

7/29/96 Referred from Unfinished Business Calendar to W. & M. Comm.

SENATE FILE 2463
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO SSB 2349)

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

A BILL FOR

1 An Act relating to estate issues by modifying certain exemptions
2 and tax rates for inheritance taxes, the jurisdiction of the
3 probate court on certain testamentary trusts, fees payable on
4 certain trusts, claims against estates for medical assistance
5 payments, registration of securities in a transfer-on-death
6 form, and including an applicability provision.

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

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S.F. 2463

1 Section 1. Section 450.1, Code 1995, is amended to read as
2 follows:

3 450.1 DEFINITIONS ~~---AUTHORITY-OF-COUNTY-ATTORNEY AND~~
4 CONSTRUCTION.

5 1. In the construction of this chapter ~~the word "person"~~
6 ~~shall include:~~

7 a. "Child" includes a legally adopted child, an
8 illegitimate child entitled to inherit under the laws of this
9 state, and a stepchild.

10 b. "Lineal descendant of the decedent" includes
11 descendants of a stepchild of the deceased person, and persons
12 legally adopted by a descendant of the deceased person.

13 c. "Person" includes plural as well as singular, and
14 artificial as well as natural persons.

15 d. "Stepchild" shall include only the child of a person
16 who was married to the deceased person at the time of the
17 deceased person's death, or the child of a person to whom the
18 deceased person was married, which person died during the
19 marriage to the deceased person.

20 2. This chapter shall not be construed to confer upon a
21 county attorney authority to represent the state in any case,
22 and the county attorney shall represent the department of
23 revenue and finance only when especially authorized by ~~it~~ the
24 department to do so.

25 3. For purposes of this chapter, unless the context
26 otherwise requires:

27 a. "Internal Revenue Code" means the same as defined in
28 section 422.3.

29 b. ~~"personal~~ Personal representative" means an executor,
30 administrator, or trustee as each is defined in section 633.3
31 ~~and "Internal Revenue Code" means the same as defined in~~
32 ~~section 422.3.~~

33 Sec. 2. Section 450.2, Code 1995, is amended by striking
34 the section and inserting in lieu thereof the following:

35 450.2 TAXABLE PROPERTY.

1 The following property which passes from the decedent owner
2 in any manner described in this chapter is subject to tax as
3 provided in this chapter:

4 1. Property of a decedent owner domiciled in this state at
5 the time of death except real estate and tangible personal
6 property located outside of this state.

7 2. Real or tangible personal property located in this
8 state in which a nonresident decedent has an interest at the
9 time of death.

10 Sec. 3. Section 450.3, subsection 2, Code 1995, is amended
11 to read as follows:

12 2. By deed, grant, sale, gift or transfer made within
13 three years of the death of the grantor or donor, which is not
14 a bona fide sale for an adequate and full consideration in
15 money or money's worth and which is in excess of the annual
16 gift tax exclusion allowable for each donee under section
17 2503, subsections b and e of the Internal Revenue Code. If
18 both spouses consent, a gift made by one spouse to a person
19 who is not the other spouse is considered, for the purposes of
20 this subsection, as made one half by each spouse under the
21 same terms and conditions provided for in section 2513 of the
22 Internal Revenue Code. Net market value for the purpose of
23 this subsection is the net market value at the date of
24 transfer.

25 Sec. 4. Section 450.4, subsection 4, Code 1995, is amended
26 to read as follows:

27 4. Bequests for the care and maintenance of the cemetery
28 or burial lot of the decedent or the decedent's family, and
29 bequests not to exceed five-hundred one thousand dollars in
30 any estate of a decedent for the performance of a religious
31 service or services by some person regularly ordained,
32 authorized, or licensed by some religious society to perform
33 such service, which service or services are to be performed
34 for or in behalf of the testator or some person named in the
35 testator's last will.

1 Sec. 5. Section 450.4, subsection 5, Code 1995, is amended
2 by striking the subsection and inserting in lieu thereof the
3 following:

4 5. On that portion of the decedent's interest in a pension
5 or retirement plan that will be includable as net income as
6 defined in section 422.7, when paid to the beneficiary.

7 Sec. 6. Section 450.9, subsections 2 and 4, Code 1995, are
8 amended to read as follows:

9 2. Each ~~son-and-daughter, including legally-adopted-sons~~
10 ~~and-daughters, or biological-sons-and-daughters-entitled-to~~
11 ~~inherit-under-the-law-of-this-state~~ child, fifty thousand
12 dollars.

13 4. Any other lineal descendant of the deceased decedent,
14 fifteen thousand dollars.

15 Sec. 7. Section 450.10, subsection 1, unnumbered paragraph
16 1, Code 1995, is amended to read as follows:

17 When the property, interest, or income passes to the father
18 or mother, or to a child or lineal descendant of the decedent,
19 grantor, donor, or vendor, ~~including-a-legally-adopted-child~~
20 ~~or-biological-child-entitled-to-inherit-under-the-laws-of-this~~
21 ~~state,~~ the tax imposed shall be on the individual share so
22 passing in excess of the exemptions allowed as follows:

23 Sec. 8. Section 450.10, subsection 2, unnumbered paragraph
24 1, Code 1995, is amended to read as follows:

25 When the property or any interest therein or income
26 therefrom taxable under the provisions of this chapter passes
27 to the brother or sister, son-in-law, or daughter-in-law, or
28 ~~step-children,~~ the rate of tax imposed on the individual share
29 so passing shall be as follows:

30 Sec. 9. NEW SECTION. 450.11 COMPROMISE SETTLEMENT AND
31 WILL CONTEST.

32 The distribution of property of the decedent pursuant to a
33 compromise settlement, an order of court approving a
34 compromise settlement, or an order of court settling a will
35 contest or disposing of a will contest, when such distribution

1 is based on valid claims and the distribution is economically
2 fair based on such claims, shall be binding upon the
3 department as to recipients of property and valuation of
4 property interests passing from the decedent for a
5 determination of inheritance tax under this chapter.

6 Sec. 10. Section 450.20, unnumbered paragraph 1, Code
7 1995, is amended to read as follows:

8 ~~ft~~ The department of revenue and finance shall also keep a
9 separate record of any deferred estate upon which the tax due
10 is not paid ~~within-fifteen-months-from~~ on or before the last
11 day of the ninth month after the death of the decedent,
12 showing substantially the same facts as are required in other
13 cases, and also showing:

14 Sec. 11. Section 614.14, subsection 4, paragraph b, Code
15 1995, is amended to read as follows:

16 b. That, to the knowledge of the trustee, the person
17 creating the trust was under no disability or infirmity at the
18 time the trust was created.

