

3-23-93 W. + Means  
(P. 954) 4-1-93 Amend/Do Pass W/  
S. 3350  
4-5-93 House - Judiciary  
4/2/93 Amend/Do Pass W/H-384

SENATE FILE **370**  
BY COMMITTEE ON JUDICIARY  
House 4/15/93 Do Pass  
(SUCCESSOR TO SSB 291)

(P. 995)  
Passed Senate, Date 4-5-93  
Vote: Ayes 44 Nays 3  
Approved May 11, 1993

(P. 1502)  
Passed House, Date 4/21/93  
Vote: Ayes 60 Nays 37

Re-passed 44/3 4/23/93  
(P. 1328) A BILL FOR  
Re-passed House 70-26  
4/27/93 (P. 1712)

1 An Act relating to setting minimum fines for certain criminal  
2 convictions, increasing the civil penalty assessed for certain  
3 motor vehicle license revocations, collecting delinquent  
4 fines, penalties, costs, and restitution, and allowing  
5 community service in lieu of a fine.

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

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SF 370

1 Section 1. Section 321J.17, Code 1993, is amended to read  
2 as follows:

3 321J.17 CIVIL PENALTY -- VICTIM COMPENSATION FUND --  
4 REINSTATEMENT.

5 When the department revokes a person's motor vehicle  
6 license or nonresident operating privilege under this chapter,  
7 the department shall assess the person a civil penalty of one  
8 two hundred dollars. The money collected by the department  
9 under this section shall be transmitted to the treasurer of  
10 state who shall deposit one-half of the money in the separate  
11 fund established in section 912.14 and one-half of the money  
12 shall be deposited in the general fund of the state. A  
13 temporary restricted license shall not be issued or a motor  
14 vehicle license or nonresident operating privilege reinstated  
15 until the civil penalty has been paid.

16 Sec. 2. Section 331.756, subsection 5, unnumbered  
17 paragraph 1, Code 1993, is amended to read as follows:

18 Enforce all forfeited bonds and recognizances and prosecute  
19 all proceedings necessary for the recovery of debts, revenues,  
20 moneys, fines, penalties, restitution of court-appointed  
21 attorney fees or expense of a public defender, and forfeitures  
22 accruing to the state or the county or to a school district or  
23 road district in the county, and all suits in the county  
24 against public service corporations which are brought in the  
25 name of the state. To assist in this duty, the county  
26 attorney may procure professional collection services provided  
27 by persons or organizations, including private attorneys,  
28 which are generally considered to have knowledge and special  
29 abilities which are not generally available to state or local  
30 government or may designate another county official or agency  
31 to assist with collection efforts.

32 Sec. 3. Section 421.17, subsection 25, unnumbered  
33 paragraph 1, Code 1993, is amended to read as follows:

34 To establish and maintain a procedure to setoff against a  
35 debtor's income tax refund or rebate any debt which is in the

1 form of a liquidated sum due, owing, and payable as victim  
2 restitution or as a criminal fine, civil penalty, surcharge,  
3 court costs, or restitution of attorney fees incurred as a  
4 result of services provided under chapters 13B and 815, and  
5 section 232.141. The procedure shall meet the following  
6 conditions:

7 Sec. 4. Section 902.9, subsections 3 and 4, Code 1993, are  
8 amended to read as follows:

9 3. A class "C" felon, not an habitual offender, shall be  
10 confined for no more than ten years, and in addition may be  
11 sentenced to a fine of at least five hundred dollars but not  
12 more than ten thousand dollars.

13 4. A class "D" felon, not an habitual offender, shall be  
14 confined for no more than five years, and in addition may be  
15 sentenced to a fine of at least five hundred dollars but not  
16 more than seven thousand five hundred dollars. A class "D"  
17 felon, such felony being for a violation of section 321J.2,  
18 may be sentenced to imprisonment for up to one year in the  
19 county jail.

20 Sec. 5. Section 903.1, subsections 1 and 2, Code 1993, are  
21 amended to read as follows:

22 1. If a person eighteen years of age or older is convicted  
23 of a simple or serious misdemeanor and a specific penalty is  
24 not provided for or if a person under eighteen years of age  
25 has been waived to adult court pursuant to section 232.45 on a  
26 felony charge and is subsequently convicted of a simple,  
27 serious, or aggravated misdemeanor, the court shall determine  
28 the sentence, and shall fix the period of confinement or the  
29 amount of fine, if-such-be-the-sentence which fine shall not  
30 be suspended by the court, within the following limits:

31 a. For a simple misdemeanor, there shall be a fine of at  
32 least fifty dollars but not to exceed one hundred dollars. In  
33 addition, the court may also order imprisonment not to exceed  
34 thirty days, -or-a-fine-not-to-exceed-one-hundred-dollars.

35 b. For a serious misdemeanor, there shall be a fine of at

1 least two hundred fifty dollars but not to exceed two thousand  
2 five hundred dollars. In addition, the court may also order  
3 imprisonment not to exceed one year, ~~or a fine not to exceed~~  
4 ~~one thousand dollars, or both.~~

5 2. When a person is convicted of an aggravated  
6 misdemeanor, and a specific penalty is not provided for, the  
7 maximum penalty shall be imprisonment not to exceed two years,  
8 or. There shall be a fine of at least five hundred dollars  
9 but not to exceed five thousand dollars, or both. When a  
10 judgment of conviction of an aggravated misdemeanor is entered  
11 against any person and the court imposes a sentence of  
12 confinement for a period of more than one year the term shall  
13 be an indeterminate term.

14 Sec. 6. NEW SECTION. 909.3A COMMUNITY SERVICE OPTION.

15 The court may, in its discretion, order the defendant to  
16 perform community service work of an equivalent value to the  
17 fine imposed where it appears that the community service work  
18 will be adequate to deter the defendant and to discourage  
19 others from similar criminal activity. The rate at which  
20 community service shall be calculated shall be the federal  
21 minimum wage.

22 Sec. 7. Section 909.7, Code 1993, is amended by adding the  
23 following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. A defendant who proves that the  
25 defendant cannot pay the fine may, at the discretion of the  
26 court, be ordered to perform community service pursuant to  
27 section 909.3A.

28 Sec. 8. Section 909.8, Code 1993, is amended to read as  
29 follows:

30 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL  
31 PENALTY SURCHARGE.

32 The provisions of this chapter governing the payment and  
33 collection of a fine, except section 909.3A, also apply to the  
34 payment and collection of a criminal penalty surcharge imposed  
35 pursuant to chapter 911.



1 vehicle while intoxicated.

2 The bill also provides that delinquent victim restitution  
3 owed by a person entitled to an income tax refund or rebate  
4 may be set off against the refund or rebate.

5 In addition, the bill provides that a court may order a  
6 fine to be worked off in community service by the defendant at  
7 the rate of the federal minimum wage.

8 The bill removes the provision that court costs are paid  
9 before the amount collected, less collection fees and costs,  
10 is divided between the state and the county.

11 Finally, the bill provides that, for fiscal year 1994 only,  
12 the first \$2.5 million in delinquent fines, surcharges, court  
13 costs, or fees collected shall be deposited in the state  
14 general fund and the remainder shall be deposited with the  
15 judicial department. The judicial department is to report to  
16 the general assembly by January 15, 1994, on the amounts of  
17 delinquent obligations collected to that point in the fiscal  
18 year.

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**SENATE FILE 370  
FISCAL NOTE**

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A fiscal note for Senate File 370 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 370 increases the civil penalty the Department of Transportation (DOT) assesses when a person's motor vehicle license is revoked for operating a motor vehicle while intoxicated from \$100 to \$200 and deposits the increase in the General Fund.

The bill establishes a minimum fine for Class C and D felonies and mandatory minimum fines for simple, serious, and aggravated misdemeanors. Offenders who cannot pay the imposed fine can be sentenced to community service, paying off the imposed fine with hours valued at the federal minimum hourly wage.

The bill removes the payment of court costs from delinquent fines that are collected and allows the counties to recover collection costs prior to the distribution of the funds to the counties and the General Fund.

The bill notwithstanding any other provision of law to deposit in the General Fund the first \$2.5 million in delinquent fines collected during FY 1994. The remaining delinquent fines that are collected are to be deposited with the Judicial Department.

**Assumptions:**

1. The current civil penalty of \$100, assessed for the revocation of a person's license, generates approximately \$1.4 million per year.
2. Based on calendar year 1991, there are 2,106 Class C felonies, 3,506 Class D felonies, 7,953 aggravated misdemeanors, 29,061 serious misdemeanors, and 86,760 simple misdemeanors annually.
3. Of the total annual convictions, 296 Class C felonies, 818 Class D felonies, 3,018 aggravated misdemeanors, 15,077 serious misdemeanors, and 55,570 simple misdemeanors are assessed fines. The average simple misdemeanor fine is \$27. The offenders who previously had not been fined will receive the minimum fine under the proposed law, and simple misdemeanors will be increased to the minimum.
4. If a convicted offender cannot pay the fine, the offender will perform community service.
5. In FY 1993, approximately \$236,000 in delinquent fines will be collected, net of court costs. The General Fund will receive \$153,400, and the counties will receive \$82,600. In FY 1994, all of the delinquent fines collected will be deposited in the General Fund. The counties will not be able to recover the costs for collecting delinquent fines.

**Fiscal Impact:**

Increasing the civil penalty for motor vehicle license revocations from \$100 to

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\$200 will generate an additional \$1.4 million in revenues for the State General Fund.

If the minimum fines are assessed to all Class C and D felonies and all aggravated and serious misdemeanors that were not previously fined, the revenue from fines could add \$8.2 million to the General Fund. If all simple misdemeanors that were fined received the minimum fine, there would be an increase of \$1.3 million to the General Fund. In addition, if the simple misdemeanors that were not previously fined receive the minimum fine, there would be an increase of \$1.6 million to the General Fund. These changes will result in an additional \$11.1 million to the General Fund.

However, setting minimum fines for each conviction could result in more cases in which the convicted offender cannot pay the fine. To the extent that offenders cannot pay the fine, the revenues to the General Fund will be reduced, and the communities will receive a corresponding amount of community service.

Since the counties would incur costs for collecting delinquent fines without being able to recover the costs, it is likely they will stop collecting delinquent fines. This will reduce the delinquent fines received by the General Fund by approximately \$153,000 and for the counties by approximately \$83,000.

Sources:

Department of Transportation  
Criminal Juvenile Justice Planning Division  
Department of Justice  
Judicial Department  
Iowa State Association of Counties  
Department of Management

(LSB 2633sv.2, MDF)

FILED APRIL 8, 1993

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 370  
FISCAL NOTE

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A fiscal note for Senate File 370 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 370 increases the civil penalty the Department of Transportation (DOT) assesses when a person's motor vehicle license is revoked for operating a motor vehicle while intoxicated from \$100 to \$200. Half of the fine will be deposited into the General Fund, and half will be deposited into the Victim Compensation Fund. Under current law, 100% of the funds collected are deposited into the Victim Compensation Fund.

Under this bill, if a fine is imposed for a Class "C" and "D" felony, the minimum fine is \$500, but the fine cannot exceed the current maximum. Under current law, no minimum fines for both the Class "C" and "D" felonies are established.

The bill establishes mandatory minimum fines of \$50 for a simple misdemeanor, \$250 for a serious misdemeanor, and \$500 for an aggravated misdemeanor.

The bill provides for community service by an offender who cannot pay an imposed fine. The rate used to calculate the community service is the federal minimum hourly wage.

