

to test. Senate 3/30

FILED MAR 0 3 1992

SENATE FILE 2250
BY COMMITTEE ON STATE
GOVERNMENT
approved (y. 581)
(SUCCESSOR TO SSB 2131)

Passed Senate, Date 3/1/92 (y. 581) Passed House, Date _____
Vote: Ayes 40 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

*Amended to recommend (y. 886)
Motion prevailed (y. 902) 3/20*

A BILL FOR

1 An Act relating to the duties of the department of inspections
2 and appeals including those pertaining to surety or bid bonds
3 for targeted small businesses; requests for provision of
4 administrative law judges; the licensure of manufacturers and
5 distributors of bingo supplies and equipment and of qualified
6 organizations conducting games of skill or chance or a raffle;
7 the licensure of health facilities with special
8 classifications; nursing home inspections; the collection of
9 delinquent fees from health care facilities; the payment of
10 the costs of hearings by franchisers; hearings on the
11 valuation of abandoned railroad property; permissible uses for
12 gambling devices; and the payment of costs of parole
13 revocation proceedings.

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

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SF 2250

1 Section 1. Section 12.44, unnumbered paragraph 1, Code
2 1991, is amended to read as follows:

3 Agencies of state government shall be required to waive the
4 requirement of satisfaction, or performance, surety, or bid
5 bonds for targeted small businesses which are able to
6 demonstrate the inability of securing such a bond because of a
7 lack of experience, lack of net worth, or lack of capital.
8 This waiver shall not apply to businesses with a record of
9 repeated failure of substantial performance or material breach
10 of contract in prior circumstances. The waiver shall be
11 applied only to a project or individual transaction amounting
12 to fifty thousand dollars or less, notwithstanding section
13 573.2. In order to qualify, the targeted small business shall
14 provide written evidence to the department of inspections and
15 appeals that the bond would otherwise be denied the business.
16 The granting of the waiver shall in no way relieve the
17 business from its contractual obligations and shall not
18 preclude the state agency from pursuing any remedies under law
19 upon default or breach of contract.

20 Sec. 2. Section 17A.11, subsection 3, Code 1991, is
21 amended to read as follows:

22 3. An agency whose work load is such that the appointment
23 of a permanent full-time or part-time administrative law judge
24 is unwarranted, or an agency whose work load is such that one
25 or more additional administrative law judges are temporarily
26 required, may-use shall request an administrative law judges
27 ~~selected-by-the-department-of-personnel-from-other-agencies~~
28 ~~having-administrative-law-judges-that-are-temporarily~~
29 ~~available-and-that-are-qualified-to-preside-at-the-hearings~~
30 ~~held-by-the-agency-requesting-the-temporary-use-of-an~~
31 administrative-law judge from the department of inspections
32 and appeals. In cases where an agency borrows one or more
33 administrative law judges from ~~other-agencies~~ the department
34 of inspections and appeals, the salaries and expenses of those
35 administrative law judges shall be apportioned and charged to

1 the several agencies according to their use.

2 Sec. 3. Section 99B.1, subsection 21, Code 1991, is
3 amended to read as follows:

4 21. "Qualified organization" means any licensed person
5 organization who dedicates the net receipts of a game of
6 skill, game of chance, including bingo, or raffle as provided
7 in section 99B.7 and meets the requirements of section 99B.7,
8 subsection 1, paragraph "m".

9 Sec. 4. Section 99B.7, subsection 1, paragraph m, Code
10 Supplement 1991, is amended by striking the paragraph and
11 inserting in lieu thereof the following:

12 m. The organization conducting the game can show to the
13 satisfaction of the department that all of the following
14 requirements are met:

15 (1) The organization is eligible for exemption from
16 federal income taxation under either section 501(c)(3),
17 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8),
18 501(c)(10), or 501(c)(19) of the Internal Revenue Code, as
19 defined in section 422.3.

20 (2) The organization has an active membership of not less
21 than twenty-five persons.

22 (3) The organization has a nonself-perpetuating governing
23 body and officers.