19 Sec. 12. Section 633.10, subsection 4, Code 1995, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. d. A trust that is administered solely or
22 jointly by an individual trustee or trustees is not subject to
23 the jurisdiction of the court unless jurisdiction is invoked
24 by a trustee or beneficiary, or if otherwise provided by the
25 governing instrument. Upon application of all trustees
26 administering a trust which is subject to the court's
27 jurisdiction, and following notice to beneficiaries as
28 provided in section 633.40, subsection 4, the court shall
29 release the trust from further jurisdiction unless one or more
30 beneficiaries object, on the condition that jurisdiction may
31 thereafter be invoked by a trustee or beneficiary. The
32 provisions of this paragraph shall be effective for
33 applications filed on or after July 1, 1996.

34 Sec. 13. Section 633.31, Code 1995, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 3. The fee set forth in subsection 2,
2 paragraph "k" shall not be charged on any property transferred
3 to a testamentary trust from an estate that has been
4 administered in this state and for which court costs have been
5 assessed and paid.

6 Sec. 14. Section 633.410, Code Supplement 1995, is amended
7 to read as follows:

8 633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S
9 ESTATE.

10 All claims against a decedent's estate, other than charges,
11 whether due or to become due, absolute or contingent,
12 liquidated or unliquidated, founded on contract or otherwise,
13 are forever barred against the estate, the personal
14 representative, and the distributees of the estate, unless
15 filed with the clerk within the later to occur of four months
16 after the date of the second publication of the notice to
17 creditors or, as to each claimant whose identity is reasonably
18 ascertainable, one month after service of notice by ordinary
19 mail to the claimant's last known address. However, notice is
20 not required to be given by mail to any creditor whose claim
21 will be paid or otherwise satisfied during administration and
22 the personal representative may waive the limitation on filing
23 provided under this section. This section does not bar claims
24 for which there is insurance coverage, to the extent of the
25 coverage, ~~claims-for-debts-created-under-section-249A-5~~
26 ~~relating-to-the-recovery-of-medical-assistance-payments,~~ or
27 claimants entitled to equitable relief due to peculiar
28 circumstances.

29 Sec. 15. Section 633.440, Code 1995, is amended to read as
30 follows:

31 633.440 CONTENTS OF NOTICE OF DISALLOWANCE.

32 Such a notice of disallowance shall advise the claimant
33 that the claim has been disallowed and will be forever barred
34 unless the claimant shall within twenty days after the date of
35 mailing the notice, file a request for hearing on the claim

1 with the clerk, and mail a copy of such request for hearing to
2 the personal representative and the attorney of record, if
3 any, by certified mail.

4 Sec. 16. Section 633.681, Code 1995, is amended to read as
5 follows:

6 633.681 ASSETS OF MINOR WARD EXHAUSTED.

7 When the assets of a minor ward's conservatorship are
8 exhausted or consist of personal property only of an aggregate
9 value not in excess of four ten thousand dollars, the court,
10 upon application or upon its own motion, may terminate the
11 conservatorship and. The order for termination shall direct
12 the conservator to deliver the any property remaining after
13 the payment of allowed claims and expenses of administration
14 to the parent or other person entitled to the custody of the
15 minor ward, for the use of the ward, after payment of allowed
16 claims and expenses of administration a custodian under any
17 uniform transfers to minors Act. Such delivery shall have the
18 same force and effect as if delivery had been made to the ward
19 after attaining majority.

20 Sec. 17. Section 633.704, subsection 3, paragraph a, Code
21 Supplement 1995, is amended to read as follows:

22 a. PASSAGE OF DISCLAIMED INTEREST OR PROPERTY. Unless the
23 transferor has otherwise provided, the property, interest, or
24 right disclaimed, and any future interest which is to take
25 effect in possession or enjoyment at or after the termination
26 of the interest or right disclaimed, descends or shall be
27 distributed as if the disclaimant has died prior to the date
28 of the transfer, or if the disclaimant is one designated to
29 take pursuant to a power of appointment exercised by
30 testamentary instrument, then as if the disclaimant has
31 predeceased the donee of the power unless the donee of the
32 power has otherwise provided. In every case, the disclaimer
33 relates back for all purposes to the date of the transfer. In
34 the case of a disclaiming beneficiary under a will, other than
35 a spouse, the property, interest, or right disclaimed passes

1 to-the-heirs-of-the-disclaimant-unless-from-the-terms-of-the
2 transferor's-will-the-intent-is-clear-and-explicit-to-the
3 contrary,-in-which-event-the-property,-interest,-or-right
4 disclaimed-passes-pursuant-to-the-will. In the case of a
5 disclaimer under a will by a spouse the property, interest, or
6 right disclaimed lapses unless from the terms of the
7 transferor's will the intent is clear and explicit to the
8 contrary.

9 Sec. 18. NEW SECTION. 633.800 SHORT TITLE -- RULES OF
10 CONSTRUCTION.

11 1. This division shall be known and may be cited as the
12 uniform transfer on death security registration Act.

13 2. The provisions of this division shall be liberally
14 construed and applied to promote its underlying purposes and
15 policy and to make uniform the laws with respect to the
16 subject of its provisions among states enacting this uniform
17 Act.

18 3. Unless displaced by the particular provisions of this
19 division, the principles of law and equity supplement the
20 provisions of this division.

21 Sec. 19. NEW SECTION. 633.801 DEFINITIONS.

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

24 1. "Beneficiary form" means a registration of a security
25 which indicates the present owner of the security and the
26 intention of the owner regarding the person who will become
27 the owner of the security upon the death of the owner.

28 2. "Devisee" means any person designated in a will to
29 receive a disposition of real or personal property.

30 3. "Heir" means a person, including the surviving spouse,
31 who is entitled under the statutes of intestate succession to
32 the property of a decedent.

33 4. "Register" means to issue a certificate showing the
34 ownership of a certificated security or, in the case of an
35 uncertificated security, to initiate or transfer an account

1 showing ownership of the security.

2 5. "Registering entity" means a person who originates or
3 transfers a security title by registration, including a broker
4 maintaining security accounts for customers and a transfer
5 agent or other person acting for or as an issuer of
6 securities.

7 6. "Security" means a share, participation, or other
8 interest in property, in a business, or in an obligation of an
9 enterprise or other issuer, including a certificated security,
10 an uncertificated security, and a security account.

