accruing from relationships to other capital project proposals.

(12) Private sector contracting for construction, operation, or maintenance.

b. Make recommendations to the general assembly and the legislative capital projects committee regarding the funding and priorities of proposed capital projects.

c. Develop maintenance standards and guidelines for capital projects.

d. Review financing alternatives available to fund capital projects, including the evaluation of the advantages and disadvantages of bonding for all types of capital projects undertaken by all state agencies.

e. Monitor the debt of the state or a state agency.

Sec. 5. Section 8.6, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 13. CAPITAL PROJECT BUDGETING REQUESTS. To compile annually, no later than October 1, all capital project budgeting requests of all state agencies, as capital project and state agency are defined in section 8.3A, and to consolidate the requests, with individual state agency priorities noted, into a report for submission to the legislative capital projects committee not later than October 1, with any additional information regarding such capital project budgeting requests or priorities to be compiled and submitted in the same manner no later than November 1.

NEW SUBSECTION. 14. CAPITAL PROJECT PRIORITY PLAN. To prepare annually, in cooperation with the department of general services, a five-year capital project priority plan for all state agencies, as capital project and state agency are defined in section 8.3A, to be submitted no later than July 1, beginning in the year 1990, to the legislative capital projects committee. The plan shall include but not be limited to the following:

a. A detailed list of all proposed capital projects for all state agencies, which the department of management believes should be undertaken or continued for at least the next five fiscal years.

- b. Background information regarding each proposed capital project and the need for the project.
- c. Information regarding the fiscal effect of each capital project on future operating expenses of the affected state agency.
- d. A notation of the priority listing of capital projects for each state agency.
- e. The proposed means of funding each capital project.
- f. A schedule for the planning and implementation or construction of each capital project.
- g. A schedule for the next fiscal year of proposed debt service payments from issues of bonds previously authorized.
- h. A review of capital projects which have recently been implemented or completed or are in the process of implementation or completion.
- i. Recommendations as to the maintenance of physical properties and equipment of state agencies.
- j. Such other information as the department of management deems relevant to the foregoing matters.

NEW SUBSECTION. 15. CAPITAL PROJECT PLANNING AND BUDGETING AUTHORITY. To call upon any state agency, as defined in section 8.3A, for assistance the director may require in performing the director's duties under subsections 13 and 14. All state agencies, upon the request of the director, shall assist the director and are authorized to make available to the director any existing studies, surveys, plans, data, and other materials in the possession of the state agencies which are relevant to the director's duties.

Sec. 6. Section 8.22, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The governor's program shall include a single budget request for all capital projects, as defined in section 8.3A, proposed by the governor. The request shall include but not be limited to the following:

- a. The purpose and need for each capital project.

- b. A priority listing of capital projects.
- c. The costs of acquisition, lease, construction, renovation, or demolition of each capital project.
- d. The identification of the means and source of funding each capital project.
- e. The estimated operating costs of each capital project after completion.
- f. The estimated maintenance costs of each capital project after completion.
- g. The consequences of delaying or abandoning each capital project.
- h. Alternative approaches to meeting the purpose or need for each capital project.
- i. Alternative financing mechanisms.
- j. A cost-benefit analysis or economic impact of each capital project.

Sec. 7. Section 8.22A, unnumbered paragraph 3, Code 1989, is amended to read as follows:

By December 15, 1986 and each succeeding year the conference shall agree to a revenue estimate for the fiscal year beginning the following July 1. That The most recent estimate shall be used without revision by the governor in the preparation and presentation of the budget message under section 8.22 and by the legislature general assembly in the budget process.

Sec. 8. NEW SECTION. 8.39A TRANSFER OF EXCESS BOND REVENUES.

1. If excess bond revenues relating to a capital project, as defined in section 8.3A, or relating to a noncapital project with a cost of one hundred thousand dollars or more, are available for transfer and use for purposes other than those designated in the bond sale, or for purposes not designated in the scope of the project, the excess revenues shall not be transferred or used for any other purpose unless the state agency, as defined in section 8.3A, in charge of the

capital or noncapital project requests in writing and receives approval from the governor and the director of the department of management to transfer and use the excess revenues for another purpose.