24 This lettered paragraph does not apply to a political party
25 as defined in section 43.2, to a nonparty political
26 organization that has qualified to place a candidate as its
27 nominee for statewide office pursuant to chapter 44, or to a
28 candidate's committee as defined in section 56.2.

29 Sec. 5. NEW SECTION. 99B.7A MANUFACTURERS AND
30 DISTRIBUTORS OF BINGO EQUIPMENT.

31 A person shall not operate as a manufacturer or distributor
32 of bingo equipment and supplies in this state unless the
33 person is licensed by the department. A license applicant
34 shall annually submit an application for license to the
35 department accompanied by a license fee of one thousand

1 dollars for manufacturers and five hundred dollars for
2 distributors. A license shall be renewed annually.

3 Sec. 6. NEW SECTION. 99B.7B QUALIFIED ORGANIZATION
4 PURCHASE OF BINGO EQUIPMENT AND SUPPLIES.

5 A qualified organization licensed under section 99B.7 shall
6 only purchase bingo equipment and supplies from a distributor
7 licensed by the state.

8 Sec. 7. Section 135C.2, subsection 3, unnumbered paragraph
9 1, Code Supplement 1991, is amended by striking the paragraph
10 and inserting in lieu thereof the following:

11 The department shall establish by administrative rule the
12 following special classifications:

13 a. Within the residential care facility category, a
14 special license classification for residential facilities
15 intended to serve mentally ill individuals.

16 b. Within the nursing facility category, a special license
17 classification for nursing facilities which designate and
18 dedicate the facility or a special unit within the facility to
19 provide care for persons who suffer from chronic confusion or
20 a dementing illness. A facility which does not designate and
21 dedicate the facility or a specific unit within the facility
22 to care for persons who suffer from chronic confusion or a
23 dementing illness may serve the person without a special
24 license.

25 The department may also establish by administrative rule
26 special classifications within the residential care facility,
27 intermediate care facility for the mentally ill, intermediate
28 care facility for the mentally retarded, or nursing facility
29 categories, for facilities intended to serve individuals who
30 have special health care problems or conditions in common.
31 The rules establishing a special classification shall define
32 the problem or condition to which the special classification
33 is relevant, and shall establish requirements for an approved
34 program of care commensurate with the problem or condition.
35 The rules may grant special variances or considerations to

1 facilities licensed within a special classification.

2 Sec. 8. Section 135C.16, subsection 1, Code 1991, is
3 amended by striking the subsection and inserting in lieu
4 thereof the following:

5 1. In addition to the inspections required by sections
6 135C.9 and 135C.38, the department shall make or cause to be
7 made such further unannounced inspections as it deems
8 necessary to adequately enforce this chapter. At least one
9 general unannounced inspection shall be conducted for each
10 health care facility within a fifteen-month period. The
11 inspector shall show identification to the person in charge of
12 the facility and state that an inspection is to be made before
13 beginning the inspection. An employee of the department who
14 gives unauthorized advance notice of an inspection made or
15 planned to be made under this subsection or section 135C.38
16 shall be disciplined as determined by the director, except
17 that if the employee is employed pursuant to the merit system
18 provisions of chapter 19A the discipline shall not exceed that
19 authorized pursuant to that chapter.

20 Sec. 9. NEW SECTION. 135C.21A PENALTY FOR FAILURE TO PAY
21 FINES.

22 Failure of the licensee to pay outstanding fines assessed
23 against a health care facility by the department shall result
24 in the denial of issuance or renewal of a license for that
25 facility and all other facilities operated by that licensee.
26 The denial shall occur following the exhaustion of any
27 appeals.

28 Sec. 10. Section 322A.7, Code 1991, is amended by adding
29 the following new unnumbered paragraph:

30 NEW UNNUMBERED PARAGRAPH. The franchiser shall pay all
31 costs of the hearing at the time the application is filed.
32 The department of inspections and appeals shall establish
33 appropriate fees which shall be paid to the department of
34 inspections and appeals.