The bill modifies Section 909.9, Code of Iowa to remove the payment of court costs from delinquent fines that are collected and to allow for payment of collection costs prior to the distribution of the funds to the counties and the General Fund.

The bill notwithstanding any other provision of law to deposit in the General Fund the first \$2.5 million in delinquent fines collected during FY 1994. The remaining delinquent fines that are collected are to be deposited with the Judicial Department.

**Assumptions:**

1. The current civil penalty of \$100, assessed for the revocation of a person's license, generates approximately \$1.4 million per year.
2. Based on calendar 1991 data, there are 2,106 Class C felonies, 3,506 Class D felonies, 7,953 aggravated misdemeanors, and 29,061 serious misdemeanors annually. No data are available for simple misdemeanors.
3. Of the total annual convictions, 296 Class C felonies, 818 Class D felonies, 3,018 aggravated misdemeanors, and 15,077 serious misdemeanors are assessed fines. The offenders who previously had not been fined will receive the minimum fine under the proposed law.
4. If a convicted offender cannot pay the fine, the offender will perform community service.
5. In FY 1993, approximately \$236,000 in delinquent fines will be collected,

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net of court costs. The General Fund will receive \$153,400, and the counties will receive \$82,600. In FY 1994, all of the delinquent fines collected will be deposited in the General Fund. The counties will not be able to recover the costs for collecting delinquent fines.

**Fiscal Impact:**

Increasing the civil penalty for motor vehicle license revocations from \$100 to \$200 will generate an additional \$1.4 million in revenues for the General Fund.

If the minimum fines are assessed to all Class C and D felonies and all aggravated and serious misdemeanors that would not have been fined previously, the revenue from fines could increase as much as \$8.2 million. However, setting minimum fines for each conviction could result in more cases in which the convicted offender could not pay the fine. To the extent that offenders cannot pay the fine, the revenues to the General Fund will be reduced, and the community will receive a corresponding amount of community service.

Since the counties would incur costs for collecting delinquent fines without being able to recover the costs, it is likely they will stop collecting delinquent fines. This will reduce the delinquent fines received by the General Fund by approximately \$153,000.

**Sources:**

Department of Transportation  
Criminal Juvenile Justice Planning Division  
Department of Justice  
Judicial Department  
Iowa State Association of Counties

(LSB 2633sv, MDF)

FILED MARCH 29, 1993

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 370

S-3350

- 1 Amend Senate File 370 as follows:  
2 1. Page 2, by striking lines 20 through 30 and  
3 inserting the following:  
4 "Sec. \_\_\_\_ . Section 903.1, subsection 1, paragraphs  
5 a and b, Code 1993, are amended to read as follows:".  
6 2. Page 2, line 31, by striking the word "shall"  
7 and inserting the following: "may".  
8 3. Page 2, line 35, by striking the word "shall"  
9 and inserting the following: "may".  
10 4. Page 3, by inserting after line 4, the  
11 following:  
12 "Sec. \_\_\_\_ . Section 903.1, subsection 2, Code 1993,  
13 is amended to read as follows:".  
14 5. Page 3, lines 7 and 8, by striking the words  
15 "~~years, or. There shall be~~" and inserting the  
16 following: "years, or".  
17 6. Page 3, line 9, by striking the words  
18 "~~dollars, or both~~" and inserting the following:  
19 "dollars, or both".  
20 7. By renumbering as necessary.

By COMMITTEE ON WAYS AND MEANS  
WILLIAM W. DIELEMAN, Chairperson

S-3350 FILED APRIL 1, 1993

*Lost*  
*4-5-93*  
*(P. 995)*

## SENATE FILE 370

H-4130

1 Amend Senate File 370, as passed by the Senate, as  
2 follows:

3 1. Page 1, lines 16 and 17, by striking the words  
4 and figure "unnumbered paragraph 1,".

5 2. Page 1, line 18, by inserting before the word  
6 "Enforce" the following: "5."

7 3. By striking page 1, line 32, through page 2,  
8 line 6, and inserting the following:

9 "If professional collection services are procured,  
10 the county attorney shall ~~enter-on-the-appropriate~~  
11 ~~record-of file with~~ the clerk of the district court an  
12 indication of the satisfaction of each obligation to  
13 the full extent of all moneys collected in  
14 satisfaction of that obligation, including all fees  
15 and compensation retained by the collection service  
16 incident to the collection and not paid into the  
17 office of the clerk.

18 Before a county attorney designates another county  
19 official or agency to assist with collection of debts,  
20 revenues, moneys, fines, penalties, restitution of  
21 court-appointed attorney fees or expense of a public  
22 defender, and forfeitures, the board of supervisors of  
23 the county must approve the designation.

24 ~~Notwithstanding the disposition provisions of sections~~  
25 ~~602.8106 and 911.37, the county may retain up to~~  
26 ~~thirty-five percent of all moneys collected, excluding~~  
27 ~~amounts collected for victim restitution, as~~  
28 ~~compensation for collection services. The county~~  
29 ~~attorney shall enter on the appropriate record of the~~  
30 ~~clerk of the district court an indication of the~~  
31 ~~satisfaction of each obligation, including the amount~~  
32 ~~retained by the county for collection services and not~~  
33 ~~paid into the office of the clerk.~~

34 Sec. \_\_\_\_ . Section 331.756, subsection 5, Code  
35 1993, is amended by adding the following new  
36 unnumbered paragraph:

37 NEW UNNUMBERED PARAGRAPH. All fines, penalties,  
38 court costs, fees, and restitution for court-appointed  
39 attorney fees or expenses of a public defender which  
40 are delinquent as defined in section 602.8107 may be  
41 collected by the county attorney or the county  
42 attorney's designee. In order to receive a percentage  
43 of the amounts collected pursuant to section 602.8107,  
44 the county attorney must file with the clerk of the  
45 district court a notice of full commitment to collect  
46 delinquent obligations. The notice shall contain a  
47 list of procedures which will be initiated by the  
48 county attorney. Amounts collected by the county  
49 attorney or the county attorney's designee shall be  
50 distributed in accordance with section 602.8107.

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Page 2

1 Sec. \_\_\_\_\_. Section 331.756, subsection 64A, Code  
2 1993, is amended by striking the subsection.

3 Sec. \_\_\_\_\_. Section 421.17, subsection 25, Code  
4 1993, is amended to read as follows:

5 25. To establish and maintain a procedure to set  
6 off against a debtor's income tax refund or rebate any  
7 debt which is in the form of a liquidated sum due,  
8 owing, and payable to the clerk of the district court  
9 as a criminal fine, civil penalty, surcharge, court  
10 costs, or restitution of attorney fees incurred as a  
11 result of services provided under chapters 13B and  
12 815, and section 232.141. The procedure shall meet  
13 the following conditions:

14 a. Before setoff all outstanding tax liabilities  
15 collectible by the department shall be satisfied  
16 except that no portion of a refund or rebate shall be  
17 credited against tax liabilities which are not yet  
18 due.

19 b. Before setoff the county-attorney clerk of the  
20 district court shall obtain and forward to the  
21 department the full name and social security number of  
22 the debtor. The department shall cooperate in the  
23 exchange of relevant information with the county  
24 attorney clerk of the district court. However, only  
25 relevant information required by the county-attorney  
26 clerk of the district court shall be provided by the  
27 department. The information shall be held in  
28 confidence and shall be used for purposes of setoff  
29 only.

30 c. The county-attorney clerk of the district  
31 court, on the first day of February and August of each  
32 calendar year, shall submit to the department for  
33 setoff the debts described in this subsection, which  
34 are at least fifty dollars.

35 ~~Upon submission of a claim the department shall~~  
36 ~~notify the county attorney if the debtor is entitled~~  
37 ~~to a refund or rebate and of the amount of the refund~~  
38 ~~or rebate and the debtor's address on the income tax~~  
39 ~~return.~~

40 ~~---e---Upon notice of entitlement to a refund or~~  
41 ~~rebate the county attorney~~ Upon submission of a claim  
42 the department shall send written notification to the  
43 debtor of the county-attorney's clerk of the district  
44 court's assertion of rights to all or a portion of the  
45 debtor's refund or rebate and the entitlement to  
46 recover the debt through the setoff procedure, the  
47 basis of the assertion, the opportunity to request  
48 that a joint income tax refund or rebate be divided  
49 between spouses, and the debtor's opportunity to give  
50 written notice of intent to contest the amount of the

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1 claim. ~~The county attorney shall send a copy of the~~  
2 ~~notice to the department.~~

3 f e. Upon the request of a debtor or a debtor's  
4 spouse to the county attorney department, filed within  
5 fifteen days from the mailing of the notice of  
6 entitlement to a refund or rebate, and upon receipt of  
7 the full name and social security number of the  
8 debtor's spouse, ~~the county attorney shall notify the~~  
9 ~~department of the request to divide a joint income tax~~  
10 ~~refund or rebate.~~ The department shall upon  
11 receipt of the notice divide a joint income tax refund  
12 or rebate between the debtor and the debtor's spouse  
13 in proportion to each spouse's net income as  
14 determined under section 422.7.

15 g f. The department shall, ~~after notice has been~~  
16 ~~sent to the debtor by the county attorney,~~ set off the  
17 debt against, and deduct a fee established by rule to  
18 reflect the cost of processing from the debtor's  
19 income tax refund or rebate. The department shall  
20 transfer ~~sixty-five~~ ninety percent of the amount set  
21 off to the treasurer of state for deposit in the  
22 general fund of the state. The remaining ~~thirty-five~~  
23 ten percent shall be remitted to the county and  
24 ~~deposited in the general fund of the county~~ judicial  
25 department and used to defray the costs of this  
26 procedure. If the debtor gives timely written notice  
27 of intent to contest the amount of the claim, the  
28 department shall hold the refund or rebate until final  
29 determination of the correct amount of the claim. ~~The~~  
30 ~~county attorney shall notify the debtor in writing~~  
31 ~~upon completion of setoff.~~

32 g. The department shall file with the clerk of the  
33 district court a notice of the satisfaction of each  
34 obligation to the full extent of all moneys collected  
35 in satisfaction of the obligation. The clerk shall  
36 record the notice and enter a satisfaction for the  
37 amounts collected.

38 Sec. \_\_\_\_ . Section 421.17, subsection 26, Code  
39 1993, is amended to read as follows:

40 26. To provide that in the case of multiple claims  
41 to payments filed under subsections 21, 23, 25, and 29  
42 that priority shall be given to claims filed by the  
43 child support recovery unit or the foster care  
44 recovery unit under subsection 21, next priority shall  
45 be given to claims filed by the college student aid  
46 commission under subsection 23, next priority shall be  
47 given to claims filed by the investigations division  
48 of the department of inspections and appeals under  
49 subsection 21, next priority shall be given to claims  
50 filed by a county attorney clerk of the district court

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1 under subsection 25, and last priority shall be given  
2 to claims filed by other state agencies under  
3 subsection 29. In the case of multiple claims under  
4 subsection 29, priority shall be determined in  
5 accordance with rules to be established by the  
6 director.

7 Sec. \_\_\_\_\_. Section 602.8102, subsection 164, Code  
8 1993, is amended by striking the subsection.

9 Sec. \_\_\_\_\_. NEW SECTION. 602.8107 COLLECTION OF  
10 FINES, PENALTIES, FEES, COURT COSTS, SURCHARGES,  
11 INTEREST, AND RESTITUTION.