Upon receipt of the written request, the director of the department of management shall notify the members of the legislative capital projects committee of the proposed transfer. The notice shall include information concerning the amount of the proposed transfer, the state agencies affected by the proposed transfer, the proposed use of the revenues to be transferred, and the reasons for the transfer. The members shall be given at least two weeks to review and comment on the proposed transfer before the excess revenues are transferred.

2. The director shall report any transfer made under this section to the legislative capital projects committee on a monthly basis. The report shall cover each calendar month and shall be due the tenth day of the following month. The report shall contain the following: the amount of each transfer, the date of each transfer, the state agencies affected, a brief explanation of the reason for the transfer, the date of notice to the members of the legislative capital projects committee, and such other information as may be required by the legislative capital projects committee. A summary of all transfers made under this section shall be included in the annual report of the legislative capital projects committee.

Sec. 9. NEW SECTION. 12.45 SHORT TITLE.

This division shall be known as the "Iowa Leasing Program Act".

Sec. 10. NEW SECTION. 12.46 DEFINITIONS.

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

1. "Approved lease" means a financing lease involving a state agency which has been reviewed by the treasurer of state pursuant to this division and has been approved as meeting the criteria established by the treasurer of state for financing leases and for compliance with federal and state laws.

2. "Financing lease" means a lease in which the lessee may purchase the property leased at a price which is less than the fair market value of the property at the end of the lease term or a lease of property where the lease term is eighty percent or more of the anticipated economic life of the property, as more fully defined in rules adopted by the treasurer of state pursuant to section 12.48.

3. "Leasing corporation" means a nonprofit corporation organized at the direction of the treasurer of state pursuant to this division to operate and finance a coordinated equipment leasing program for state agencies.

4. "Obligations" means bonds, notes, loan agreements, certificates of participation, commercial paper, and other evidences of indebtedness, including refunding bonds, issued under the provisions of this division.

5. "State agency" means the state or a state department, division, board, commission, institution, or authority, except it does not include the state board of regents.

Sec. 11. NEW SECTION. 12.47 LEGISLATIVE FINDINGS AND INTENT.

1. The general assembly finds the following:

a. State agencies are obligating the state by entering into financing leases for equipment and have been doing so without sufficient coordination and review to determine compliance with tax laws for tax-exempt financing.

b. There is a need to review and coordinate leasing activities by state agencies to achieve better lease terms and to ensure that the leases are in the best interests of the state.

c. It is in the interest and welfare of the citizens of the state for the treasurer of state to review all financing leases entered into by state agencies, to provide a mechanism for a coordinated leasing program therefor, and to achieve cost savings by coordinating the state's leasing activities.

2. The leasing program provided for in this division is intended to provide state agencies with better terms for their financing leases and to assure adequate review of financing leases entered into by state agencies for compliance with tax laws for tax-exempt financing.

Sec. 12. NEW SECTION. 12.48 LEASE CRITERIA.

The treasurer of state shall adopt rules pursuant to chapter 17A setting forth criteria for all financing leases to be executed by state agencies. This criteria may include specific authorized lease terms and procedures for review of financing leases and may include a provision that some or all payments under financing leases are to be made through the office of the treasurer of state.

Sec. 13. NEW SECTION. 12.49 FINANCING LEASES.

Notwithstanding the provisions of section 18.12, all state agencies are authorized to enter into financing leases in accordance with this division, provided that a financing lease for a prison or prison-related facility shall be subject to the restrictions set forth in section 18.12. All financing leases to be executed by state agencies shall first be reviewed by the treasurer of state for compliance with federal and state laws and for compliance with the criteria established by the treasurer of state for financing leases before being executed. In addition, no state agency shall enter into a financing lease unless the department of management has provided the treasurer of state with written approval for the financing of the property which is the subject of the financing lease.

Sec. 14. NEW SECTION. 12.50 LEASING CORPORATIONS.