35 Sec. 11. Section 327G.78, unnumbered paragraphs 1 and 2,

1 Code 1991, are amended to read as follows:

2 Subject to sections 327G.77 and 471.16, when a railroad
3 corporation, its trustee, or its successor in interest has
4 interests in real property adjacent to a railroad right-of-way
5 that are abandoned by order of the interstate commerce
6 commission, reorganization court, bankruptcy court, or the
7 department, or when a railroad corporation, its trustee, or
8 its successor in interest seeks to sell its interests in that
9 property under any other circumstance, the railroad
10 corporation, its trustee, or its successor in interest shall
11 extend a written offer to sell at a fair market value price to
12 the persons holding leases, licenses, or permits upon those
13 properties, allowing sixty days from the time of receipt for a
14 written response. If a disagreement arises between the
15 parties concerning the price or other terms of the sale
16 transaction, either or both parties may make written
17 application to the department to resolve the disagreement.
18 The application shall be made within sixty days from the time
19 an initial written response is served upon the railroad
20 corporation, trustee, or successor in interest by the person
21 wishing to purchase the property. The department shall notify
22 the department of inspections and appeals which shall hear the
23 controversy and make a ~~final~~ proposed determination of the
24 fair market value of the property and the other terms of the
25 transaction which were in dispute, within ninety days after
26 the application is filed. The proposed determination is
27 subject to review by the state department of transportation
28 and the state department of transportation shall make the
29 final determination. All correspondence shall be by certified
30 mail.

31 The decision of the state department of inspections-and
32 appeals transportation is binding on the parties, except that
33 a person who seeks to purchase the real property may withdraw
34 the offer to purchase within thirty days of the decision of
35 the department ~~of-inspections-and-appeals~~. If a withdrawal is

1 made, the railroad corporation, trustee, or successor in
2 interest may sell or dispose of the real property without
3 further order of the state department of inspections-and
4 appeals transportation.

5 Sec. 12. Section 725.9, subsection 5, Code 1991, is
6 amended to read as follows:

7 5. This chapter does not prohibit the possession of
8 gambling devices by a manufacturer or distributor if the
9 possession is solely for sale out of the state ~~in-another~~
10 ~~jurisdiction-where-possession-of-the-device-is-legal-or-for~~
11 ~~sale-in-the-state-or-use-in-the-state-if-the-use-is-licensed~~
12 ~~pursuant-to-either-chapter-99B-or-chapter-99E.~~

13 Sec. 13. Section 815.1, Code 1991, is amended to read as
14 follows:

15 815.1 COSTS PAYABLE BY STATE IN SPECIAL CASES.

16 All costs and fees incurred in a parole revocation
17 proceeding or in a criminal case brought against an inmate of
18 a state institution for a crime committed while confined in
19 the institution, or for a crime committed by the inmate while
20 placed outside the walls or confines of the institution under
21 the control and direction of a warden, supervisor, officer, or
22 employee of the institution, or for a crime committed by the
23 inmate during an escape or other unauthorized departure from
24 the institution or from the control of a warden, supervisor,
25 officer, or employee of the institution, or from wherever the
26 inmate may have been placed by authorized personnel of the
27 institution, are waived if the prosecution fails, or if the
28 person liable to pay the costs and fees cannot pay the costs
29 and fees. An award of attorney fees to a court-appointed
30 attorney incurred in these cases shall be paid out of the
31 state treasury from the general fund if the prosecution fails
32 or if the person liable to pay the attorney fees cannot pay
33 them. The facts shall be certified by the clerk of the
34 district court under the clerk's seal of office to the
35 director of ~~inspections-and-appeals~~ the department of

1 corrections, including a statement of the amount of fees or
2 costs incurred, approved by the presiding judge in writing.
3 When a conviction is rendered and the court orders restitution
4 for costs of the prosecution, the inmate, work releasee, or
5 parolee shall make restitution to the general fund pursuant to
6 section 910.2.

7 EXPLANATION

8 This bill provides for technical amendments in the chapters
9 of the Code under the purview of the department of inspections
10 and appeals.