12 1. Fines, penalties, court costs, fees, interest,  
13 restitution for court-appointed attorney fees, and  
14 surcharges shall be paid to the clerk of the district  
15 court. All amounts collected shall be distributed  
16 pursuant to sections 602.8106 and 602.8108 or as  
17 otherwise provided by this Code. The clerk may accept  
18 payment of an obligation or a portion thereof by  
19 credit card. The clerk may charge a fee to reflect  
20 the additional cost of processing the payment by  
21 credit card.

22 2. Payments received under this section shall be  
23 applied in the following priority order:

24 a. Fines or penalties plus any interest due on  
25 unsatisfied judgments and criminal penalty surcharges  
26 plus interest due on unsatisfied amounts.

27 b. Victim restitution.

28 c. Court costs.

29 d. Court-appointed attorney fees or public  
30 defender expenses.

31 3. The clerk of the district court shall initiate  
32 procedures pursuant to sections 321.40 and 321.210A if  
33 a fine, penalty, court cost, fee, restitution, or  
34 surcharge is not paid by the date it is due. At the  
35 time of payment, the clerk shall calculate the  
36 interest due on unsatisfied judgments.

37 4. A fine, penalty, court cost, fee, or surcharge  
38 is deemed delinquent if it is not paid within six  
39 months after the date it is assessed. An amount which  
40 was ordered by the court to be paid on a date fixed in  
41 the future pursuant to section 909.3 is deemed  
42 delinquent if it is not received by the clerk within  
43 six months after the fixed future date set out in the  
44 court order. If an amount was ordered to be paid by  
45 installments, and an installment is not received  
46 within thirty days after the date it is due, the  
47 entire amount of the judgment is deemed delinquent.

48 5. All fines, penalties, court costs, fees,  
49 surcharges, and restitution for court-appointed  
50 attorney fees or for expenses of a public defender

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1 which are delinquent may be collected by the county  
2 attorney or the county attorney's designee. Thirty-  
3 five percent of the amounts collected by the county  
4 attorney or the county attorney's designee shall be  
5 deposited in the general fund of the county if the  
6 county attorney has filed the notice required in  
7 section 331.756, subsection 5. The remainder shall be  
8 paid to the clerk for distribution under section  
9 602.8108.

10 This subsection does not apply to amounts collected  
11 for victim restitution, the victim compensation fund,  
12 criminal penalty surcharge, or amounts collected as a  
13 result of procedures initiated under section 321.40,  
14 321.210A, or 421.17, subsection 25.

15 The county attorney shall file with the clerk of  
16 the district court a notice of the satisfaction of  
17 each obligation to the full extent of the moneys  
18 collected in satisfaction of the obligation. The  
19 clerk of the district court shall record the notice  
20 and enter a satisfaction for the amounts collected.

21 6. If a county attorney has not filed a notice of  
22 commitment to collect delinquent obligations pursuant  
23 to section 331.756, subsection 5, the department of  
24 revenue and finance or its designee may collect  
25 delinquent fines, penalties, court costs, surcharges,  
26 restitutions for court-appointed attorney fees, or  
27 expenses of a public defender. From the amounts  
28 collected, the department shall pay for the services  
29 of its designee and the remainder shall be deposited  
30 in the general fund of the state.

31 This subsection does not apply to amounts collected  
32 for victim restitution, the new victim restitution  
33 fund, criminal penalty surcharge, or amounts collected  
34 as a result of procedures initiated under section  
35 321.40, 321.210A, or 421.17, subsection 25.

36 The department of revenue and finance or its  
37 collection designee shall file with the clerk of the  
38 district court a notice of the satisfaction of each  
39 obligation to the full extent of the moneys collected  
40 in satisfaction of the obligation. The clerk of the  
41 district court shall record the notice and enter a  
42 satisfaction for the amounts collected."

43 4. Page 3, by inserting after line 13 the  
44 following:

45 "Sec. \_\_\_\_ . Section 909.3, Code 1993, is amended to  
46 read as follows:

47 909.3 PAYMENT IN INSTALLMENTS OR ON A FIXED DATE.

48 1. All fines imposed by the court shall be paid on  
49 the day the fine is imposed.

50 2. The court may, in its discretion, order a fine

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1 to be paid in installments, or may fix a date in the  
 2 future which is not more than thirty days from the  
 3 date the fine is imposed for the payment of the fine,  
 4 whenever it appears that the defendant cannot make  
 5 immediate payment, or should not be made to do so."

6 5. Page 3, by inserting after line 21 the  
 7 following:

8 "Sec. \_\_\_\_\_. Section 909.6, Code 1993, is amended by  
 9 adding the following new unnumbered paragraphs:

10 NEW UNNUMBERED PARAGRAPH. Whenever a court imposes  
 11 a fine on an offender, the court shall impose interest  
 12 charges on any amount remaining unsatisfied from the  
 13 day after sentencing at the rate provided in section  
 14 535.3.

15 NEW UNNUMBERED PARAGRAPH. At the time of imposing  
 16 the sentence, the court shall inform the offender of  
 17 the amount of the fine and that the judgment includes  
 18 the imposition of a criminal surcharge, court costs,  
 19 and applicable fees. The court shall also inform the  
 20 offender of the duty to pay the judgment in a timely  
 21 manner and that interest will be charged on  
 22 unsatisfied judgments."

23 6. Page 4, by striking lines 1 through 30 and  
 24 inserting the following:

25 "Sec. \_\_\_\_\_. Section 909.9, Code 1993, is repealed."

26 7. By renumbering as necessary.

By GRUBBS of Scott

H-4130 FILED APRIL 21, 1993

ADOPTED PG.1 LINES 3-6 PG. 6 LINES 6-22 OUT OF ORDER

SENATE FILE 370

H-4131

1 Amend the amendment, H-4130, to Senate File 370, as  
 2 passed by the Senate, as follows:

3 1. Page 6, line 2, by striking the word "thirty"  
 4 and inserting the following: "one hundred twenty".

5 2. Page 6, by inserting after line 5 the follow-  
 6 ing:

7 "For good cause, the court may order that the date  
 8 for payment of the fine be extended beyond one hundred  
 9 twenty days from the date the fine was imposed."

By MILLAGE of Scott

H-4131 FILED APRIL 21, 1993

*Adopted 4-21-93*

SENATE FILE 370

H-4134

1 Amend amendment H-4130, to Senate File 370, as  
 2 passed by the Senate, as follows:

3 1. Page 4, by striking lines 31 through 36.

By GRUBBS of Scott

H-4134 FILED APRIL 21, 1993

ADOPTED BY UNANIMOUS CONSENT

SENATE FILE 370

H-4072

- 1 Amend Senate File 370, as passed by the Senate, as  
2 follows:  
3 1. By striking page 2, line 7 through 3, line 13  
4 and inserting the following:  
5 "Sec. \_\_\_\_ . Section 903.1, subsection 1, paragraph  
6 b, Code 1993, is amended to read as follows:  
7 b. For a serious misdemeanor, imprisonment not to  
8 exceed one year, or a fine not to exceed one two  
9 thousand five hundred dollars, or both."  
10 2. Title page, lines 1 and 2, by striking the  
11 words "setting minimum fines for certain criminal  
12 convictions" and inserting the following: "increasing  
13 maximum serious misdemeanor fines".  
14 3. By renumbering as necessary.

By NEUHAUSER of Johnson

H-4072 FILED APRIL 20, 1993

*adopted 4-21-93 (P.1493)*

SENATE FILE 370

H-4115

- 1 Amend the amendment, H-3841, to Senate File 370, as  
2 passed by the Senate, as follows:  
3 1. Page 1, by striking lines 3 and 4 and  
4 inserting the following:  
5 "\_\_\_\_. Page 1, by striking lines 16 through 31."  
6 2. Page 1, by striking lines 13 and 14 and  
7 inserting the following:  
8 "\_\_\_\_. Page 3, by striking lines 14 through 35."  
9 3. By renumbering as necessary.

By MCNEAL of Hardin

H-4115 FILED APRIL 21, 1993

ADOPTED

SENATE FILE 370

H-4105

- 1 Amend the amendment, H-4054, to Senate File 370, as  
2 passed by the Senate, as follows:  
3 1. Page 7, line 22, by striking the word "thirty"  
4 and inserting the following: "one hundred twenty".  
5 2. Page 7, by inserting after line 25 the follow-  
6 ing:  
7 "For good cause, the court may order that the date  
8 for payment of the fine be extended beyond one hundred  
9 twenty days from the date the fine was imposed."

By MILLAGE of Scott

H-4105 FILED APRIL 21, 1993

OUT OF ORDER

## SENATE FILE 370

H-4054

1 Amend Senate File 370, as passed by the Senate, as  
2 follows:

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

5 "Section 1. Section 321.40, unnumbered paragraph  
6 4, Code 1993, is amended to read as follows:

7 The county treasurer shall refuse to renew the  
8 registration of a vehicle registered to a person when  
9 notified ~~that there is a warrant outstanding for that~~  
10 ~~person's arrest out of a court located within that~~  
11 ~~county and the warrant arises out of the alleged~~  
12 ~~violation of a provision of this chapter or of an~~  
13 ~~ordinance adopted by a local authority relating to the~~  
14 ~~stopping, parking or operation of a vehicle or the~~  
15 ~~regulation of traffic~~ by the clerk of the district  
16 court that a person has failed to pay a fine, penalty,  
17 court cost, fee, or surcharge when ordered to do so by  
18 a court. Each clerk of the district court in this  
19 state shall, by the last day of each month, notify the  
20 county treasurer of that county of ~~all persons against~~  
21 ~~whom such an arrest warrant has been issued and is~~  
22 ~~outstanding~~ the names of the persons owing fines,  
23 penalties, court costs, fees, or surcharges.

24 Immediately upon the cancellation or satisfaction of  
25 ~~such an arrest warrant~~ the fine, penalty, court cost,  
26 fee, or surcharge the clerk of the district court  
27 shall notify ~~the person against whom the arrest~~  
28 ~~warrant was issued and the county treasurer if that~~  
29 ~~person's name appeared on the last list furnished to~~  
30 ~~the county treasurer.~~ The county treasurer shall  
31 collect an additional five dollar fee from the person  
32 and the fee shall be deposited in the county general  
33 fund to be used to defray the cost of implementing  
34 this procedure. This paragraph does not apply to the  
35 transfer of a registration or the issuance of a new  
36 registration. ~~The provisions of this paragraph are~~  
37 ~~applicable to counties with a population of two~~  
38 ~~hundred thousand or more. The provisions of this~~  
39 ~~paragraph shall be applicable to any county with a~~  
40 ~~population of less than two hundred thousand upon the~~  
41 ~~adoption of a resolution by the county board of~~  
42 ~~supervisors so providing.~~

43 Sec. \_\_\_\_ . Section 321.210A, Code 1993, is amended  
44 to read as follows:

45 321.210A SUSPENSION FOR FAILURE TO PAY FINE,  
46 PENALTY, SURCHARGE, OR COURT COSTS.

47 The department shall suspend the motor vehicle  
48 license of a person who, upon conviction of violating  
49 a law regulating the operation of a motor vehicle, has  
50 failed to pay the criminal fine or penalty, surcharge,

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WITHDRAWN

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1 or court costs, as follows:

2 1. Upon the failure of a person to timely pay the  
3 fine, penalty, surcharge, or court costs the clerk of  
4 the district court shall notify the person by regular  
5 mail that if the fine, penalty, surcharge, or court  
6 costs remain unpaid after sixty ten days from the date  
7 of mailing, the clerk will notify the department of  
8 the failure for purposes of instituting suspension  
9 procedures.