11 7. "Security account" means either of the following:

12 a. Any of the following whether or not credited to the
13 account before the owner's death:

14 (1) A reinvestment account associated with a security.

15 (2) A securities account with a broker.

16 (3) A cash balance in a brokerage account.

17 (4) Cash, interest, earnings, or dividends earned or
18 declared on a security in an account, a reinvestment account,
19 or a brokerage account.

20 b. A cash balance or other property held for or due to the
21 owner of a security as a replacement for or product of an
22 account security, whether or not credited to the account
23 before the owner's death.

24 8. "State" includes any state of the United States, the
25 District of Columbia, the Commonwealth of Puerto Rico, and any
26 territory or possession subject to the legislative authority
27 of the United States.

28 Sec. 20. NEW SECTION. 633.802 REGISTRATION IN
29 BENEFICIARY FORM -- SOLE OR JOINT TENANCY OWNERSHIP.

30 Only an individual whose registration of a security shows
31 sole ownership by one individual or multiple ownership by two
32 or more individuals with a right of survivorship, rather than
33 as tenants in common, may obtain registration in beneficiary
34 form. Multiple owners of a security registered in beneficiary
35 form shall hold as joint tenants with rights of survivorship,

1 tenants by the entireties, or owners of community property
2 held in survivorship form and not as tenants in common.

3 Sec. 21. NEW SECTION. 633.803 REGISTRATION IN
4 BENEFICIARY FORM -- APPLICABLE LAW.

5 1. A security may be registered in beneficiary form if the
6 form is authorized by this division or a similar statute of
7 the state of any of the following:

8 a. The state of organization of the issuer or registering
9 entity.

10 b. The state of location of the registering entity's
11 principal office.

12 c. The state of location of the office of the entity's
13 transfer agent or the office of the entity making the
14 registration.

15 d. The state of the address listed as the owner's at the
16 time of registration.

17 2. A registration governed by the law of a jurisdiction in
18 which this division or a similar statute is not in force or
19 was not in force when a registration in beneficiary form was
20 made is presumed to be valid and authorized as a matter of
21 contract law.

22 Sec. 22. NEW SECTION. 633.804 ORIGINATION OF
23 REGISTRATION IN BENEFICIARY FORM.

24 A security, whether evidenced by a certificate or account,
25 is registered in beneficiary form when the registration
26 includes a designation of a beneficiary to take the ownership
27 at the death of the owner or the deaths of all multiple
28 owners.

29 Sec. 23. NEW SECTION. 633.805 FORM OF REGISTRATION IN
30 BENEFICIARY FORM.

31 Registration in beneficiary form may be shown by any of the
32 following, appearing after the name of the registered owner
33 and before the name of a beneficiary:

34 1. The words "transfer on death" or the abbreviation
35 "TOD".

1 2. The words "pay on death" or the abbreviation "POD".
2 Sec. 24. NEW SECTION. 633.806 EFFECT OF REGISTRATION IN
3 BENEFICIARY FORM.

4 The designation of a transfer on death or pay on death
5 beneficiary on a registration in beneficiary form has no
6 effect on ownership until the owner's death. A registration
7 of a security in beneficiary form may be canceled or changed
8 at any time by the sole owner or all surviving owners without
9 the consent of the beneficiary.

10 Sec. 25. NEW SECTION. 633.807 THE DEATH OF THE OWNER.

11 On the death of a sole owner or on the death of the sole
12 surviving owner of multiple owners, the ownership of
13 securities registered in beneficiary form passes to the
14 beneficiary or beneficiaries who survive all owners. On proof
15 of death of all owners and compliance with any applicable
16 requirements of the registering entity, a security registered
17 in beneficiary form may be reregistered in the name of the
18 beneficiary or beneficiaries who survived the death of all
19 owners. A registering entity shall provide notice to the
20 department of revenue and finance of all reregistrations made
21 pursuant to this division. The notice shall include the name,
22 address, and social security number of the descendant and all
23 transferees. Until the division of the security after the
24 death of all owners, multiple beneficiaries surviving the
25 death of all owners hold their interests as tenants in common.
26 If no beneficiary survives the death of all owners, the
27 security belongs to the estate of the deceased sole owner or
28 the estate of the last to die of multiple owners.

29 Sec. 26. NEW SECTION. 633.808 PROTECTION OF REGISTERING
30 ENTITY.

31 1. A registering entity is not required to offer or to
32 accept a request for security registration in beneficiary
33 form. If a registration in beneficiary form is offered by a
34 registering entity, the owner requesting registration in
35 beneficiary form assents to the protections provided to the

1 registering entity by this division.

2 2. By accepting a request for registration of a security
3 in beneficiary form, the registering entity agrees that the
4 registration in beneficiary form shall be implemented on the
5 death of the deceased owner as provided in this division.

6 3. A registering entity is discharged from all claims to a
7 security by the estate, creditors, heirs, or devisees of a
8 deceased owner if the registering entity registers a transfer
9 of the security in accordance with section 633.807 and does so
10 in good faith reliance on all of the following:

11 a. The registration.

12 b. The provisions of this division.

13 c. Information provided by affidavit of the personal
14 representative of the deceased owner, the surviving
15 beneficiary, or the surviving beneficiary's representative, or
16 other information available to the registering entity.

17 The protections of this division do not extend to a
18 reregistration or payment made after a registering entity has
19 received written notice from any claimant to any interest in
20 the security objecting to implementation of a registration in
21 beneficiary form. No other notice or other information
22 available to the registering entity affects its right to
23 protection under this division.

24 4. The protection provided by this division to the
25 registering entity of a security does not affect the rights of
26 beneficiaries in disputes between themselves and other
27 claimants to ownership of the transferred security, its value,
28 or its proceeds.

29 Sec. 27. NEW SECTION. 633.809 NONTESTAMENTARY TRANSFER
30 ON DEATH.

31 1. A transfer on death resulting from a registration in
32 beneficiary form shall be effective by reason of the contract
33 regarding the registration between the owner and the
34 registering entity under the provisions of this division, and
35 is not testamentary.

1 2. The provisions of this division do not limit the rights
2 of creditors or security owners against beneficiaries and
3 other transferees under other laws of this state.

4 Sec. 28. NEW SECTION. 633.810 TERMS, CONDITIONS, AND
5 FORMS FOR REGISTRATION.

6 1. A registering entity offering to accept registrations
7 in beneficiary form may establish the terms and conditions
8 under which the registering entity receives requests for
9 either of the following:

10 a. Registration in beneficiary form.