11 The bill waives the requirement of surety or bid bonds for
12 targeted small businesses which are able to demonstrate the
13 inability to secure such a bond; requires, in instances in
14 which an administrative law judge is temporarily necessary,
15 that an agency request the services from the department of
16 inspections and appeals; clarifies the definition of a
17 "qualified organization" for the purposes of conducting games
18 of skill or chance or a raffle; requires licensure of
19 manufacturers and distributors of bingo supplies and equipment
20 in the state; requires the purchase of bingo supplies and
21 equipment only from distributors licensed by the state of
22 Iowa; provides for the licensing of specialized health care
23 units or facilities; provides for consistency with current
24 federal law regarding the frequency and timing of inspections
25 or surveys of nursing facilities; provides for the denial of
26 issuance or renewal of a license for a health care facility
27 for failure to pay outstanding fines; requires the franchisers
28 to pay the costs of hearings; clarifies that the department
29 issues proposed rather than final decisions regarding hearings
30 on valuation of abandoned railroad property; clarifies the
31 permissible uses of gambling devices and under what conditions
32 gambling devices may be sold, possessed, or used in the state;
33 and clarifies that the department of corrections collects
34 payments and processes claims regarding parole revocation
35 proceedings.

SENATE FILE 2256

S-5199

- 1 Amend Senate File 2256 as follows:
- 2 1. Page 3, line 20, by inserting after the word
- 3 "illness." the following: "A nursing facility which
- 4 designates and dedicates the facility or a special
- 5 unit within the facility for the care of persons who
- 6 suffer from chronic confusion or a dementing illness
- 7 shall be specially licensed."

By ALBERT SORENSEN

S-5199 FILED MARCH 12, 1992

Adopted 3/18 (p. 954)

SENATE FILE 2256

S-5200

- 1 Amend Senate File 2256 as follows:
- 2 1. Page 6, by striking lines 7 through 12, and
- 3 inserting the following:
- 4 "5. This chapter does not prohibit the possession
- 5 of gambling devices by a manufacturer or distributor
- 6 if the possession is solely for sale out of the state
- 7 in another jurisdiction or in the state in a tribal
- 8 jurisdiction where possession of the device is legal
- 9 ~~or-for-sale-in-the-state-or-use-in-the-state-if-the~~
- 10 ~~use-is-licensed-pursuant-to-either-chapter-99B-or~~
- 11 ~~chapter-99E."~~

By ALBERT SORENSEN

S-5200 FILED MARCH 12, 1992

Adopted 3/12

SENATE FILE 2256

S-5299

- 1 Amend Senate File 2256 as follows:
- 2 1. Page 2, by striking lines 24 through 28.

By JIM LIND

S-5299 FILED MARCH 18, 1992

*Adopted 3/19
Amended to be consistent w/ 836*

SORENSEN, CH.
RUNNING
WELSH
LIND
PATE

SSB 2131
STATE GOVERNMENT *NEW*
SENATE/HOUSE FILE 2256
BY (PROPOSED DEPARTMENT
OF INSPECTIONS AND
APPEALS BILL)

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

A BILL FOR

1 An Act relating to the duties of the department of inspections
2 and appeals including those pertaining to surety or bid bonds
3 for targeted small businesses; requests for provision of
4 administrative law judges; the licensure of manufacturers and
5 distributors of bingo supplies and equipment and of qualified
6 organizations conducting games of skill or chance or a raffle;
7 the licensure of health facilities with special
8 classifications; nursing home inspections; the collection of
9 delinquent fees from health care facilities; the payment of
10 the costs of hearings by franchisers; hearings on the
11 valuation of abandoned railroad property; permissible uses for
12 gambling devices; and the payment of costs of parole
13 revocation proceedings.