The treasurer of state is authorized to incorporate, and appoint a board of directors for, one or more nonprofit corporations under chapter 504A, which meet and comply with the requirements of this division. These corporations are subject to and have the powers and privileges conferred by this division and those provisions of chapter 504A which are

not inconsistent with and to the extent not restricted or limited by this division. A corporation is not incorporated pursuant to and under this division unless incorporated by the treasurer of state and unless its articles of incorporation provide that it is incorporated pursuant to this division. The treasurer of state is authorized to provide staff support to leasing corporations and to charge leasing corporations for its administrative costs in providing a leasing program and costs of providing staff support.

Sec. 15. NEW SECTION. 12.51 POWERS.

Any leasing corporation established pursuant to this division shall, subject to the restrictions and limits herein contained, have the following powers:

1. To enter into approved leases with state agencies. The leases may include provisions for payment as a part of the lease charges of the administrative charges and costs incurred by the treasurer of state and the leasing corporation.
2. To sell interests in approved leases subject to applicable provisions of state and federal law.
3. To purchase property for the purpose of leasing it to state agencies pursuant to approved leases.
4. To commingle and pledge as security for a series or issue of obligations approved leases for the purpose of funding property purchases. Obligations may be issued in series under one or more resolutions or trust agreements in the discretion of the leasing corporation.
5. To borrow working capital funds and other funds as necessary for start-up and continuing operations, provided that the funds are borrowed in the name of the leasing corporation only, and to issue obligations in connection therewith. Borrowings are limited obligations of the character described in section 12.54 and are payable solely from the revenues of the leasing corporation or the proceeds of obligations pledged for that purpose.

6. To establish, maintain, and set aside reserves which it deems necessary in connection with its operations or to enhance the security for its obligations.

7. To authorize its officers, agents, and employees to take any other action and do all things necessary or desirable to carry out the purposes of this division.

Sec. 16. NEW SECTION. 12.52 OBLIGATIONS.

1. A leasing corporation may from time to time issue obligations for the purpose of funding property purchases and the obligations of the leasing corporations are negotiable for all purposes notwithstanding their payment from limited sources and without regard to any other law.

2. Each issue of obligations is payable solely out of the proceeds of the issue; revenues of the leasing corporation from the proceeds of authorized leases to state agencies; proceeds of refunding obligations; and fees, charges, and other revenues of the leasing corporation from the leasing program or otherwise available to the leasing corporation and pledged to the payment of the obligations.

3. Obligations may be issued as serial obligations or as term obligations, or both. Obligations shall be authorized by a bond resolution of the leasing corporation and shall bear dates; mature at times; bear interest at rates which may be fixed or variable as provided in the bond resolution; be payable at times; be in denominations; be in a form, either coupon or fully registered; carry registration and conversion privileges; be payable in such currencies; and be subject to terms of redemption as the bond resolution provides.

Obligations shall be executed by the manual or facsimile signatures of officers of the leasing corporation designated by its board of directors. Obligations shall be sold in a manner, at either public or private sale without regard to chapter 75, and at prices as the leasing corporation determines.

4. A bond resolution may contain provisions, which shall be a part of the contract with the holders of the obligations to be authorized, as to all of the following:

a. Pledging or assigning the revenues derived from the financing leases with respect to which the obligations are to be issued.

b. The fees and other amounts to be charged, and the sums to be raised in each year, and the use, investment, and disposition of the sums.

c. The setting aside of property funding deposits, debt service reserves, capitalized interest accounts, cost of insurance accounts, and sinking funds, and their regulation, investment, and disposition.

d. Limitations on the use of the property leased.

e. Limitations on the purpose to which or the investments in which the proceeds of sale of an issue of obligations then or thereafter to be issued may be applied.

f. Limitations on the issuance of additional obligations, the terms upon which additional obligations may be issued and secured, the terms upon which additional obligations may rank on a parity with, or be subordinate or superior to, other obligations.

g. The refunding of outstanding obligations.

h. The procedure, if any, by which the terms of a contract with holders of obligations may be amended or abrogated, the amount of obligations to which the holders must consent to the amendment or abrogation, and the manner in which the consent may be given.

i. Defining the acts or omissions to act which constitute a default in the duties of the leasing corporation to holders of obligations and providing the rights or remedies of holders in the event of a default.

j. Providing for security for the benefit of the holders of the obligations.

k. Any other matters relating to the obligations which the leasing corporation deems desirable.