11 b. Implementation of registrations in beneficiary form,
12 including requests for cancellation of previously registered
13 transfer on death or pay on death beneficiary designations and
14 requests for reregistration to effect a change of beneficiary.

15 2. a. The terms and conditions established by the
16 registering entity may provide for proving death, avoiding or
17 resolving problems concerning fractional shares, designating
18 primary and contingent beneficiaries, and substituting a named
19 beneficiary's descendants to take in place of the name
20 beneficiary in the event of the beneficiary's death.

21 Substitution may be indicated by appending to the name of the
22 primary beneficiary the letters "LDPS" standing for "lineal
23 descendants per stirpes". This designation shall substitute a
24 deceased beneficiary's descendants who survive the owner for a
25 beneficiary who fails to survive, with the descendants to be
26 identified and to share in accordance with the law of the
27 beneficiary's domicile at the owner's death governing
28 inheritance by descendants of an intestate. Other forms of
29 identifying beneficiaries who are to take on one or more
30 contingencies, and rules for providing proofs and assurances
31 needed to satisfy reasonable concerns by registering entities
32 regarding conditions and identities relevant to accurate
33 implementation of registrations in beneficiary form, may be
34 contained in a registering entity's terms and conditions.

35 b. The following are illustrations of registrations in

- 1 beneficiary form which a registering entity may authorize:
2 (1) Sole owner-sole beneficiary: OWNER'S NAME transfer on
3 death (TOD) or pay on death (POD) to BENEFICIARY'S NAME.
4 (2) Multiple owners-sole beneficiary: OWNERS' NAMES, as
5 joint tenants or tenants in the entirety, transfer on death
6 (TOD) or pay on death (POD) to BENEFICIARY'S NAME.
7 (3) Multiple owners-primary and secondary (substituted)
8 beneficiaries: OWNERS' NAMES as joint tenants or tenants in
9 the entirety, transfer on death (TOD) or pay on death (POD) to
10 BENEFICIARY'S NAME, or lineal descendants per stirpes.

11 Sec. 29. APPLICATION. The provisions of this division
12 relating to the uniform transfer on death security
13 registration Act apply to registrations of securities in
14 beneficiary form made before, on, or after the effective date
15 of this Act, by decedents dying on or after the effective date
16 of this Act.

17 Sec. 30. Sections 1 through 8 of this Act are applicable
18 to estates of decedents dying on or after July 1, 1996.

19 EXPLANATION

20 This bill amends sections of the inheritance tax and
21 probate chapters.

22 Sections 1 through 10 of the bill address inheritance tax
23 issues. Section 30 of the bill makes sections 1 through 8
24 applicable only to the estates of decedents dying on or after
25 July 1, 1996. Section 1 adds directions for construction of
26 the terms "child", "lineal descendant", and "stepchild", to
27 clearly include stepchildren in consideration of inheritance
28 tax issues. Sections 6, 7, and 8 use these terms in place of
29 lists of certain descendants for exemption and rate of tax
30 purposes. Stepchildren are taxed equally with biological
31 children under this bill.

32 Section 2 restates the property that is subject to
33 inheritance tax. Section 3 adds directions for determining
34 net market value (and, consequently, the taxable amount)
35 according to the date of transfer for certain taxable

1 property. Section 4 increases the limit for bequests for
2 religious services to \$1,000.

3 Section 5 strikes the current provision on exemptions for
4 annuities purchased under a retirement or pension plan, and
5 replaces it with a similar provision related to any type of
6 interest in a pension or retirement plan.

7 Section 9 adds a new section regarding the distribution of
8 property pursuant to a compromise settlement and its treatment
9 for inheritance tax purposes, which makes Iowa law consistent
10 with federal tax law on this issue. Section 10 changes the
11 time period for filings of records of deferred estates.

12 Sections 11 through 16 of the bill address probate code
13 sections. Section 11 changes the warranty the trustee makes
14 regarding the trustor's condition at the time of creation of
15 the trust. Section 12 adds a new paragraph releasing certain
16 testamentary trusts from the jurisdiction of the court, to
17 allow such the same opportunities as other types of trusts.
18 Section 13 exempts certain property transferred from a
19 testamentary trust from certain statutory fees, to prohibit a
20 trust from being charged fees after the estate has paid its
21 fees. Section 14 repeals a change made last year that
22 exempted claims based on medical assistance payments from the
23 limitation on claims against an estate.

24 Section 15 requires a request for a hearing on a notice of
25 disallowance of a claim against an estate to be mailed not
26 only to the personal representative, but also to any attorney
27 of record. Section 16 permits a court to terminate a
28 conservatorship where the value of the property is \$10,000 or
29 less, an increase over the current statutory amount of \$4,000.
30 Section 17 removes language regarding a disclaimer made by a
31 beneficiary, to make it consistent with the antilapse
32 provisions of the Code in sections 633.273 and 633.274.

33 Sections 18 through 29 of this bill adopt the uniform
34 transfer on death (TOD) security registration Act as approved
35 and recommended by the national conference of commissioners on

1 uniform state laws at its annual conference on July 28 -
2 August 4, 1989. The bill allows the owner of securities to
3 register the title in "transfer-on-death" (TOD) form. The
4 bill provides that a person (e.g., an issuer or broker) may
5 transfer the securities directly to the designated transferee
6 on the owner's death, passing outside the probate process.
7 The registration provides a nonprobate transfer option without
8 providing for joint tenancy form of title. The registration
9 form does not affect the registered owner's control of the
10 affected security during the lifetime of the owner. The bill
11 provides for the right of survivorship by registered owners
12 and the rights of beneficiaries to take the asset upon the
13 death of the last surviving owner. An issuer is not required
14 to implement the procedure, and the bill provides protections
15 to the registering entity who acts in good faith.

16 Specifically, those sections of the bill include the
17 following new Code sections:

18 Section 633.800 provides for citation of the Act as the
19 Uniform Transfer on Death Security Registration Act and for
20 liberal construction of the Act to achieve uniformity among
21 states enacting this Act.

22 Section 633.801 provides definitions of relevant terms used
23 in TOD registration including "beneficiary form", "heir",
24 "register", "registering entity", "security", "security
25 account", and "state".