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

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1 Section 1. Section 12.44, unnumbered paragraph 1, Code
2 1991, is amended to read as follows:

3 Agencies of state government shall be required to waive the
4 requirement of satisfaction, or performance, surety, or bid
5 bonds for targeted small businesses which are able to
6 demonstrate the inability of securing such a bond because of a
7 lack of experience, lack of net worth, or lack of capital.
8 This waiver shall not apply to businesses with a record of
9 repeated failure of substantial performance or material breach
10 of contract in prior circumstances. The waiver shall be
11 applied only to a project or individual transaction amounting
12 to fifty thousand dollars or less, notwithstanding section
13 573.2. In order to qualify, the targeted small business shall
14 provide written evidence to the department of inspections and
15 appeals that the bond would otherwise be denied the business.
16 The granting of the waiver shall in no way relieve the
17 business from its contractual obligations and shall not
18 preclude the state agency from pursuing any remedies under law
19 upon default or breach of contract.

20 Sec. 2. Section 17A.11, subsection 3, Code 1991, is
21 amended to read as follows:

22 3. An agency whose work load is such that the appointment
23 of a permanent full-time or part-time administrative law judge
24 is unwarranted, or an agency whose work load is such that one
25 or more additional administrative law judges are temporarily
26 required, may-use shall request an administrative law judges
27 ~~selected-by-the-department-of-personnel-from-other-agencies~~
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31 administrative-law judge from the department of inspections
32 and appeals. In cases where an agency borrows one or more
33 administrative law judges from ~~other-agencies~~ the department
34 of inspections and appeals, the salaries and expenses of those
35 administrative law judges shall be apportioned and charged to

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1 the several agencies according to their use.

2 Sec. 3. Section 99B.1, subsection 21, Code 1991, is
3 amended to read as follows:

4 21. "Qualified organization" means any licensed person
5 organization who dedicates the net receipts of a game of
6 skill, game of chance, including bingo, or raffle as provided
7 in section 99B.7 and meets the requirements of section 99B.7,
8 subsection 1, paragraph "m".

9 Sec. 4. Section 99B.7, subsection 1, paragraph m, Code
10 Supplement 1991, is amended by striking the paragraph and
11 inserting in lieu thereof the following:

12 m. The organization conducting the game can show to the
13 satisfaction of the department that all of the following
14 requirements are met:

15 (1) The organization is eligible for exemption from
16 federal income taxation under either section 501(c)(3),
17 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8),
18 501(c)(10), or 501(c)(19) of the Internal Revenue Code, as
19 defined in section 422.3.

20 (2) The organization has an active membership of not less
21 than twenty-five persons.

22 (3) The organization has a nonself-perpetuating governing
23 body and officers.

24 This lettered paragraph does not apply to a political party
25 as defined in section 43.2, to a nonparty political
26 organization that has qualified to place a candidate as its
27 nominee for statewide office pursuant to chapter 44, or to a
28 candidate committee as defined in section 56.2.

29 Sec. 5. NEW SECTION. 99B.7A MANUFACTURERS AND
30 DISTRIBUTORS OF BINGO EQUIPMENT.

31 A person shall not operate as a manufacturer or distributor
32 of bingo equipment and supplies in this state unless the
33 person is licensed by the department. A license applicant
34 shall annually submit an application for license to the
35 department accompanied by a license fee of one thousand

1 dollars for manufacturers and five hundred dollars for
2 distributors. A license shall be renewed annually.

3 Sec. 6. NEW SECTION. 99B.7B QUALIFIED ORGANIZATION
4 PURCHASE OF BINGO EQUIPMENT AND SUPPLIES.

5 A qualified organization licensed under section 99B.7 shall
6 only purchase bingo equipment and supplies from a distributor
7 licensed by the state.

8 Sec. 7. Section 135C.2, subsection 3, unnumbered paragraph
9 1, Code Supplement 1991, is amended by striking the paragraph
10 and inserting in lieu thereof the following:

11 The department shall establish by administrative rule the
12 following special classifications:

13 a. Within the residential care facility category, a
14 special license classification for residential facilities
15 intended to serve mentally ill individuals.

16 b. Within the nursing facility category, a special license
17 classification for nursing facilities which designate and
18 dedicate the facility or a special unit within the facility to
19 provide care for persons who suffer from chronic confusion or
20 a dementing illness. A facility which does not designate and
21 dedicate the facility or a specific unit within the facility
22 to care for persons who suffer from chronic confusion or a
23 dementing illness may serve the person without a special
24 license.