10 2. Upon the failure of a person to pay the fine,  
11 penalty, surcharge, or court costs within sixty ten  
12 days notice by the clerk of the district court as  
13 provided in subsection 1, the clerk shall report the  
14 failure to the department.

15 3. Upon receipt of a report of a failure to pay  
16 the fine, penalty, surcharge, or court costs from the  
17 clerk of the district court, the department shall in  
18 accordance with its rules, suspend the person's motor  
19 vehicle license until the fine, penalty, surcharge, or  
20 court costs are paid, unless the person proves to the  
21 satisfaction of the department that the person cannot  
22 pay the fine, penalty, surcharge, or court costs."

23 2. Page 1, lines 16 and 17, by striking the words  
24 and figure "unnumbered paragraph 1,".

25 3. Page 1, line 18, by inserting before the word  
26 "Enforce" the following: "5."

27 4. By striking page 1, line 32, through page 2,  
28 line 6, and inserting the following:

29 "If professional collection services are procured,  
30 the county attorney shall ~~enter-on-the-appropriate~~  
31 ~~record-of file~~ with the clerk of the district court an  
32 indication of the satisfaction of each obligation to  
33 the full extent of all moneys collected in  
34 satisfaction of that obligation, including all fees  
35 and compensation retained by the collection service  
36 incident to the collection and not paid into the  
37 office of the clerk.

38 Before a county attorney designates another county  
39 official or agency to assist with collection of debts,  
40 revenues, moneys, fines, penalties, restitution of  
41 court-appointed attorney fees or expense of a public  
42 defender, and forfeitures, the board of supervisors of  
43 the county must approve the designation.

44 ~~Notwithstanding the disposition provisions of sections~~  
45 ~~602.0106 and 911.37, the county may retain up to~~  
46 ~~thirty-five percent of all moneys collected, excluding~~  
47 ~~amounts collected for victim restitution, as~~  
48 ~~compensation for collection services. The county~~  
49 ~~attorney shall enter on the appropriate record of the~~  
50 ~~clerk of the district court an indication of the~~

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~~satisfaction-of-each-obligation,-including-the-amount  
retained-by-the-county-for-collection-services-and-not  
paid-into-the-office-of-the-clerk-~~

3  
4 Sec. \_\_\_\_ . Section 331.756, subsection 5, Code  
5 1993, is amended by adding the following new  
6 unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. All fines, penalties,  
8 court costs, fees, and restitution for court-appointed  
9 attorney fees or expenses of a public defender which  
10 are delinquent as defined in section 602.8107 may be  
11 collected by the county attorney or the county  
12 attorney's designee. In order to receive a percentage  
13 of the amounts collected pursuant to section 602.8107,  
14 the county attorney must file with the clerk of the  
15 district court a notice of full commitment to collect  
16 delinquent obligations. The notice shall contain a  
17 list of procedures which will be initiated by the  
18 county attorney. Amounts collected by the county  
19 attorney or the county attorney's designee shall be  
20 distributed in accordance with section 602.8107.

21 Sec. \_\_\_\_ . Section 331.756, subsection 64A, Code  
22 1993, is amended by striking the subsection.

23 Sec. \_\_\_\_ . Section 421.17, subsection 25, Code  
24 1993, is amended to read as follows:

25 25. To establish and maintain a procedure to set  
26 off against a debtor's income tax refund or rebate any  
27 debt which is in the form of a liquidated sum due,  
28 owing, and payable to the clerk of the district court  
29 as a criminal fine, civil penalty, surcharge, court  
30 costs, or restitution of attorney fees incurred as a  
31 result of services provided under chapters 13B and  
32 815, and section 232.141. The procedure shall meet  
33 the following conditions:

34 a. Before setoff all outstanding tax liabilities  
35 collectible by the department shall be satisfied  
36 except that no portion of a refund or rebate shall be  
37 credited against tax liabilities which are not yet  
38 due.

39 b. Before setoff the county-attorney clerk of the  
40 district court shall obtain and forward to the  
41 department the full name and social security number of  
42 the debtor. The department shall cooperate in the  
43 exchange of relevant information with the county  
44 attorney clerk of the district court. However, only  
45 relevant information required by the county-attorney  
46 clerk of the district court shall be provided by the  
47 department. The information shall be held in  
48 confidence and shall be used for purposes of setoff  
49 only.

50 c. The county-attorney clerk of the district

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1 court, on the first day of February and August of each  
2 calendar year, shall submit to the department for  
3 setoff the debts described in this subsection, which  
4 are at least fifty dollars.

5 d. ~~Upon submission of a claim the department shall~~  
6 ~~notify the county attorney if the debtor is entitled~~  
7 ~~to a refund or rebate and of the amount of the refund~~  
8 ~~or rebate and the debtor's address on the income tax~~  
9 ~~return.~~

10 ~~---e---~~ Upon notice of entitlement to a refund or  
11 ~~rebate the county attorney~~ Upon submission of a claim  
12 ~~the department~~ shall send written notification to the  
13 debtor of the ~~county attorney's~~ clerk of the district  
14 ~~court's~~ assertion of rights to all or a portion of the  
15 debtor's refund or rebate and the entitlement to  
16 recover the debt through the setoff procedure, the  
17 basis of the assertion, the opportunity to request  
18 that a joint income tax refund or rebate be divided  
19 between spouses, and the debtor's opportunity to give  
20 written notice of intent to contest the amount of the  
21 claim. ~~The county attorney shall send a copy of the~~  
22 ~~notice to the department.~~

23 f e. Upon the request of a debtor or a debtor's  
24 spouse to the ~~county attorney~~ department, filed within  
25 fifteen days from the mailing of the notice of  
26 entitlement to a refund or rebate, and upon receipt of  
27 the full name and social security number of the  
28 debtor's spouse, ~~the county attorney shall notify the~~  
29 ~~department of the request to divide a joint income tax~~  
30 ~~refund or rebate.~~ The department shall upon  
31 receipt of the notice divide a joint income tax refund  
32 or rebate between the debtor and the debtor's spouse  
33 in proportion to each spouse's net income as  
34 determined under section 422.7.

35 g f. The department shall, ~~after notice has been~~  
36 ~~sent to the debtor by the county attorney,~~ set off the  
37 debt against, and deduct a fee established by rule to  
38 ~~reflect the cost of processing from the debtor's~~  
39 ~~income tax refund or rebate.~~ The department shall  
40 transfer ~~sixty-five~~ ninety percent of the amount set  
41 off to the treasurer of state for deposit in the  
42 general fund of the state. The remaining ~~thirty-five~~  
43 ten percent shall be remitted to the county and  
44 ~~deposited in the general fund of the county~~ judicial  
45 department and used to defray the costs of this  
46 procedure. If the debtor gives timely written notice  
47 of intent to contest the amount of the claim, the  
48 department shall hold the refund or rebate until final  
49 determination of the correct amount of the claim. ~~The~~  
50 ~~county attorney shall notify the debtor in writing~~

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1 ~~upon-completion-of-setoff-~~

2 g. The department shall file with the clerk of the  
3 district court a notice of the satisfaction of each  
4 obligation to the full extent of all moneys collected  
5 in satisfaction of the obligation. The clerk shall  
6 record the notice and enter a satisfaction for the  
7 amounts collected.

8 Sec. \_\_\_\_ . Section 421.17, subsection 26, Code  
9 1993, is amended to read as follows:

10 26. To provide that in the case of multiple claims  
11 to payments filed under subsections 21, 23, 25, and 29  
12 that priority shall be given to claims filed by the  
13 child support recovery unit or the foster care  
14 recovery unit under subsection 21, next priority shall  
15 be given to claims filed by the college student aid  
16 commission under subsection 23, next priority shall be  
17 given to claims filed by the investigations division  
18 of the department of inspections and appeals under  
19 subsection 21, next priority shall be given to claims  
20 filed by a county-attorney clerk of the district court  
21 under subsection 25, and last priority shall be given  
22 to claims filed by other state agencies under  
23 subsection 29. In the case of multiple claims under  
24 subsection 29, priority shall be determined in  
25 accordance with rules to be established by the  
26 director.

27 Sec. \_\_\_\_ . Section 602.8102, subsection 164, Code  
28 1993, is amended by striking the subsection.

29 Sec. \_\_\_\_ . NEW SECTION. 602.8107 COLLECTION OF  
30 FINES, PENALTIES, FEES, COURT COSTS, SURCHARGES,  
31 INTEREST, AND RESTITUTION.

32 1. Fines, penalties, court costs, fees, interest,  
33 restitution for court-appointed attorney fees, and  
34 surcharges shall be paid to the clerk of the district  
35 court. All amounts collected shall be distributed  
36 pursuant to sections 602.8106 and 602.8108 or as  
37 otherwise provided by this Code. The clerk may accept  
38 payment of an obligation or a portion thereof by  
39 credit card. The clerk may charge a fee to reflect  
40 the additional cost of processing the payment by  
41 credit card.

42 2. Payments received under this section shall be  
43 applied in the following priority order:

44 a. Fines or penalties plus any interest due on  
45 unsatisfied judgments and criminal penalty surcharges  
46 plus interest due on unsatisfied amounts.

47 b. Victim restitution.

48 c. Court costs.

49 d. Court-appointed attorney fees or public  
50 defender expenses.

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1 3. The clerk of the district court shall initiate  
2 procedures pursuant to sections 321.40 and 321.210A if  
3 a fine, penalty, court cost, fee, restitution, or  
4 surcharge is not paid by the date it is due. At the  
5 time of payment, the clerk shall calculate the  
6 interest due on unsatisfied judgments.

7 4. A fine, penalty, court cost, fee, or surcharge  
8 is deemed delinquent if it is not paid within six  
9 months after the date it is assessed. An amount which  
10 was ordered by the court to be paid on a date fixed in  
11 the future pursuant to section 909.3 is deemed  
12 delinquent if it is not received by the clerk within  
13 six months after the fixed future date set out in the  
14 court order. If an amount was ordered to be paid by  
15 installments, and an installment is not received  
16 within thirty days after the date it is due, the  
17 entire amount of the judgment is deemed delinquent.

18 5. All fines, penalties, court costs, fees,  
19 surcharges, and restitution for court-appointed  
20 attorney fees or for expenses of a public defender  
21 which are delinquent may be collected by the county  
22 attorney or the county attorney's designee. Thirty-  
23 five percent of the amounts collected by the county  
24 attorney or the county attorney's designee shall be  
25 deposited in the general fund of the county if the  
26 county attorney has filed the notice required in  
27 section 331.756, subsection 5. The remainder shall be  
28 paid to the clerk for distribution under section  
29 602.8108.

30 This subsection does not apply to amounts collected  
31 for victim restitution, the victim compensation fund,  
32 criminal penalty surcharge, or amounts collected as a  
33 result of procedures initiated under section 321.40,  
34 321.210A, or 421.17, subsection 25.

35 The county attorney shall file with the clerk of  
36 the district court a notice of the satisfaction of  
37 each obligation to the full extent of the moneys  
38 collected in satisfaction of the obligation. The  
39 clerk of the district court shall record the notice  
40 and enter a satisfaction for the amounts collected.

41 6. If a county attorney has not filed a notice of  
42 commitment to collect delinquent obligations pursuant  
43 to section 331.756, subsection 5, the department of  
44 revenue and finance or its designee may collect  
45 delinquent fines, penalties, court costs, surcharges,  
46 restitutions for court-appointed attorney fees, or  
47 expenses of a public defender. From the amounts  
48 collected, the department shall pay for the services  
49 of its designee and the remainder shall be deposited  
50 in the general fund of the state.