26 Terms such as "beneficiary form", "register", "registering
27 entity", "security", and "security account", are new terms to
28 the Probate Code and relate to securities products generally
29 and the companies that sell them. The term "security" is
30 defined similarly to the term defined in the Uniform
31 Commercial Code (Chapter 554) and is similar to section
32 554.8102. The bill defines the term "heir" differently than
33 provided in the probate Code, to include a surviving spouse.

34 Section 633.802 provides that a sole owner or multiple
35 owners of a security held in survivorship form may elect to

1 register their ownership in beneficiary form. This
2 registration is not available to persons holding as tenants in
3 common.

4 Section 633.803 provides circumstances which must exist
5 before a security may be registered in beneficiary form and
6 recognized under the bill's provisions. Further, the bill
7 provides general rights under Iowa contract law for Iowa
8 residents who elect beneficiary form registration of products
9 issued from or held in states that have not adopted the
10 Uniform Transfer on Death Security Registration Act.

11 Section 633.804 defines how registration in beneficiary
12 form takes place.

13 Section 633.805 adopts certain words and abbreviations
14 which will show registration in beneficiary form. These are
15 "transfer on death", "TOD", "pay on death", and "POD".

16 Section 633.806 explains that a designation of a "TOD" or
17 "POD" beneficiary has no effect until the death of the owner
18 or the death of the last multiple owner and can be changed
19 without consent of the beneficiary.

20 Section 633.807 provides that on proof of death and
21 compliance with any requirements of the registering entity,
22 the security may be reregistered in the name of the designated
23 beneficiary. The bill requires the registering entity to
24 provide notice of reregistrations to the department of revenue
25 and finance. On the death of the owner, multiple
26 beneficiaries will hold as tenants in common. The bill also
27 provides guidelines for circumstances when no beneficiary
28 survives.

29 Section 633.808 provides that a registering entity which
30 elects to provide registration of securities in beneficiary
31 form agrees to the conditions of this division. The
32 registering entity is discharged from other claims to the
33 security if it acts in good faith reliance on the registration
34 and information provided by affidavit. The section provides
35 that it does not provide protection to a registering entity

1 which reregisters or distributes a security after receiving
2 written notice of an objection to registration in beneficiary
3 form. The bill does not attempt to regulate the rights or
4 claims of beneficiaries in disputes among themselves.

5 Section 633.809 provides that transfers made under the
6 bill's provisions are not testamentary and do not limit the
7 rights of creditors against beneficiaries.

8 Section 633.810 provides that the registering entity may
9 define the precise forms and conditions for registration in
10 beneficiary form. This includes examples of recommended
11 registrations to be used by registering entities to resolve
12 questions regarding fractional shares.

13 Section 29 of the bill provides for application of the
14 provisions of the bill to registrations of securities in
15 beneficiary form which predate or postdate adoption of the
16 bill for decedents dying on or after the effective date of the
17 bill.

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**SENATE FILE 2463
FISCAL NOTE**

A fiscal note for Senate File 2463 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.

Senate File 2463 amends sections of the inheritance tax and probate chapters of the Code of Iowa. The Bill would define "stepchildren" as "children" for purposes of inheritance taxation and provides that the tax shall be applied based on actual distribution of an estate rather than the provisions of a will. The Bill also requires adoption of the Uniform Transfer on Death Security Registration Act.

FISCAL IMPACT

Senate File 2463 is expected to result in a decrease in revenues to the General Fund of approximately \$0.4 million in FY 1997 and \$1.6 million in FY 1998 and subsequent fiscal years. This impact is due entirely to provisions relating to the tax treatment of stepchildren. The other provisions in the Bill are not expected to have any fiscal impact on the General Fund.

SOURCES

Department of Revenue and Finance

(LSB 4433SV, JAM)

FILED APRIL 8, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2463

S-5674

1 Amend Senate File 2463 as follows:

2 1. Page 8, by striking lines 12 and 13 and
3 inserting the following:

4 "a. Any of the following:"

5 2. Page 8, line 19, by inserting after the word
6 "account" the following: ", whether or not credited
7 to the account before the owner's death".

8 3. Page 10, by inserting after line 9 the
9 following:

10 "Sec. ____ . NEW SECTION. 633.806A UNPAID CLAIMS.

11 1. If other assets of the estate of a deceased
12 owner are insufficient, a transfer at death of a
13 security registered in beneficiary form is not
14 effective against the estate of the deceased owner to
15 the extent needed to pay claims against the estate and
16 statutory allowances to the surviving spouse and
17 children.

18 2. A beneficiary of a transfer on death security
19 registration under this chapter is liable to account
20 to the personal representative of the deceased owner
21 for the value of the security as of the time of the
22 deceased owner's death to the extent necessary to
23 discharge these unpaid claims and allowances. A
24 proceeding against a beneficiary to assert liability
25 shall not be commenced unless the personal
26 representative has received a written demand by the
27 surviving spouse, a creditor, a child, or a person
28 acting for a minor child of the deceased owner. The
29 proceeding must be commenced within one year after the
30 death of the owner.

31 3. A beneficiary against whom a proceeding to
32 account is brought may join a beneficiary of any other
33 security registered in beneficiary form by the
34 deceased owner as a party to the proceeding."

35 4. Page 12, line 22, by striking the word
36 "primary".

By MARY LOU FREEMAN
DONALD B. REDFERN

S-5674 FILED APRIL 3, 1996

SENATE FILE 2463

S-5641

1 Amend Senate File 2463 as follows:

2 1. Page 6, by inserting after line 19 the
3 following:

4 "Sec. ____ . NEW SECTION. 633.699A MODIFICATION OR
5 TERMINATION OF TESTAMENTARY TRUST.

6 1. On petition by a trustee or beneficiary, and
7 after notice to all interested parties as determined
8 by the court, if the court determines that the fair
9 market value of a testamentary trust has become so low
10 in relation to the cost of administration that
11 continuation of the trust under its existing terms
12 will defeat or substantially impair the accomplishment
13 of its purposes, the court may, in its discretion,
14 order termination of the trust, modification of the
15 trust, or appointment of a new trustee.

16 a. If the court orders the termination of the
17 trust, disposition of all property shall be made
18 according to the will provisions that address the
19 disposition of the property in the event the trust is
20 terminated. However, if the will does not address the
21 disposition of the property in the event the trust is
22 terminated, the court shall determine the disposition
23 of the trust property, according to what the court
24 determines would be most consistent with the trustor's
25 original intent.

26 b. The existence of a trust provision restraining
27 transfer of the beneficiary's interest does not
28 prevent application of this subsection.