25 The department may also establish by administrative rule
26 special classifications within the residential care facility,
27 intermediate care facility for the mentally ill, intermediate
28 care facility for the mentally retarded, or nursing facility
29 categories, for facilities intended to serve individuals who
30 have special health care problems or conditions in common.
31 The rules establishing a special classification shall define
32 the problem or condition to which the special classification
33 is relevant, and shall establish requirements for an approved
34 program of care commensurate with the problem or condition.
35 The rules may grant special variances or considerations to

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1 facilities licensed within a special classification.

2 Sec. 8. Section 135C.16, subsection 1, Code 1991, is
3 amended by striking the subsection and inserting in lieu
4 thereof the following:

5 1. In addition to the inspections required by sections
6 135C.9 and 135C.38, the department shall make or cause to be
7 made such further unannounced inspections as it deems
8 necessary to adequately enforce this chapter. At least one
9 general unannounced inspection shall be conducted for each
10 health care facility within a fifteen-month period. The
11 inspector shall show identification to the person in charge of
12 the facility and state that an inspection is to be made before
13 beginning the inspection. An employee of the department who
14 gives unauthorized advance notice of an inspection made or
15 planned to be made under this subsection or section 135C.38
16 shall be disciplined as determined by the director, except
17 that if the employee is employed pursuant to the merit system
18 provisions of chapter 19A the discipline shall not exceed that
19 authorized pursuant to that chapter.

20 Sec. 9. NEW SECTION. 135C.21A PENALTY FOR FAILURE TO PAY
21 FINES.

22 Failure of the licensee to pay outstanding fines assessed
23 against a health care facility by the department shall result
24 in the denial of issuance or renewal of a license for that
25 facility and all other facilities operated by that licensee.
26 The denial shall occur following the exhaustion of any
27 appeals.

28 Sec. 10. Section 322A.7, Code 1991, is amended by adding
29 the following new unnumbered paragraph:

30 NEW UNNUMBERED PARAGRAPH. The franchiser shall pay all
31 costs of the hearing at the time the application is filed.
32 The department of inspections and appeals shall establish
33 appropriate fees which shall be paid to the department of
34 inspections and appeals.

35 Sec. 11. Section 327G.78, unnumbered paragraphs 1 and 2,

1 Code 1991, are amended to read as follows:

2 Subject to sections 327G.77 and 471.16, when a railroad
3 corporation, its trustee, or its successor in interest has
4 interests in real property adjacent to a railroad right-of-way
5 that are abandoned by order of the interstate commerce
6 commission, reorganization court, bankruptcy court, or the
7 department, or when a railroad corporation, its trustee, or
8 its successor in interest seeks to sell its interests in that
9 property under any other circumstance, the railroad
10 corporation, its trustee, or its successor in interest shall
11 extend a written offer to sell at a fair market value price to
12 the persons holding leases, licenses, or permits upon those
13 properties, allowing sixty days from the time of receipt for a
14 written response. If a disagreement arises between the
15 parties concerning the price or other terms of the sale
16 transaction, either or both parties may make written
17 application to the department to resolve the disagreement.
18 The application shall be made within sixty days from the time
19 an initial written response is served upon the railroad
20 corporation, trustee, or successor in interest by the person
21 wishing to purchase the property. The department shall notify
22 the department of inspections and appeals which shall hear the
23 controversy and make a ~~final~~ proposed determination of the
24 fair market value of the property and the other terms of the
25 transaction which were in dispute, within ninety days after
26 the application is filed. The proposed determination is
27 subject to review by the state department of transportation
28 and the state department of transportation shall make the
29 final determination. All correspondence shall be by certified
30 mail.