5. Neither the board of the leasing corporation nor a person executing the obligations is liable personally on the obligations or subject to personal liability or accountability by reason of their issuance.

6. The leasing corporation may purchase its obligations out of funds available. The leasing corporation may hold, pledge, cancel, or resell obligations subject to and in accordance with agreements with holders of obligations.

7. The leasing corporation may refund any of its obligations. Refunding obligations shall be issued in the same manner as other obligations of the leasing corporation.

Sec. 17. NEW SECTION. 12.53 TRUST AGREEMENT TO SECURE OBLIGATIONS.

In the discretion of the treasurer of state, obligations may be secured by a trust agreement by and between a leasing corporation or the treasurer of state, and a corporate trustee or trustees, which may be a trust company or bank located in or outside of the state of Iowa that has the powers of a trust company. The trust agreement may pledge the revenues to be received by the leasing corporation, may contain provisions for protecting and enforcing the rights and remedies of the holders of obligations as reasonable and proper and not in violation of law, including provisions that have been authorized to be included in any bond resolution of the leasing corporation, and may restrict the individual right of action by holders of obligations. A trust agreement may contain other provisions the treasurer of state deems reasonable and proper for the security of the holders of obligations. Expenses incurred in carrying out the trust agreement may be treated as a part of the cost of the operation of the leasing program.

Sec. 18. NEW SECTION. 12.54 PAYMENT OF OBLIGATIONS -- NONLIABILITY OF STATE.

Obligations are obligations of a leasing corporation and not of the state of Iowa. Each obligation shall state that it represents and constitutes a debt of the leasing corporation, but not of the state of Iowa within the meaning of any constitutional or statutory limitation, and that it does not constitute a pledge of the full faith and credit of the state of Iowa. The obligations shall not grant to the owners or holders of the obligations the right to have the state levy taxes or appropriate funds for the payment of the principal or interest on the obligations. The obligations are payable, and shall state that they are payable, solely from the revenues pledged for their payment in accordance with the bond resolution.

This division does not authorize a leasing corporation or the treasurer of state or any department, board, commission, or other agency to create an obligation of the state within the meaning of the constitution or laws of Iowa.

Sec. 19. NEW SECTION. 12.55 PLEDGE OF REVENUES.

A leasing corporation may fix, revise, charge, and collect fees and may contract with any person to do so.

The leasing corporation shall pledge the revenues from authorized leases as security for the issue of obligations relating to the leases. A pledge is valid and binding from the time when the pledge is made, the revenues pledged by the leasing corporation are immediately subject to the lien of the pledge without physical delivery of the pledge or further act, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the leasing corporation, irrespective of whether the parties have notice of the lien. The bond resolution or a financing statement, continuation statement, or other instrument by which the leasing corporation's interest in revenues is assigned need not be filed or recorded in public records in order to perfect the lien against third parties except that a copy of it shall be filed in the records of the leasing corporation and with the treasurer of state.

Sec. 20. NEW SECTION. 12.56 FUNDS FOR SALES OF OBLIGATIONS AS TRUST FUNDS -- APPLICATION OF FUNDS.

Moneys received by or on behalf of a leasing corporation under this division, whether as proceeds from the sale of obligations or as revenues, are trust funds to be held and applied as provided in this division. An officer with whom or a bank or trust company with which the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purposes of this division subject to rules that this division and the bond resolution authorizing the obligations of an issue may provide.

Sec. 21. NEW SECTION. 12.57 RIGHTS OF HOLDERS OF OBLIGATIONS.