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1 This subsection does not apply to amounts collected  
2 for victim restitution, the new victim restitution  
3 fund, criminal penalty surcharge, or amounts collected  
4 as a result of procedures initiated under section  
5 321.40, 321.210A, or 421.17, subsection 25.

6 The department of revenue and finance or its  
7 collection designee shall file with the clerk of the  
8 district court a notice of the satisfaction of each  
9 obligation to the full extent of the moneys collected  
10 in satisfaction of the obligation. The clerk of the  
11 district court shall record the notice and enter a  
12 satisfaction for the amounts collected."

13 5. Page 3, by inserting after line 13 the  
14 following:

15 "Sec. \_\_\_\_\_. Section 909.3, Code 1993, is amended to  
16 read as follows:

17 909.3 PAYMENT IN INSTALLMENTS OR ON A FIXED DATE.

18 1. All fines imposed by the court shall be paid on  
19 the day the fine is imposed.

20 2. The court may, in its discretion, order a fine  
21 to be paid in installments, or may fix a date in the  
22 future which is not more than thirty days from the  
23 date the fine is imposed for the payment of the fine,  
24 whenever it appears that the defendant cannot make  
25 immediate payment, or should not be made to do so.

26 3. If the court orders the fine to be paid in  
27 installments or at a fixed future date, the court  
28 shall also impose a time payment fee in the amount of  
29 twenty dollars which shall be paid on the date the  
30 fine is imposed."

31 6. Page 3, by inserting after line 21 the  
32 following:

33 "Sec. \_\_\_\_\_. Section 909.6, Code 1993, is amended by  
34 adding the following new unnumbered paragraphs:

35 NEW UNNUMBERED PARAGRAPH. Whenever a court imposes  
36 a fine on an offender, the court shall impose interest  
37 charges on any amount remaining unsatisfied from the  
38 day after sentencing at the rate provided in section  
39 535.3.

40 NEW UNNUMBERED PARAGRAPH. At the time of imposing  
41 the sentence, the court shall inform the offender of  
42 the amount of the fine and that the judgment includes  
43 the imposition of a criminal surcharge, court costs,  
44 and applicable fees. The court shall also inform the  
45 offender of the duty to pay the judgment in a timely  
46 manner and that interest will be charged on  
47 unsatisfied judgments."

48 7. Page 4, by striking lines 1 through 30 and  
49 inserting the following:

50 "Sec. \_\_\_\_\_. Section 909.9, Code 1993, is repealed."

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1 8. By renumbering as necessary.

By GRUBBS of Scott

H-4054 FILED APRIL 19, 1993

**WITHDRAWN**  
4.21.93

SENATE FILE 370

H-3841

- 1 Amend Senate File 370, as passed by the Senate, as  
2 follows:  
3 1. By striking page 1, line 16 through page 2,  
4 line 6.  
5 2. Page 2, by striking lines 31 through 34 and  
6 inserting the following:  
7 "a. For a simple misdemeanor, either imprisonment  
8 not to exceed thirty days, or a fine of at least fifty  
9 dollars but not to exceed one hundred dollars."  
10 3. Page 3, line 1, by striking the words "two  
11 thousand" and inserting the following: "one  
12 thousand".  
13 4. By striking page 3, line 14 through page 4,  
14 line 30.  
15 5. By renumbering as necessary.

By COMMITTEE ON JUDICIARY AND LAW  
ENFORCEMENT  
McNEAL of Hardin, Chairperson

H-3841 FILED APRIL 12, 1993

*Adopted 4-21-93 (P.150)*

SENATE FILE 370

H-3876

- 1 Amend Senate File 370, as passed by the Senate, as  
2 follows:  
3 1. Page 1, by striking lines 1 through 15.  
4 2. Title page, by striking lines 2 and 3 and  
5 inserting the following: "convictions, collecting  
6 delinquent".  
7 3. By renumbering as necessary.

By PLASIER of Sioux

H-3876 FILED APRIL 12, 1993

WITHDRAWN

*4.21.93*

**RECORDED**

## SENATE FILE 370

S-3615

1 Amend the House amendment, S-3592, to Senate File  
2 370, as passed by the Senate, as follows:  
3 1. Page 1, by striking line 3 and inserting the  
4 following:  
5 "\_\_\_\_. Page 1, lines 16 and 17, by striking the  
6 words and figure "unnumbered paragraph 1,".  
7 \_\_\_\_\_. Page 1, line 18, by inserting before the  
8 word "Enforce" the following: "5."  
9 2. Page 1, lines 38 and 39, by striking the words  
10 "county attorney's designee" and inserting the follow-  
11 ing: "person procured or designated by the county  
12 attorney".  
13 3. Page 1, line 46, by striking the words "county  
14 attorney's designee" and inserting the following:  
15 "person procured or designated by the county  
16 attorney".  
17 4. Page 4, line 45, by striking the words "county  
18 attorney's designee" and inserting the following:  
19 "person procured or designated by the county  
20 attorney".  
21 5. Page 4, line 48, by inserting after the figure  
22 "5" the following: ", unless the county attorney has  
23 discontinued collection efforts on a particular  
24 delinquent amount and has transferred collection  
25 responsibilities to the department of revenue and  
26 finance".  
27 6. Page 5, lines 4 and 5, by striking the figures  
28 and word "321.40, 321.210A, or".  
29 7. Page 5, line 14, by inserting after the figure  
30 "5" the following: ", or has transferred collection  
31 responsibility for a particular delinquent amount to  
32 the department".  
33 8. Page 5, line 26, by striking the figures and  
34 word "321.40, 321.210A, or".  
35 9. Page 6, by striking line 9 and inserting the  
36 following:  
37 "\_\_\_\_. Page 3, by inserting after line 21 the  
38 following:  
39 "Sec. \_\_\_\_\_. Section 909.6, Code 1993, is amended by  
40 adding the following new unnumbered paragraphs:  
41 NEW UNNUMBERED PARAGRAPH. If a court imposes a  
42 fine on an offender, the court shall impose interest  
43 charges on any amount remaining unsatisfied from the  
44 day after sentencing at the rate provided in section  
45 535.3.  
46 NEW UNNUMBERED PARAGRAPH. At the time of imposing  
47 the sentence, the court shall inform the offender of  
48 the amount of the fine and that the judgment includes  
49 the imposition of a criminal surcharge, court costs,  
50 and applicable fees. The court shall also inform the

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1 offender of the duty to pay the judgment in a timely  
2 manner and that interest will be charged on  
3 unsatisfied judgments."

4 10. Page 6, by inserting after line 11 the  
5 following:

6 "Sec. \_\_\_\_ . Section 909.10, if enacted by 1993  
7 Iowa Acts, Senate File 267, section 22, is amended to  
8 read as follows:

9 909.10 COLLECTION OF DELINQUENT AMOUNTS BY THE  
10 COURT.

11 1. As used in this section, unless the context  
12 otherwise requires, "delinquent amounts" means a fine,  
13 court-imposed court costs in a criminal proceeding, or  
14 criminal surcharge imposed pursuant to section 911.2,  
15 which remains unpaid after two years from the date  
16 that the fine, court costs, or surcharge was imposed,  
17 and which is not collected by the county attorney  
18 pursuant to section 909.9 602.8107. However, if the  
19 fine may be paid in installments pursuant to section  
20 909.3, the fine is not a delinquent amount unless the  
21 installment remains unpaid after two years from the  
22 date the installment was due.

23 2. Notwithstanding the disposition sections of  
24 sections 602.8106 and 911.3, upon the collection of  
25 delinquent amounts, the clerks of the district court  
26 shall remit the delinquent amounts to the treasurer of  
27 state for deposit into the revolving fund established  
28 pursuant to section 602.1302, to be used for the  
29 payment of jury and witness fees and mileage."

30 11. By renumbering as necessary.

By TOM VILSACK

S-3615 FILED APRIL 23, 1993

ADOPTED

HOUSE AMENDMENT TO  
SENATE FILE 370

S-3592

1 Amend Senate File 370, as passed by the Senate, as  
2 follows:

3 1. Page 1, by striking lines 16 through 31.

4 2. By striking page 1, line 32, through page 2,  
5 line 6, and inserting the following:

6 "If professional collection services are procured,  
7 the county attorney shall ~~enter-on-the-appropriate~~  
8 ~~record-of file~~ with the clerk of the district court an  
9 indication of the satisfaction of each obligation to  
10 the full extent of all moneys collected in  
11 satisfaction of that obligation, including all fees  
12 and compensation retained by the collection service  
13 incident to the collection and not paid into the  
14 office of the clerk.

15 Before a county attorney designates another county  
16 official or agency to assist with collection of debts,  
17 revenues, moneys, fines, penalties, restitution of  
18 court-appointed attorney fees or expense of a public  
19 defender, and forfeitures, the board of supervisors of  
20 the county must approve the designation.

21 ~~Notwithstanding the disposition provisions of sections~~  
22 ~~602.8106 and 911.3, the county may retain up to~~  
23 ~~thirty-five percent of all moneys collected, excluding~~  
24 ~~amounts collected for victim restitution, as~~  
25 ~~compensation for collection services. The county~~  
26 ~~attorney shall enter on the appropriate record of the~~  
27 ~~clerk of the district court an indication of the~~  
28 ~~satisfaction of each obligation, including the amount~~  
29 ~~retained by the county for collection services and not~~  
30 ~~paid into the office of the clerk.~~

31 Sec. \_\_\_\_\_. Section 331.756, subsection 5, Code  
32 1993, is amended by adding the following new  
33 unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. All fines, penalties,  
35 court costs, fees, and restitution for court-appointed  
36 attorney fees or expenses of a public defender which  
37 are delinquent as defined in section 602.8107 may be  
38 collected by the county attorney or the county  
39 attorney's designee. In order to receive a percentage  
40 of the amounts collected pursuant to section 602.8107,  
41 the county attorney must file with the clerk of the  
42 district court a notice of full commitment to collect  
43 delinquent obligations. The notice shall contain a  
44 list of procedures which will be initiated by the  
45 county attorney. Amounts collected by the county  
46 attorney or the county attorney's designee shall be  
47 distributed in accordance with section 602.8107.

48 Sec. \_\_\_\_\_. Section 331.756, subsection 64A, Code  
49 1993, is amended by striking the subsection.

50 Sec. \_\_\_\_\_. Section 421.17, subsection 25, Code

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1 1993, is amended to read as follows:

2 25. To establish and maintain a procedure to set  
3 off against a debtor's income tax refund or rebate any  
4 debt which is in the form of a liquidated sum due,  
5 owing, and payable to the clerk of the district court  
6 as a criminal fine, civil penalty, surcharge, court  
7 costs, or restitution of attorney fees incurred as a  
8 result of services provided under chapters 13B and  
9 815, and section 232.141. The procedure shall meet  
10 the following conditions:

11 a. Before setoff all outstanding tax liabilities  
12 collectible by the department shall be satisfied  
13 except that no portion of a refund or rebate shall be  
14 credited against tax liabilities which are not yet  
15 due.

16 b. Before setoff the county-attorney clerk of the  
17 district court shall obtain and forward to the  
18 department the full name and social security number of  
19 the debtor. The department shall cooperate in the  
20 exchange of relevant information with the county  
21 attorney clerk of the district court. However, only  
22 relevant information required by the county-attorney  
23 clerk of the district court shall be provided by the  
24 department. The information shall be held in  
25 confidence and shall be used for purposes of setoff  
26 only.

27 c. The county-attorney clerk of the district  
28 court, on the first day of February and August of each  
29 calendar year, shall submit to the department for  
30 setoff the debts described in this subsection, which  
31 are at least fifty dollars.