31 The decision of the state department of inspections-and
32 appeals transportation is binding on the parties, except that
33 a person who seeks to purchase the real property may withdraw
34 the offer to purchase within thirty days of the decision of
35 the department ~~of-inspections-and-appeals~~. If a withdrawal is

2/31

1 made, the railroad corporation, trustee, or successor in
2 interest may sell or dispose of the real property without
3 further order of the state department of inspections-and
4 appeals transportation.

5 Sec. 12. Section 725.9, subsection 5, Code 1991, is
6 amended to read as follows:

7 5. This chapter does not prohibit the possession of
8 gambling devices by a manufacturer or distributor if the
9 possession is solely for sale out of the state ~~in another~~
10 ~~jurisdiction where possession of the device is legal or for~~
11 ~~sale in the state or use in the state if the use is licensed~~
12 ~~pursuant to either chapter 99B or chapter 99E.~~

13 Sec. 13. Section 815.1, Code 1991, is amended to read as
14 follows:

15 815.1 COSTS PAYABLE BY STATE IN SPECIAL CASES.

16 All costs and fees incurred in a parole revocation
17 proceeding or in a criminal case brought against an inmate of
18 a state institution for a crime committed while confined in
19 the institution, or for a crime committed by the inmate while
20 placed outside the walls or confines of the institution under
21 the control and direction of a warden, supervisor, officer, or
22 employee of the institution, or for a crime committed by the
23 inmate during an escape or other unauthorized departure from
24 the institution or from the control of a warden, supervisor,
25 officer, or employee of the institution, or from wherever the
26 inmate may have been placed by authorized personnel of the
27 institution, are waived if the prosecution fails, or if the
28 person liable to pay the costs and fees cannot pay the costs
29 and fees. An award of attorney fees to a court-appointed
30 attorney incurred in these cases shall be paid out of the
31 state treasury from the general fund if the prosecution fails
32 or if the person liable to pay the attorney fees cannot pay
33 them. The facts shall be certified by the clerk of the
34 district court under the clerk's seal of office to the
35 director of inspections-and-appeals the department of

1 corrections, including a statement of the amount of fees or
2 costs incurred, approved by the presiding judge in writing.
3 When a conviction is rendered and the court orders restitution
4 for costs of the prosecution, the inmate, work releasee, or
5 parolee shall make restitution to the general fund pursuant to
6 section 910.2.

7

EXPLANATION

8 This bill provides for technical amendments in the chapters
9 of the Code under the purview of the department of inspections
10 and appeals.

11 The bill waives the requirement of surety or bid bonds for
12 targeted small businesses which are able to demonstrate the
13 inability to secure such a bond; requires, in instances in
14 which an administrative law judge is temporarily necessary,
15 that an agency request the services from the department of
16 inspections and appeals; clarifies the definition of a
17 "qualified organization" for the purposes of conducting games
18 of skill or chance or a raffle; requires licensure of
19 manufacturers and distributors of bingo supplies and equipment
20 in the state; requires the purchase of bingo supplies and
21 equipment only from distributors licensed by the state of
22 Iowa; provides for the licensing of specialized health care
23 units or facilities; provides for consistency with current
24 federal law regarding the frequency and timing of inspections
25 or surveys of nursing facilities; provides for the denial of
26 issuance or renewal of a license for a health care facility
27 for failure to pay outstanding fines; requires the franchisers
28 to pay the costs of hearings; clarifies that the department
29 issues proposed rather than final decisions regarding hearings
30 on valuation of abandoned railroad property; clarifies the
31 permissible uses of gambling devices and under what conditions
32 gambling devices may be sold, possessed, or used in the state;
33 and clarifies that the department of corrections collects
34 payments and processes claims regarding parole revocation
35 proceedings.

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1 BACKGROUND STATEMENT
2 SUBMITTED BY THE AGENCY

3 Section 1 adds the requirement for state agencies to waive
4 surety and bid bonds for targeted small businesses. Some
5 state agencies currently require bid bonds, but targeted small
6 businesses may have difficulty acquiring a bid bond due to a
7 lack of capital, net worth, or experience. Surety bonds are
8 added because of possible confusion as to the inclusion of
9 surety bonds under performance or satisfaction bonds. This
10 legislation is supported by the departments of economic
11 development and management and the state treasurer.