29 2. In the case of a charitable testamentary trust,
30 the attorney general shall be considered an interested
31 party under this section. This section shall not be
32 construed to limit intervention by the attorney
33 general according to section 633.303."

34 2. By renumbering as necessary.

By ELAINE SZYMONIAK

S-5641 FILED APRIL 3, 1996

SENATE FILE 2463

S-5694

1 Amend Senate File 2463 as follows:

2 1. Page 3, by striking lines 7 through 29 and
3 inserting the following:

4 "Sec. 100. Section 450.7, subsection 1, unnumbered
5 paragraph 1, Code Supplement 1995, is amended to read
6 as follows:

7 Except for the share of the estate passing to the
8 surviving spouse, father or mother, and each child and
9 grandchild, the tax is a charge against and a lien
10 upon the estate subject to tax under this chapter, and
11 all property of the estate or owned by the decedent
12 from the death of the decedent until paid, subject to
13 the following limitation:

14 Sec. 200. Section 450.9, subsection 1, Code 1995,
15 is amended to read as follows:

16 1. Surviving spouse, father or mother, child or
17 grandchild, the entire amount of property, interest in
18 property, and income.

19 Sec. 300. Section 450.9, subsections 2 and 3, Code
20 1995, are amended by striking the subsections.

21 Sec. 400. Section 450.10, subsection 1, unnumbered
22 paragraph 1, Code 1995, is amended to read as follows:

23 When the property, interest, or income passes to
24 ~~the father or mother, or to a child or a lineal~~
25 descendant of the decedent, grantor, donor, or vendor,
26 ~~including a legally adopted child or biological child~~
27 ~~entitled to inherit under the laws of this state~~ not
28 included in subsection 7, the tax imposed shall be on
29 the individual share so passing in excess of the
30 exemptions allowed as follows:

31 Sec. 500. Section 450.10, subsection 2, unnumbered
32 paragraph 1, Code 1995, is amended to read as follows:

33 When the property or any interest therein in
34 property, or income therefrom from property taxable
35 under the provisions of this chapter passes to the
36 brother or sister, son-in-law, or daughter-in-law, or
37 ~~step-children~~, the rate of tax imposed on the
38 individual share so passing shall be as follows:

39 Sec. 600. Section 450.10, subsection 7, Code 1995,
40 is amended to read as follows:

41 7. Property, interest in property, or income
42 passing to the surviving spouse, father or mother,
43 child or grandchild, is not taxable under this
44 section."

45 2. Page 13, by inserting after line 18 the
46 following:

47 "Sec. ____ . Sections 100 through 600 of this Act
48 apply to estates of decedents dying on or after July
49 1, 1996."

50 3. By renumbering as necessary.

By WAYNE BENNETT

SENATE FILE 2463

S-5695

- 1 Amend Senate File 2463 as follows:
2 1. Page 3, by striking lines 7 through 14 and
3 inserting the following:
4 "Sec. 100. Section 450.9, subsections 2, 3, and 4,
5 Code 1995, are amended to read as follows:
6 2. Each ~~son and daughter, including legally~~
7 ~~adopted sons and daughters, or biological sons and~~
8 ~~daughters entitled to inherit under the law of this~~
9 ~~state child, fifty two hundred thousand dollars.~~
10 3. Father or mother, fifteen fifty thousand
11 dollars.
12 4. Any other lineal descendant of the deceased
13 decedent, fifteen thousand dollars.
14 Sec. 200. Section 450.9, Code 1995, is amended by
15 adding the following new subsection after subsection
16 3:
17 NEW SUBSECTION. 3A. Each grandchild, fifty
18 thousand dollars."
19 2. Page 13, by inserting after line 18 the
20 following:
21 "Sec. ____ . Sections 100 and 200 of this Act apply
22 to estates of decedents dying on or after July 1,
23 1996."
24 3. By renumbering as necessary.

By WAYNE BENNETT

S-5695 FILED APRIL 9, 1996

SENATE FILE 2463

S-5732

- 1 Amend Senate File 2463 as follows:
2 1. Page 13, by inserting after line 18 the
3 following:
4 "Sec. 101. The reduction, in 1995 Iowa Acts,
5 chapter 63, section 1, from twenty to ten years in the
6 applicable period after the date of death of a
7 decedent owner, during which a lien exists on the
8 decedent's estate for inheritance taxes owing, applies
9 to and releases, effective July 1, 1995, a lien, for
10 inheritance taxes owing, on the estate of a decedent
11 dying ten or more years prior to July 1, 1995, and
12 applies retrospectively to the estate of a decedent
13 dying less than ten years before July 1, 1995, and
14 prospectively to the estate of a decedent dying on or
15 after July 1, 1995.
16 Sec. ____ . Section 101 of this Act applies
17 retroactively to July 1, 1995."
18 2. By renumbering as necessary.

By DONALD B. REDFERN

S-5732 FILED APRIL 11, 1996

SENATE FILE 2463

S-5747

1 Amend Senate File 2463 as follows:

2 1. Page 6, by inserting after line 3 the
3 following:

4 "Sec. _____. Section 633.552, subsection 2,
5 paragraphs a and b, Code 1995, are amended by striking
6 the paragraphs and inserting in lieu thereof the
7 following:

8 a. A person whose decision-making capacity is so
9 impaired that at least one of the following conditions
10 exists:

11 (1) The personal safety of the person is at risk.

12 (2) The person is unable to attend to or provide
13 for necessities such as food, shelter, clothing, or
14 medical care, without which physical injury or illness
15 may occur.

16 b. A minor.

17 Sec. _____. Section 633.556, Code 1995, is amended
18 to read as follows:

19 633.556 APPOINTMENT OF GUARDIAN.

20 1. If the allegations of the petition as to the
21 status of the proposed ward and the necessity for the
22 appointment of a guardian are proved by clear and
23 convincing evidence, the court may appoint a guardian.

24 2. In considering the petition for appointment of
25 a guardian, the court shall consider whether a limited
26 guardianship should be ordered pursuant to section
27 633.635, subsections 3 and 4.

28 Sec. _____. Section 633.566, subsection 2,
29 paragraphs a and b, Code 1995, are amended by striking
30 the paragraphs and inserting in lieu thereof the
31 following:

32 a. A person whose decision-making capacity is so
33 impaired that the person is unable to make,
34 communicate, or carry out important decisions
35 concerning the person's own financial affairs.

36 b. A minor.