A holder of obligations or a trustee under a trust agreement entered into pursuant to this division, except to the extent that their rights are restricted by a bond resolution, may, by any suitable form or legal proceedings, protect and enforce rights under the laws of this state or granted by the bond resolution, may enjoin unlawful activities, and if there is a default on the payment of the principal of, premiums, if any, and interest on an obligation or in the performance of a covenant or agreement on the part of the leasing corporation in the bond resolution, may apply to the district court to appoint a receiver to administer and operate the leasing corporation, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on the obligations, with full power to pay, and to provide for payment of principal of, premium, if any, and interest on the obligations, and with powers, subject to the direction of the court, as permitted by law and accorded to receivers, excluding the power to pledge additional revenues of the leasing corporation to the payment of the principal, premium, and interest.

Sec. 22. NEW SECTION. 12.58 REFUNDING BONDS -- PURPOSE -  
- PROCEEDS -- INVESTMENT OF PROCEEDS.

1. A leasing corporation may issue its obligations for the purpose of refunding obligations then outstanding, including the payment of a redemption premium on the obligations and interest accrued or to accrue to the earliest or a subsequent date of redemption, purchase, or maturity of the obligations.

2. The proceeds of obligations issued for the purpose of refunding outstanding obligations may, in the discretion of the leasing corporation, be applied to the purchase or retirement at maturity or redemption of the outstanding obligations either on their earliest or a subsequent redemption date or upon the purchase or at the maturity of the obligations and may, pending an application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on a date determined by the leasing corporation.

3. Any escrowed proceeds, pending their use, may be invested and reinvested in direct obligations of the United States of America, maturing at times as appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding obligations to be refunded. The interest, income, and profits, if any, earned or realized on an investment may also be applied to the payment of the outstanding obligations to be refunded.

4. Refunding obligations are subject to this division in the same manner and to the same extent as other obligations issued pursuant to the division.

Sec. 23. NEW SECTION. 12.59 ANNUAL REPORT.

The treasurer shall annually provide a report to the governor and the members of the general assembly of the volume and nature of financing leases entered into by state agencies under this division.

Sec. 24. NEW SECTION. 12.60 OBLIGATIONS AS LEGAL INVESTMENTS.

Banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying

on a banking or investment business, insurance companies and insurance associations, and executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, moneys, or other funds belonging to them or within their control in obligations of a leasing corporation.

Sec. 25. NEW SECTION. 12.61 NOTICE.

A leasing corporation shall publish a notice of its intention to issue obligations in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amounts of obligations proposed to be issued, and in general terms, what receipts will be pledged to pay bond service charges on the obligations. An action which questions the legality or validity of the obligations or the power of the leasing corporation to issue the obligations or the effectiveness or validity of any proceedings adopted for the authorization or issuance of the obligations shall not be brought after thirty days from the date of publication of the notice.

Sec. 26. NEW SECTION. 12.62 LIBERAL CONSTRUCTION OF DIVISION.

This division, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purpose.

Sec. 27. NEW SECTION. 12.63 EXERCISE OF POWERS AS ESSENTIAL PUBLIC FUNCTION -- EXEMPTION FROM TAXATION.

The exercise of the powers granted by this division will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and as the operation and maintenance of a program by the treasurer of state and leasing corporations organized under this division will constitute the performance of an essential public function. Income of a leasing corporation is exempt from all taxation in the state. Property of a leasing corporation, acquired or held for the purposes of this division, is exempt from all taxation and special assessments

in the state if the property was exempt for the fiscal year in which the property was first acquired or held and the property shall continue to be exempt for subsequent fiscal years. Property of a leasing corporation, acquired or held for the purpose of this division, is subject to taxation and special assessments in the state if the property was taxable for the fiscal year in which the property was first acquired or held and the property shall continue to be taxable for subsequent fiscal years.

Sec. 28. Section 18.12, Code 1989, is amended by adding the following new subsections after subsection 14 and renumbering the subsequent subsection:

NEW SUBSECTION. 15. Prepare quarterly status reports for all ongoing capital projects of all state agencies, as capital project and state agency are defined in section 8.3A, and submit the status reports to the legislative capital projects committee.