12 Section 2 amends chapter 17A regarding the use of
13 administrative law judges. Most of the administrative law
14 judges in state government were placed under the department of
15 inspections and appeals in 1986 with the intent to provide a
16 pool of administrative law judges able to conduct varied
17 administrative law hearings. Because this pool is available,
18 requests for administrative law judges should be made to the
19 department of inspections and appeals. This section of
20 chapter 17A was inadvertently missed in the cleanup language
21 done following reorganization of state government.

22 Section 3 clarifies the definition of qualified
23 organization for the purposes of licensing under chapter 99B.
24 A "person" has not been eligible as a qualified organization
25 since 1981, so "person" is being replaced by the term
26 "organization". Bingo was inadvertently left out of the list
27 of games for which receipts are dedicated. This legislation
28 is necessary to clearly define a qualified organization for
29 the public and licensees.

30 Section 4 adds the requirements applicable to qualified
31 organizations of a minimum active membership and a nonself-
32 perpetuating governing body. This legislation is necessary to
33 ensure that only legitimate organizations are licensed.

34 Section 5 requires licensure of the manufacturers and
35 distributors who sell bingo supplies and equipment in Iowa.

1 These businesses are currently not licensed in Iowa. The
2 states of Nebraska, South Dakota, and Minnesota require
3 licensure of manufacturers and distributors; Wisconsin and
4 Illinois require licensure of distributors.

5 Section 6 requires that bingo equipment and supplies be
6 purchased only from distributors licensed by the state of
7 Iowa. This legislation will provide a mechanism, through
8 verification of purchases, for the state to determine actual
9 gross receipts and will assist in the deterrence of abuse of
10 bingo for personal gain. It will provide accountability of
11 both operators and distributors.

12 This legislation will enhance the administrative rules
13 requiring inventory controls and provide a more complete audit
14 trail for determining the actual gross sales of a bingo
15 operation. The actual gross sales is necessary to determine
16 the appropriate amount of dedicated receipt owed to charitable
17 organizations and the appropriate amount of sales tax owed to
18 the state. This legislation would provide for the greater
19 integrity of bingo in Iowa.

20 Estimated annual general fund revenue for licensing
21 manufacturers and distributors would be \$14,000. The annual
22 license fee for manufacturers would be \$1,000; distributors
23 would be \$500. An estimated eight manufacturers and twelve
24 distributors would be licensed initially.

25 Section 7 codifies language contained in the Acts of the
26 73rd General Assembly related to licensing designated and
27 dedicated chronic confusion and dementing illness nursing
28 facilities or units of facilities. Codification is needed to
29 clarify the authority of the department to require licensure
30 of these units and facilities.

31 Section 8 is in response to a recommendation of the nursing
32 home regulation review task force to provide consistency with
33 federal regulations regarding the frequency of state
34 inspections and surveys for nursing facilities.

35 Section 9 provides an additional mechanism to collect

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1 delinquent fines from health care facilities. While the
2 current fining and citation program requires fines to be paid,
3 there is no mechanism for enforcing payment other than those
4 generally available under civil law. This legislation should
5 allow for approximately 50 percent of existing delinquent
6 fines to be collected and should reduce the amount of
7 delinquent fines in the future.

8 Section 10 requires that franchisers pay the costs of
9 hearings. The average cost for these hearings is \$250 and an
10 average of eight hearings are held annually. This language is
11 consistent with Code sections 322A.6 and 325.19.

12 Section 11 revises language on hearings on valuation of
13 abandoned railroad property to be consistent with other
14 contested case hearings. Generally the final agency action
15 would be with the department taking the original action. The
16 appeals division of the department of inspections and appeals
17 issues proposed decisions, rather than final decisions.

18 Section 12 clarifies permissible possession for gambling
19 devices by manufacturers or distributors.

20 Section 13 corrects language regarding payment of the costs
21 of parole revocation proceedings. The department of
22 corrections receives the appropriation for the payment of
23 these proceedings and processes the claims.

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