37 Sec. _____. Section 633.570, Code 1995, is amended
38 to read as follows:

39 633.570 APPOINTMENT OF CONSERVATOR.

40 1. If the allegations of the petition as to the
41 status of the proposed ward and the necessity for the
42 appointment of a conservator are proved by clear and
43 convincing evidence, the court may appoint a
44 conservator.

45 2. In considering the petition for appointment of
46 a conservator, the court shall consider whether a
47 limited conservatorship should be ordered pursuant to
48 section 633.637.

49 Sec. _____. Section 633.635, subsection 1,
50 unnumbered paragraph 1, Code 1995, is amended by

S-5747

S-5747

Page 2

1 striking the paragraph and inserting in lieu thereof
2 the following:

3 Based upon the evidence produced at the hearing,
4 the court may grant a guardian authority to exercise
5 any of the following powers and duties:

6 Sec. _____. Section 633.635, subsections 3 and 4,
7 Code 1995, are amended to read as follows:

8 3. The court may take into account all available
9 information concerning the capabilities of the ward,
10 the availability of a third party who may assist in
11 meeting the ward's needs, and any additional
12 evaluation deemed necessary, and may direct that the
13 guardian have only a specially limited responsibility
14 for the ward. In that event, the court shall state
15 those areas of responsibility which shall be
16 supervised by the guardian and all others shall be
17 retained by the ward. The court may make a finding
18 that the ward lacks the capacity to contract a valid
19 marriage.

20 4. From time to time, upon a proper showing, the
21 court may alter the respective responsibilities of the
22 guardian and the ward, after notice to the ward and an
23 opportunity to be heard. Any modification that would
24 be more restrictive of the ward's liberties shall be
25 based on clear and convincing evidence. Any
26 modification that would be less restrictive of the
27 ward's liberties shall be based upon consideration of
28 the factors set forth in section 633.675.

29 Sec. _____. Section 633.637, Code 1995, is amended
30 to read as follows:

31 633.637 POWERS OF WARD.

32 1. A ward for whom a conservator has been
33 appointed shall not have the power to convey, encumber
34 or dispose of property in any manner, other than by
35 will if the ward possesses the requisite testamentary
36 capacity, unless the court determines that the ward
37 has a limited ability to handle the ward's own funds.
38 If the court makes such a finding, it shall specify to
39 what extent the ward may possess and use the ward's
40 own funds.

41 2. Any modification of the powers of the ward that
42 would be more restrictive of the ward's control of the
43 ward's property shall be based on clear and convincing
44 evidence. Any modification that would be less
45 restrictive shall be based upon consideration of the
46 factors set forth in section 633.675.

47 Sec. _____. Section 633.675, subsection 3, Code
48 1995, is amended to read as follows:

49 3. A For a guardianship granted pursuant to
50 section 633.552, subsection 2, paragraph "a", or a

S-5747

S-5747

Page 3

1 conservatorship granted pursuant to section 633.566,
2 subsection 2, paragraph "a", a determination by the
3 court that the ward-is-competent-and-capable-of
4 managing-the-ward's-property-and-affairs,-and-that-the
5 continuance-of-the-guardianship-or-conservatorship
6 would-not-be-in-the-ward's-best-interests ward's
7 decision-making capacity is no longer so impaired.

8 In a proceeding to terminate such a guardianship or
9 a conservatorship, the ward must make a prima facie
10 showing that the ward has some decision-making
11 capacity. Once the ward has made the showing, the
12 guardian or conservator has the burden to prove by
13 clear and convincing evidence that the ward's
14 decision-making capacity continues to be so impaired
15 that the guardianship or conservatorship should not be
16 terminated, according to the standard set forth in
17 section 633.552, subsection 2, paragraph "a", or in
18 section 633.566, subsection 2, paragraph "a".

19 2. Title page, line 5, by inserting after the
20 word "payments," the following: "certain standards
21 used in guardianship and conservatorship
22 proceedings,".

23 3. By renumbering as necessary.

By MARY NEUHAUSER

S-5747 FILED APRIL 12, 1996

SENATE FILE 2463

S-5805

- 1 Amend Senate File 2463 as follows:
2 1. Page 3, line 13, by inserting after the word
3 "descendant" the following: "or brother, sister,
4 niece, or nephew".
5 2. Page 3, line 17, by striking the word "father"
6 and inserting the following: "father,".
7 3. Page 3, by striking line 18 and inserting the
8 following: "or mother, or-to-a brother, sister,
9 niece, nephew, child, or other lineal descendant of
10 the decedent,".
11 4. Page 3, by striking line 27 and inserting the
12 following: "to the ~~brother-or-sister,~~ son-in-law, or
13 daughter-in-law, or".

By DONALD B. REDFERN

S-5805 FILED APRIL 17, 1996

SENATE FILE 2463

S-5807

- 1 Amend Senate File 2463 as follows:
2 1. By striking page 7, line 9, through page 13,
3 line 16.
4 2. Title page, lines 5 and 6, by striking the
5 words "registration of securities in a transfer-on-
6 death form,".
7 3. By renumbering, relettering, redesignating,
8 and correcting internal references as necessary.

By TOM VILSACK

S-5807 FILED APRIL 17, 1996

Connolly
Freeman
Neuhouser

SSB-2349

Ways & Means

SF/HF 2463

SENATE FILE
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON PALMER)

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

A BILL FOR

1 An Act relating to estate issues by modifying certain exemptions
2 and tax rates for inheritance taxes, the jurisdiction of the
3 probate court on certain testamentary trusts, fees payable on
4 certain trusts, and including an applicability provision.

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

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Succeeded By

1 Section 450.1, Code 1995, is amended to read as
2 follows:

3 450.1 DEFINITIONS ---~~AUTHORITY-OF-COUNTY-ATTORNEY~~ AND
4 CONSTRUCTION.

5 1. In the construction of this chapter ~~the word "person"~~
6 ~~shall include:~~

7 a. "Child" includes a legally adopted child, an
8 illegitimate child entitled to inherit under the laws of this
9 state, and a stepchild.

10 b. "Lineal descendant of the decedent" includes
11 descendants of a stepchild of the deceased person, and persons
12 legally adopted by a descendant of the deceased person.

13 c. "Person" includes plural as well as singular, and
14 artificial as well as natural persons.

15 d. "Stepchild" shall include only the child of a person
16 who was married to the deceased person at the time of the
17 deceased person's death, or the child of a person to whom the
18 deceased person was married, which person died during the
19 marriage to the deceased person.