NEW SUBSECTION. 16. Call upon any state agency, as defined in section 8.3A, for assistance the director may require in performing the director's duties under subsection 15 regarding capital project status reports and under section 18.12A regarding the inventory of state property. All state agencies, upon the request of the director and with the approval of the director of the department of management, shall assist the director and are authorized to make available to the director any existing studies, surveys, plans, data, and other materials in the possession of the state agencies which are relevant to the director's duties.

Sec. 29. NEW SECTION. 18.12A INVENTORY OF STATE PROPERTY.

1. The director shall prepare and maintain a correct and current inventory of all real property and equipment, the acquisition or lease of which would constitute a capital project, as defined in section 8.3A, which is owned or leased by or held in trust for the state of Iowa or any state agency,

as defined in section 8.JA. In addition, the director shall prepare and maintain the status on additional data elements relating to the real property and equipment designated by the department of revenue and finance which are necessary for use by the department of revenue and finance in preparation of the comprehensive annual financial report of the state. The inventory shall be indexed by location and control of the real property. The inventory shall include but not be limited to the following:

- a. The location and legal description of the real property.
- b. The source of acquisition of the real property.
- c. Improvements or construction relating to the real property.
- d. A functional description of the real property.
- e. The condition and age, expected life cycle, and maintenance needs of buildings on the real property.
- f. If land or buildings are to be vacated, the current use of the land or buildings, and other possible uses for the land or buildings.
- g. The continued need for and availability of alternatives to meet the need for the land or buildings.
- h. The state agency in control of the real property.
- i. The location, source of acquisition, condition and age, expected life cycle, and maintenance needs of the equipment and the state agency in control of it.

2. The director shall establish procedures requiring each state agency to report all acquisitions of real property, improvements or construction relating to real property, and dispositions of real property and all acquisitions and dispositions of equipment, and the reporting of the additional data elements necessary for the department of revenue and finance to prepare the financial report, in order that the inventory can be promptly corrected and accurately maintained. Except in an emergency due to an act of nature or

insurrection, an acquisition or disposition of real property or equipment shall not be made, construction shall not be commenced, funds or valuable consideration shall not be given, and a final document of conveyance of real property shall not be transmitted until the state agency has complied with the procedures required pursuant to this subsection for reporting such an acquisition or disposition of real property or construction or such an acquisition or disposition of equipment and until the director has issued to the state agency a written acknowledgement of the receipt of such report. The director shall issue the written acknowledgement of the receipt of the report within five days of the receipt of the report. Nothing in this subsection requires nor in the procedures established by the director shall require prior notification to the director of the state agency's intent to apply or the state agency's applying for federal, private or nonstate funds for a capital project.

3. The director shall prepare and submit annually to the governor, the department of revenue and finance, and the legislative capital projects committee a report of the acquisitions and dispositions of real property and equipment and improvements and construction relating to real property subject to this section.

Sec. 30. NOTIFICATION OF RECEIPT OF NONSTATE FUNDS. All constitutional and statutory offices, administrative departments, and independent agencies, except those institutions governed by chapter 262, shall notify the department of management, the chairpersons, vice chairpersons, and ranking members of the senate and house of representatives' committees on appropriations and of the appropriate joint appropriations subcommittees, and the legislative fiscal bureau of any request for, approval of, or an award of federal or other nonstate funds, or of the loss of federal or other nonstate funds during the fiscal period beginning October 1, 1988, and ending September 30, 1989. The

notification shall be made no later than December 15, 1989, and shall include the name of the grantor and of the funding grant, the estimated amount of funds, and the planned expenditures for the funds. Institutions governed by chapter 262 shall provide this notification only for those awards of funds which specifically require a commitment of additional state resources.

Sec. 31. 1985 Iowa Acts, chapter 33, section 129, is repealed.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 546, Seventy-third General Assembly.

*Item Veto*  
Approved June 3, 1989

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JOHN F. DWYER  
Secretary of the Senate

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TERRY E. BRANSTAD  
Governor