32 ~~Upon submission of a claim the department shall~~  
33 ~~notify the county attorney if the debtor is entitled~~  
34 ~~to a refund or rebate and of the amount of the refund~~  
35 ~~or rebate and the debtor's address on the income tax~~  
36 ~~return.~~

37 ~~---e.---Upon notice of entitlement to a refund or~~  
38 ~~rebate the county attorney~~ Upon submission of a claim  
39 the department shall send written notification to the  
40 debtor of the county-attorney's clerk of the district  
41 court's assertion of rights to all or a portion of the  
42 debtor's refund or rebate and the entitlement to  
43 recover the debt through the setoff procedure, the  
44 basis of the assertion, the opportunity to request  
45 that a joint income tax refund or rebate be divided  
46 between spouses, and the debtor's opportunity to give  
47 written notice of intent to contest the amount of the  
48 claim. ~~The county attorney shall send a copy of the~~  
49 ~~notice to the department.~~

50 f e. Upon the request of a debtor or a debtor's

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Page 3

1 spouse to the county-attorney department, filed within  
2 fifteen days from the mailing of the notice of  
3 entitlement to a refund or rebate, and upon receipt of  
4 the full name and social security number of the  
5 debtor's spouse, ~~the county-attorney shall notify the~~  
6 ~~department of the request to divide a joint income tax~~  
7 ~~refund or rebate.~~ ~~The~~ the department shall upon  
8 receipt of the notice divide a joint income tax refund  
9 or rebate between the debtor and the debtor's spouse  
10 in proportion to each spouse's net income as  
11 determined under section 422.7.

12 g f. The department shall, ~~after notice has been~~  
13 ~~sent to the debtor by the county attorney,~~ set off the  
14 debt against, and deduct a fee established by rule to  
15 reflect the cost of processing from the debtor's  
16 income tax refund or rebate. The department shall  
17 transfer ~~sixty-five~~ ninety percent of the amount set  
18 off to the treasurer of state for deposit in the  
19 general fund of the state. The remaining ~~thirty-five~~  
20 ten percent shall be remitted to the county and  
21 ~~deposited in the general fund of the county~~ judicial  
22 department and used to defray the costs of this  
23 procedure. If the debtor gives timely written notice  
24 of intent to contest the amount of the claim, the  
25 department shall hold the refund or rebate until final  
26 determination of the correct amount of the claim. ~~The~~  
27 ~~county-attorney shall notify the debtor in writing~~  
28 ~~upon completion of setoff.~~

29 g. The department shall file with the clerk of the  
30 district court a notice of the satisfaction of each  
31 obligation to the full extent of all moneys collected  
32 in satisfaction of the obligation. The clerk shall  
33 record the notice and enter a satisfaction for the  
34 amounts collected.

35 Sec. \_\_\_\_ . Section 421.17, subsection 26, Code  
36 1993, is amended to read as follows:

37 26. To provide that in the case of multiple claims  
38 to payments filed under subsections 21, 23, 25, and 29  
39 that priority shall be given to claims filed by the  
40 child support recovery unit or the foster care  
41 recovery unit under subsection 21, next priority shall  
42 be given to claims filed by the college student aid  
43 commission under subsection 23, next priority shall be  
44 given to claims filed by the investigations division  
45 of the department of inspections and appeals under  
46 subsection 21, next priority shall be given to claims  
47 filed by a county-attorney clerk of the district court  
48 under subsection 25, and last priority shall be given  
49 to claims filed by other state agencies under  
50 subsection 29. In the case of multiple claims under

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1 subsection 29, priority shall be determined in  
2 accordance with rules to be established by the  
3 director.

4 Sec. \_\_\_\_\_. Section 602.8102, subsection 164, Code  
5 1993, is amended by striking the subsection.

6 Sec. \_\_\_\_\_. NEW SECTION. 602.8107 COLLECTION OF  
7 FINES, PENALTIES, FEES, COURT COSTS, SURCHARGES,  
8 INTEREST, AND RESTITUTION.

9 1. Fines, penalties, court costs, fees, interest,  
10 restitution for court-appointed attorney fees, and  
11 surcharges shall be paid to the clerk of the district  
12 court. All amounts collected shall be distributed  
13 pursuant to sections 602.8106 and 602.8108 or as  
14 otherwise provided by this Code. The clerk may accept  
15 payment of an obligation or a portion thereof by  
16 credit card. The clerk may charge a fee to reflect  
17 the additional cost of processing the payment by  
18 credit card.

19 2. Payments received under this section shall be  
20 applied in the following priority order:

21 a. Fines or penalties plus any interest due on  
22 unsatisfied judgments and criminal penalty surcharges  
23 plus interest due on unsatisfied amounts.

24 b. Victim restitution.

25 c. Court costs.

26 d. Court-appointed attorney fees or public  
27 defender expenses.

28 3. A fine, penalty, court cost, fee, or surcharge  
29 is deemed delinquent if it is not paid within six  
30 months after the date it is assessed. An amount which  
31 was ordered by the court to be paid on a date fixed in  
32 the future pursuant to section 909.3 is deemed  
33 delinquent if it is not received by the clerk within  
34 six months after the fixed future date set out in the  
35 court order. If an amount was ordered to be paid by  
36 instalments, and an installment is not received  
37 within thirty days after the date it is due, the  
38 entire amount of the judgment is deemed delinquent.

39 4. All fines, penalties, court costs, fees,  
40 surcharges, and restitution for court-appointed  
41 attorney fees or for expenses of a public defender  
42 which are delinquent may be collected by the county  
43 attorney or the county attorney's designee. Thirty-  
44 five percent of the amounts collected by the county  
45 attorney or the county attorney's designee shall be  
46 deposited in the general fund of the county if the  
47 county attorney has filed the notice required in  
48 section 331.756, subsection 5. The remainder shall be  
49 paid to the clerk for distribution under section  
50 602.8108.

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1 This subsection does not apply to amounts collected  
2 for victim restitution, the victim compensation fund,  
3 criminal penalty surcharge, or amounts collected as a  
4 result of procedures initiated under section 321.40,  
5 321.210A, or 421.17, subsection 25.

6 The county attorney shall file with the clerk of  
7 the district court a notice of the satisfaction of  
8 each obligation to the full extent of the moneys  
9 collected in satisfaction of the obligation. The  
10 clerk of the district court shall record the notice  
11 and enter a satisfaction for the amounts collected.

12 5. If a county attorney has not filed a notice of  
13 commitment to collect delinquent obligations pursuant  
14 to section 331.756, subsection 5, the department of  
15 revenue and finance or its designee may collect  
16 delinquent fines, penalties, court costs, surcharges,  
17 restitutions for court-appointed attorney fees, or  
18 expenses of a public defender. From the amounts  
19 collected, the department shall pay for the services  
20 of its designee and the remainder shall be deposited  
21 in the general fund of the state.

22 This subsection does not apply to amounts collected  
23 for victim restitution, the new victim restitution  
24 fund, criminal penalty surcharge, or amounts collected  
25 as a result of procedures initiated under section  
26 321.40, 321.210A, or 421.17, subsection 25.

27 The department of revenue and finance or its  
28 collection designee shall file with the clerk of the  
29 district court a notice of the satisfaction of each  
30 obligation to the full extent of the moneys collected  
31 in satisfaction of the obligation. The clerk of the  
32 district court shall record the notice and enter a  
33 satisfaction for the amounts collected."

34 3. Page 2, by striking lines 31 through 34 and  
35 inserting the following:

36 "a. For a simple misdemeanor, either imprisonment  
37 not to exceed thirty days, or a fine of at least fifty  
38 dollars but not to exceed one hundred dollars."

39 4. Page 3, line 1, by striking the words "two  
40 thousand" and inserting the following: "one  
41 thousand".

42 5. Page 3, by inserting after line 13 the  
43 following:

44 "Sec. \_\_\_\_ . Section 909.3, Code 1993, is amended to  
45 read as follows:

46 909.3 PAYMENT IN INSTALLMENTS OR ON A FIXED DATE.

47 1. All fines imposed by the court shall be paid on  
48 the day the fine is imposed.

49 2. The court may, in its discretion, order a fine  
50 to be paid in installments, or may fix a date in the

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1 future which is not more than one hundred twenty days  
2 from the date the fine is imposed for the payment of  
3 the fine, whenever it appears that the defendant  
4 cannot make immediate payment, or should not be made  
5 to do so."

6 For good cause, the court may order that the date  
7 for payment of the fine be extended beyond one hundred  
8 twenty days from the date the fine was imposed.

9 6. Page 3, by striking lines 14 through 35.

10 7. Page 4, by striking lines 1 through 30 and  
11 inserting the following:

12 "Sec. \_\_\_\_ . Section 909.9, Code 1993, is repealed."

13 8. By renumbering, relettering, or redesignating  
14 and correcting internal references as necessary.

RECEIVED-FROM THE HOUSE

S-3592 FILED APRIL 22, 1993

*Senate Concurred*  
*4/23/93*  
*(P. 1328)*

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 370  
H-4191

1 Amend the House amendment, S-3592, to Senate File  
2 370, as passed by the Senate, as follows:  
3 1. Page 1, by striking line 3 and inserting the  
4 following:  
5 "\_\_\_\_\_. Page 1, lines 16 and 17, by striking the  
6 words and figure "unnumbered paragraph 1,".  
7 \_\_\_\_\_. Page 1, line 18, by inserting before the  
8 word "Enforce" the following: "5."  
9 2. Page 1, lines 38 and 39, by striking the words  
10 "county attorney's designee" and inserting the follow-  
11 ing: "person procured or designated by the county  
12 attorney".  
13 3. Page 1, line 46, by striking the words "county  
14 attorney's designee" and inserting the following:  
15 "person procured or designated by the county  
16 attorney".  
17 4. Page 4, line 45, by striking the words "county  
18 attorney's designee" and inserting the following:  
19 "person procured or designated by the county  
20 attorney".  
21 5. Page 4, line 48, by inserting after the figure  
22 "5" the following: ", unless the county attorney has  
23 discontinued collection efforts on a particular  
24 delinquent amount and has transferred collection  
25 responsibilities to the department of revenue and  
26 finance".  
27 6. Page 5, lines 4 and 5, by striking the figures  
28 and word "321.40, 321.210A, or".  
29 7. Page 5, line 14, by inserting after the figure  
30 "5" the following: ", or has transferred collection  
31 responsibility for a particular delinquent amount to  
32 the department".  
33 8. Page 5, line 26, by striking the figures and  
34 word "321.40, 321.210A, or".  
35 9. Page 6, by striking line 9 and inserting the  
36 following:  
37 "\_\_\_\_\_. Page 3, by inserting after line 21 the  
38 following:  
39 "Sec. \_\_\_\_\_. Section 909.6, Code 1993, is amended by  
40 adding the following new unnumbered paragraphs:  
41 NEW UNNUMBERED PARAGRAPH. If a court imposes a  
42 fine on an offender, the court shall impose interest  
43 charges on any amount remaining unsatisfied from the  
44 day after sentencing at the rate provided in section  
45 535.3.  
46 NEW UNNUMBERED PARAGRAPH. At the time of imposing  
47 the sentence, the court shall inform the offender of  
48 the amount of the fine and that the judgment includes  
49 the imposition of a criminal surcharge, court costs,  
50 and applicable fees. The court shall also inform the

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Page 2

1 offender of the duty to pay the judgment in a timely  
2 manner and that interest will be charged on  
3 unsatisfied judgments."

4 10. Page 6, by inserting after line 11 the  
5 following:

6 ""Sec. \_\_\_\_ . Section 909.10, if enacted by 1993  
7 Iowa Acts, Senate File 267, section 22, is amended to  
8 read as follows:

9 909.10 COLLECTION OF DELINQUENT AMOUNTS BY THE  
10 COURT.

11 1. As used in this section, unless the context  
12 otherwise requires, "delinquent amounts" means a fine,  
13 court-imposed court costs in a criminal proceeding, or  
14 criminal surcharge imposed pursuant to section 911.2,  
15 which remains unpaid after two years from the date  
16 that the fine, court costs, or surcharge was imposed,  
17 and which is not collected by the county attorney  
18 pursuant to section ~~909.9~~ 602.8107. However, if the  
19 fine may be paid in installments pursuant to section  
20 909.3, the fine is not a delinquent amount unless the  
21 installment remains unpaid after two years from the  
22 date the installment was due.

23 2. Notwithstanding the disposition sections of  
24 sections 602.8106 and 911.3, upon the collection of  
25 delinquent amounts, the clerks of the district court  
26 shall remit the delinquent amounts to the treasurer of  
27 state for deposit into the revolving fund established  
28 pursuant to section 602.1302, to be used for the  
29 payment of jury and witness fees and mileage."

30 11. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4191 FILED APRIL 26, 1993

*House concurred 4/27/93 (p. 17/2)*

VILSACK, CH.  
GIANNETTO  
FURMAN

SSB 291  
JUDICIARY

SENATE FILE 370  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIR-  
PERSON STURGEON)

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

### A BILL FOR

1 An Act relating to setting minimum fines for certain criminal  
2 convictions, increasing the civil penalty assessed for certain  
3 motor vehicle license revocations, collecting delinquent  
4 fines, penalties, costs, and restitution, and allowing  
5 community service in lieu of a fine.

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

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1 Section 1. Section 321J.17, Code 1993, is amended to read  
2 as follows:

3 321J.17 CIVIL PENALTY -- VICTIM COMPENSATION FUND --  
4 REINSTATEMENT.

5 When the department revokes a person's motor vehicle  
6 license or nonresident operating privilege under this chapter,  
7 the department shall assess the person a civil penalty of one  
8 two hundred dollars. The money collected by the department  
9 under this section shall be transmitted to the treasurer of  
10 state who shall deposit one-half of the money in the separate  
11 fund established in section 912.14 and one-half of the money  
12 shall be deposited in the general fund of the state. A  
13 temporary restricted license shall not be issued or a motor  
14 vehicle license or nonresident operating privilege reinstated  
15 until the civil penalty has been paid.

16 Sec. 2. Section 331.756, subsection 5, unnumbered  
17 paragraph 1, Code 1993, is amended to read as follows:

18 Enforce all forfeited bonds and recognizances and prosecute  
19 all proceedings necessary for the recovery of debts, revenues,  
20 moneys, fines, penalties, restitution of court-appointed  
21 attorney fees or expense of a public defender, and forfeitures  
22 accruing to the state or the county or to a school district or  
23 road district in the county, and all suits in the county  
24 against public service corporations which are brought in the  
25 name of the state. To assist in this duty, the county  
26 attorney may procure professional collection services provided  
27 by persons or organizations, including private attorneys,  
28 which are generally considered to have knowledge and special  
29 abilities which are not generally available to state or local  
30 government or may designate another county official or agency  
31 to assist with collection efforts.

32 Sec. 3. Section 421.17, subsection 25, unnumbered  
33 paragraph 1, Code 1993, is amended to read as follows:

34 To establish and maintain a procedure to setoff against a  
35 debtor's income tax refund or rebate any debt which is in the

1 form of a liquidated sum due, owing, and payable as victim  
2 restitution or as a criminal fine, civil penalty, surcharge,  
3 court costs, or restitution of attorney fees incurred as a  
4 result of services provided under chapters 13B and 815, and  
5 section 232.141. The procedure shall meet the following  
6 conditions:

7 Sec. 4. Section 902.9, subsections 3 and 4, Code 1993, are  
8 amended to read as follows:

9 3. A class "C" felon, not an habitual offender, shall be  
10 confined for no more than ten years, and in addition may be  
11 sentenced to a fine of at least five hundred dollars but not  
12 more than ten thousand dollars.

13 4. A class "D" felon, not an habitual offender, shall be  
14 confined for no more than five years, and in addition may be  
15 sentenced to a fine of at least five hundred dollars but not  
16 more than seven thousand five hundred dollars. A class "D"  
17 felon, such felony being for a violation of section 321J.2,  
18 may be sentenced to imprisonment for up to one year in the  
19 county jail.

20 Sec. 5. Section 903.1, subsections 1 and 2, Code 1993, are  
21 amended to read as follows:

22 1. If a person eighteen years of age or older is convicted  
23 of a simple or serious misdemeanor and a specific penalty is  
24 not provided for or if a person under eighteen years of age  
25 has been waived to adult court pursuant to section 232.45 on a  
26 felony charge and is subsequently convicted of a simple,  
27 serious, or aggravated misdemeanor, the court shall determine  
28 the sentence, and shall fix the period of confinement or the  
29 amount of fine, if-such-be-the-sentence which fine shall not  
30 be suspended by the court, within the following limits:

31 a. For a simple misdemeanor, there shall be a fine of at  
32 least fifty dollars but not to exceed one hundred dollars. In  
33 addition, the court may also order imprisonment not to exceed  
34 thirty days, -or-a-fine-not-to-exceed-one-hundred-dollars.

35 b. For a serious misdemeanor, there shall be a fine of at

1 least two hundred fifty dollars but not to exceed two thousand  
2 five hundred dollars. In addition, the court may also order  
3 imprisonment not to exceed one year, ~~or a fine not to exceed~~  
4 ~~one thousand dollars, or both.~~

5 2. When a person is convicted of an aggravated  
6 misdemeanor, and a specific penalty is not provided for, the  
7 maximum penalty shall be imprisonment not to exceed two years,  
8 or. There shall be a fine of at least five hundred dollars  
9 but not to exceed five thousand dollars, or both. When a  
10 judgment of conviction of an aggravated misdemeanor is entered  
11 against any person and the court imposes a sentence of  
12 confinement for a period of more than one year the term shall  
13 be an indeterminate term.

14 Sec. 6. NEW SECTION. 909.3A COMMUNITY SERVICE OPTION.

15 The court may, in its discretion, order the defendant to  
16 perform community service work of an equivalent value to the  
17 fine imposed where it appears that the community service work  
18 will be adequate to deter the defendant and to discourage  
19 others from similar criminal activity. The rate at which  
20 community service shall be calculated shall be the average  
21 wage rate paid to employees of the governmental entity for  
22 which the community service will be performed.

23 Sec. 7. Section 909.7, Code 1993, is amended by adding the  
24 following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. A defendant who proves that the  
26 defendant cannot pay the fine may, at the discretion of the  
27 court, be ordered to perform community service pursuant to  
28 section 909.3A.

29 Sec. 8. Section 909.8, Code 1993, is amended to read as  
30 follows:

31 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL  
32 PENALTY SURCHARGE.

33 The provisions of this chapter governing the payment and  
34 collection of a fine, except section 909.3A, also apply to the  
35 payment and collection of a criminal penalty surcharge imposed

1 pursuant to chapter 911.

2 Sec. 9. Section 909.9, Code 1993, is amended to read as  
3 follows:

4 909.9 COLLECTION OF DELINQUENT FINES AND COURT COSTS --  
5 DISPOSITION.

6 A fine or court costs remaining unpaid ~~after-six-months~~  
7 ~~from-the-date-the-fine-or-court-costs-were-imposed~~ may be  
8 collected in accordance with section 331.756 by the county  
9 attorney. Of the amount collected, ~~after-payment-of-court~~  
10 ~~costs~~, sixty-five percent shall be remitted to the treasurer  
11 of state for deposit and disposition as otherwise provided by  
12 law. The remaining thirty-five percent shall be retained by  
13 the county and deposited in the general fund of the county,  
14 notwithstanding the disposition provisions of sections  
15 602.8106 and 911.3.

16 Sec. 10. Notwithstanding any other provision of law to the  
17 contrary, for the fiscal year beginning July 1, 1993, and  
18 ending June 30, 1994, only, of the fines, penalties,  
19 surcharges, court costs, and fees which are delinquent on July  
20 1, 1993, or which become delinquent between July 1, 1993, and  
21 June 30, 1994, the first two million five hundred thousand  
22 dollars collected during the fiscal year beginning July 1,  
23 1993, pursuant to section 331.756, subsection 5, section  
24 421.17, subsection 25, and section 909.9, shall be deposited  
25 in the general fund of the state and the excess shall be  
26 deposited with the judicial department.

27 The judicial department shall report to the general  
28 assembly by January 15, 1994, regarding the amount of  
29 delinquent fines, surcharges, court costs, and fees collected  
30 to that point in the fiscal year.

31 EXPLANATION

32 The bill sets minimum fines for misdemeanors and class "C"  
33 and "D" felonies, increases the maximum fine for a serious  
34 misdemeanor to \$2,500, and increases the civil penalty for  
35 having a motor vehicle license revoked for operating a motor

1 vehicle while intoxicated.

2 The bill also provides that delinquent victim restitution  
3 owed by a person entitled to an income tax refund or rebate  
4 may be set off against the refund or rebate.

5 In addition, the bill provides that a court may order a  
6 fine to be worked off in community service by the defendant at  
7 the rate of the average wage of the governmental entity for  
8 which the community service is being performed.

9 The bill also eliminates the six-month waiting period  
10 before a county attorney may begin collection procedures  
11 against a person owing a fine or court costs and removes the  
12 provision that court costs are paid before the amount  
13 collected is divided between the state and the county.

14 Finally, the bill provides that, for fiscal year 1994 only,  
15 the first \$2.5 million in delinquent fines, surcharges, court  
16 costs, or fees collected shall be deposited in the state  
17 general fund and the remainder shall be deposited with the  
18 judicial department. The judicial department is to report to  
19 the general assembly by January 15, 1994, on the amounts of  
20 delinquent obligations collected to that point in the fiscal  
21 year.

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SENATE FILE 370

AN ACT

RELATING TO SETTING MINIMUM FINES FOR CERTAIN CRIMINAL  
CONVICTIONS, INCREASING THE CIVIL PENALTY ASSESSED FOR  
CERTAIN MOTOR VEHICLE LICENSE REVOCATIONS, COLLECTING  
DELINQUENT FINES, PENALTIES, COSTS, AND RESTITUTION,  
AND ALLOWING COMMUNITY SERVICE IN LIEU OF A FINE.

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

Section 1. Section 321J.17, Code 1993, is amended to read  
as follows:

321J.17 CIVIL PENALTY -- VICTIM COMPENSATION FUND --  
REINSTATEMENT.

When the department revokes a person's motor vehicle  
license or nonresident operating privilege under this chapter,  
the department shall assess the person a civil penalty of one  
two hundred dollars. The money collected by the department  
under this section shall be transmitted to the treasurer of  
state who shall deposit one-half of the money in the separate  
fund established in section 912.14 and one-half of the money  
shall be deposited in the general fund of the state. A  
temporary restricted license shall not be issued or a motor  
vehicle license or nonresident operating privilege reinstated  
until the civil penalty has been paid.

Sec. 2. Section 331.756, subsection 5, Code 1993, is  
amended to read as follows:

5. Enforce all forfeited bonds and recognizances and  
prosecute all proceedings necessary for the recovery of debts,  
revenues, moneys, fines, penalties, restitution of court-  
appointed attorney fees or expense of a public defender, and  
forfeitures accruing to the state or the county or to a school  
district or road district in the county, and all suits in the  
county against public service corporations which are brought

in the name of the state. To assist in this duty, the county  
attorney may procure professional collection services provided  
by persons or organizations, including private attorneys,  
which are generally considered to have knowledge and special  
abilities which are not generally available to state or local  
government or may designate another county official or agency  
to assist with collection efforts.

If professional collection services are procured, the  
county attorney shall ~~enter on the appropriate record of file~~  
with the clerk of the district court an indication of the  
satisfaction of each obligation to the full extent of all  
moneys collected in satisfaction of that obligation, including  
all fees and compensation retained by the collection service  
incident to the collection and not paid into the office of the  
clerk.

Before a county attorney designates another county official  
or agency to assist with collection of debts, revenues,  
moneys, fines, penalties, restitution of court-appointed  
attorney fees or expense of a public defender, and  
forfeitures, the board of supervisors of the county must  
approve the designation. ~~Notwithstanding the disposition~~  
~~provisions of sections 602.8106 and 911.37, the county may~~  
~~retain up to thirty-five percent of all moneys collected,~~  
~~excluding amounts collected for victim restitution, as~~  
~~compensation for collection services. The county attorney~~  
~~shall enter on the appropriate record of the clerk of the~~  
~~district court an indication of the satisfaction of each~~  
~~obligation, including the amount retained by the county for~~  
~~collection services and not paid into the office of the clerk.~~

Sec. 3. Section 331.756, subsection 5, Code 1993, is  
amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All fines, penalties, court  
costs, fees, and restitution for court-appointed attorney fees  
or expenses of a public defender which are delinquent as  
defined in section 602.8107 may be collected by the county

attorney or the person procured or designated by the county attorney. In order to receive a percentage of the amounts collected pursuant to section 602.8107, the county attorney must file with the clerk of the district court a notice of full commitment to collect delinquent obligations. The notice shall contain a list of procedures which will be initiated by the county attorney. Amounts collected by the county attorney or the person procured or designated by the county attorney shall be distributed in accordance with section 602.8107.

Sec. 4. Section 331.756, subsection 64A, Code 1993, is amended by striking the subsection.

Sec. 5. Section 421.17, subsection 25, Code 1993, is amended to read as follows:

25. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court as a criminal fine, civil penalty, surcharge, court costs, or restitution of attorney fees incurred as a result of services provided under chapters 13B and 815, and section 232.141. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b. Before setoff the county-attorney clerk of the district court shall obtain and forward to the department the full name and social security number of the debtor. The department shall cooperate in the exchange of relevant information with the county-attorney clerk of the district court. However, only relevant information required by the county-attorney clerk of the district court shall be provided by the department. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The county-attorney clerk of the district court, on the first day of February and August of each calendar year, shall submit to the department for setoff the debts described in this subsection, which are at least fifty dollars.

d. ~~Upon submission of a claim the department shall notify the county attorney if the debtor is entitled to a refund or rebate and of the amount of the refund or rebate and the debtor's address on the income tax return.~~

e. ~~Upon notice of entitlement to a refund or rebate the county attorney upon submission of a claim the department shall send written notification to the debtor of the county attorney's clerk of the district court's assertion of rights to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, and the debtor's opportunity to give written notice of intent to contest the amount of the claim. The county attorney shall send a copy of the notice to the department.~~

f. Upon the request of a debtor or a debtor's spouse to the county-attorney department, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, ~~the county attorney shall notify the department of the request to divide a joint income tax refund or rebate.~~ ~~The~~ the department shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department shall ~~after notice has been sent to the debtor by the county attorney~~ set off the debt against, and deduct a fee established by rule to reflect the cost of processing from the debtor's income tax refund or rebate. The department shall transfer ~~sixty-five ninety~~ percent of the amount set off to the treasurer of state for deposit in the

general fund of the state. The remaining thirty-five per cent shall be remitted to the ~~county and deposited in the general fund of the county~~ judicial department and used to defray the costs of this procedure. If the debtor gives timely written notice of intent to contest the amount of the claim, the department shall hold the refund or rebate until final determination of the correct amount of the claim. ~~The county attorney shall notify the debtor in writing upon completion of setoff.~~

g. The department shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of all moneys collected in satisfaction of the obligation. The clerk shall record the notice and enter a satisfaction for the amounts collected.

Sec. 6. Section 421.17, subsection 26, Code 1993, is amended to read as follows:

26. To provide that in the case of multiple claims to payments filed under subsections 21, 23, 25, and 29 that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college student aid commission under subsection 23, next priority shall be given to claims filed by the investigations division of the department of inspections and appeals under subsection 21, next priority shall be given to claims filed by a county attorney clerk of the district court under subsection 25, and last priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

Sec. 7. Section 602.8102, subsection 164, Code 1993, is amended by striking the subsection.

Sec. 8. NEW SECTION. 602.8107 COLLECTION OF PINES, PENALTIES, FEES, COURT COSTS, SURCHARGES, INTEREST, AND RESTITUTION.

1. Fines, penalties, court costs, fees, interest, restitution for court-appointed attorney fees, and surcharges shall be paid to the clerk of the district court. All amounts collected shall be distributed pursuant to sections 602.8106 and 602.8108 or as otherwise provided by this Code. The clerk may accept payment of an obligation or a portion thereof by credit card. The clerk may charge a fee to reflect the additional cost of processing the payment by credit card.

2. Payments received under this section shall be applied in the following priority order:

a. Fines or penalties plus any interest due on unsatisfied judgments and criminal penalty surcharges plus interest due on unsatisfied amounts.

b. Victim restitution.

c. Court costs.

d. Court-appointed attorney fees or public defender expenses.

3. A fine, penalty, court cost, fee, or surcharge is deemed delinquent if it is not paid within six months after the date it is assessed. An amount which was ordered by the court to be paid on a date fixed in the future pursuant to section 909.3 is deemed delinquent if it is not received by the clerk within six months after the fixed future date set out in the court order. If an amount was ordered to be paid by installments, and an installment is not received within thirty days after the date it is due, the entire amount of the judgment is deemed delinquent.

4. All fines, penalties, court costs, fees, surcharges, and restitution for court-appointed attorney fees or for expenses of a public defender which are delinquent may be collected by the county attorney or the county attorney's designee. Thirty-five percent of the amounts collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county if the county attorney has filed the notice required in

section 331.756, subsection 5, unless the county attorney has discontinued collection efforts on a particular delinquent amount and has transferred collection responsibilities to the department of revenue and finance. The remainder shall be paid to the clerk for distribution under section 602.8108.

This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.

The county attorney shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of the moneys collected in satisfaction of the obligation. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

5. If a county attorney has not filed a notice of commitment to collect delinquent obligations pursuant to section 331.756, subsection 5, or has transferred collection responsibility for a particular delinquent amount to the department, the department of revenue and finance or its designee may collect delinquent fines, penalties, court costs, surcharges, restitutions for court-appointed attorney fees, or expenses of a public defender. From the amounts collected, the department shall pay for the services of its designee and the remainder shall be deposited in the general fund of the state.

This subsection does not apply to amounts collected for victim restitution, the new victim restitution fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.

The department of revenue and finance or its collection designee shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of the moneys collected in satisfaction of the obligation. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

Sec. 9. Section 902.9, subsections 3 and 4, Code 1993, are amended to read as follows:

3. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition may be sentenced to a fine of at least five hundred dollars but not more than ten thousand dollars.

4. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition may be sentenced to a fine of at least five hundred dollars but not more than seven thousand five hundred dollars. A class "D" felon, such felony being for a violation of section 321J.2, may be sentenced to imprisonment for up to one year in the county jail.

Sec. 10. Section 903.1, subsections 1 and 2, Code 1993, are amended to read as follows:

1. If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if-such-be-the-sentence which fine shall not be suspended by the court, within the following limits:

a. For a simple misdemeanor, either imprisonment not to exceed thirty days, or a fine of at least fifty dollars but not to exceed one hundred dollars.

b. For a serious misdemeanor, there shall be a fine of at least two hundred fifty dollars but not to exceed one thousand five hundred dollars. In addition, the court may also order imprisonment not to exceed one year, ~~or a fine not to exceed one thousand dollars, or both.~~

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years,

or. There shall be a fine of at least five hundred dollars but not to exceed five thousand dollars, or both. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

Sec. 11. Section 909.3, Code 1993, is amended to read as follows:

909.3 PAYMENT IN INSTALLMENTS OR ON A FIXED DATE.

1. All fines imposed by the court shall be paid on the day the fine is imposed.

2. The court may, in its discretion, order a fine to be paid in installments, or may fix a date in the future which is not more than one hundred twenty days from the date the fine is imposed for the payment of the fine, whenever it appears that the defendant cannot make immediate payment, or should not be made to do so.

For good cause, the court may order that the date for payment of the fine be extended beyond one hundred twenty days from the date the fine was imposed.

Sec. 12. NEW SECTION. 909.3A COMMUNITY SERVICE OPTION.

The court may, in its discretion, order the defendant to perform community service work of an equivalent value to the fine imposed where it appears that the community service work will be adequate to deter the defendant and to discourage others from similar criminal activity. The rate at which community service shall be calculated shall be the federal minimum wage.

Sec. 13. Section 909.6, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If a court imposes a fine on an offender, the court shall impose interest charges on any amount remaining unsatisfied from the day after sentencing at the rate provided in section 535.3.

NEW UNNUMBERED PARAGRAPH. At the time of imposing the sentence, the court shall inform the offender of the amount of the fine and that the judgment includes the imposition of a criminal surcharge, court costs, and applicable fees. The court shall also inform the offender of the duty to pay the judgment in a timely manner and that interest will be charged on unsatisfied judgments.

Sec. 14. Section 909.7, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A defendant who proves that the defendant cannot pay the fine may, at the discretion of the court, be ordered to perform community service pursuant to section 909.3A.

Sec. 15. Section 909.8, Code 1993, is amended to read as follows:

909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL PENALTY SURCHARGE.

The provisions of this chapter governing the payment and collection of a fine, except section 909.3A, also apply to the payment and collection of a criminal penalty surcharge imposed pursuant to chapter 911.

Sec. 16. Section 909.10, if enacted by 1993 Iowa Acts, Senate File 267, section 22, is amended to read as follows:

909.10 COLLECTION OF DELINQUENT AMOUNTS BY THE COURT.

1. As used in this section, unless the context otherwise requires, "delinquent amounts" means a fine, court-imposed court costs in a criminal proceeding, or criminal surcharge imposed pursuant to section 911.2, which remains unpaid after two years from the date that the fine, court costs, or surcharge was imposed, and which is not collected by the county attorney pursuant to section 909-9 602.8107. However, if the fine may be paid in installments pursuant to section 909.3, the fine is not a delinquent amount unless the installment remains unpaid after two years from the date the installment was due.

2. Notwithstanding the disposition sections of sections 602.8106 and 911.3, upon the collection of delinquent amounts, the clerks of the district court shall remit the delinquent amounts to the treasurer of state for deposit into the revolving fund established pursuant to section 602.1302, to be used for the payment of jury and witness fees and mileage.

Sec. 17. Section 909.9, Code 1993, is repealed.

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LEONARD L. BOSWELL  
President of the Senate

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HAROLD VAN MAANEN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 370, Seventy-fifth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved May 11, 1993

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TERRY E. BRANSTAD  
Governor