20 2. This chapter shall not be construed to confer upon a
21 county attorney authority to represent the state in any case,
22 and the county attorney shall represent the department of
23 revenue and finance only when especially authorized by ~~it~~ the
24 department to do so.

25 3. For purposes of this chapter, unless the context
26 otherwise requires:

27 a. "Internal Revenue Code" means the same as defined in
28 section 422.3.

29 b. ~~personal~~ Personal representative" means an executor,
30 administrator, or trustee as each is defined in section 633.3
31 and ~~"Internal Revenue Code" means the same as defined in~~
32 section 422.3.

33 Sec. 2. Section 450.2, Code 1995, is amended by striking
34 the section and inserting in lieu thereof the following:

35 450.2 TAXABLE PROPERTY.

1 The following property which passes from the decedent owner
2 in any manner described in this chapter is subject to tax as
3 provided in this chapter:

4 1. Property of a decedent owner domiciled in this state at
5 the time of death except real estate and tangible personal
6 property located outside of this state.

7 2. Real or tangible personal property located in this
8 state in which a nonresident decedent has an interest at the
9 time of death.

10 Sec. 3. Section 450.3, subsection 2, Code 1995, is amended
11 to read as follows:

12 2. By deed, grant, sale, gift or transfer made within
13 three years of the death of the grantor or donor, which is not
14 a bona fide sale for an adequate and full consideration in
15 money or money's worth and which is in excess of the annual
16 gift tax exclusion allowable for each donee under section
17 2503, subsections b and e of the Internal Revenue Code. If
18 both spouses consent, a gift made by one spouse to a person
19 who is not the other spouse is considered, for the purposes of
20 this subsection, as made one half by each spouse under the
21 same terms and conditions provided for in section 2513 of the
22 Internal Revenue Code. Net market value for the purpose of
23 this subsection is the net market value at the date of
24 transfer.

25 Sec. 4. Section 450.4, subsection 4, Code 1995, is amended
26 to read as follows:

27 4. Bequests for the care and maintenance of the cemetery
28 or burial lot of the decedent or the decedent's family, and
29 bequests not to exceed five-hundred one thousand dollars in
30 any estate of a decedent for the performance of a religious
31 service or services by some person regularly ordained,
32 authorized, or licensed by some religious society to perform
33 such service, which service or services are to be performed
34 for or in behalf of the testator or some person named in the
35 testator's last will.

1 Sec. 5. Section 450.4, subsection 5, Code 1995, is amended
2 by striking the subsection and inserting in lieu thereof the
3 following:

4 5. On that portion of the decedent's interest in a pension
5 or retirement plan that will be includable as net income as
6 defined in section 422.7, when paid to the beneficiary.

7 Sec. 6. Section 450.9, subsections 2 and 4, Code 1995, are
8 amended to read as follows:

9 2. ~~Each son-and-daughter,-including-legally-adopted-sons~~
10 ~~and-daughters,-or-biological-sons-and-daughters-entitled-to~~
11 ~~inherit-under-the-law-of-this-state~~ child, fifty thousand
12 dollars.

13 4. Any other lineal descendant of the deceased decedent,
14 fifteen thousand dollars.

15 Sec. 7. Section 450.10, subsection 1, unnumbered paragraph
16 1, Code 1995, is amended to read as follows:

17 When the property, interest, or income passes to the father
18 or mother, or to a child or lineal descendant of the decedent,
19 grantor, donor, or vendor, ~~including-a-legally-adopted-child~~
20 ~~or-biological-child-entitled-to-inherit-under-the-laws-of-this~~
21 ~~state~~, the tax imposed shall be on the individual share so
22 passing in excess of the exemptions allowed as follows:

23 Sec. 8. Section 450.10, subsection 2, unnumbered paragraph
24 1, Code 1995, is amended to read as follows:

25 When the property or any interest therein or income
26 therefrom taxable under the provisions of this chapter passes
27 to the brother or sister, son-in-law or daughter-in-law, ~~or~~
28 ~~step-children~~, the rate of tax imposed on the individual share
29 so passing shall be as follows:

30 Sec. 9. NEW SECTION. 450.11 COMPROMISE SETTLEMENT AND
31 WILL CONTEST.

32 The distribution of property of the decedent pursuant to a
33 compromise settlement, an order of court approving a
34 compromise settlement, or an order of court settling a will
35 contest or disposing of a will contest, when such distribution

1 is based on valid claims and the distribution is economically
2 fair based on such claims, shall be binding upon the
3 department as to recipients of property and valuation of
4 property interests passing from the decedent for a
5 determination of inheritance tax under this chapter.

6 Sec. 10. Section 450.20, unnumbered paragraph 1, Code
7 1995, is amended to read as follows:

8 ~~It~~ The department of revenue and finance shall also keep a
9 separate record of any deferred estate upon which the tax due
10 is not paid ~~within-fifteen-months-from~~ on or before the last
11 day of the ninth month after the death of the decedent,
12 showing substantially the same facts as are required in other
13 cases, and also showing:

14 Sec. 11. Section 614.14, subsection 4, paragraph b, Code
15 1995, is amended to read as follows:

16 b. That, to the knowledge of the trustee, the person
17 creating the trust was under no disability or infirmity at the
18 time the trust was created.

19 Sec. 12. Section 633.10, subsection 4, Code 1995, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. d. A trust that is administered solely or
22 jointly by an individual trustee or trustees is not subject to
23 the jurisdiction of the court unless jurisdiction is invoked
24 by a trustee or beneficiary, or if otherwise provided by the
25 governing instrument. Upon application of all trustees
26 administering a trust which is subject to the court's
27 jurisdiction, and following notice to beneficiaries as
28 provided in section 633.40, subsection 4, the court shall
29 release the trust from further jurisdiction unless one or more
30 beneficiaries object, on the condition that jurisdiction may
31 thereafter be invoked by a trustee or beneficiary. The
32 provisions of this paragraph shall be effective for
33 applications filed on or after July 1, 1996.

34 Sec. 13. Section 633.31, Code 1995, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 3. The fee set forth in subsection 2,
2 paragraph "k" shall not be charged on any property transferred
3 to a testamentary trust from an estate that has been
4 administered in this state and for which court costs have been
5 assessed and paid.

6 Sec. 14. Section 633.440, Code 1995, is amended to read as
7 follows:

8 633.440 CONTENTS OF NOTICE OF DISALLOWANCE.

9 Such a notice of disallowance shall advise the claimant
10 that the claim has been disallowed and will be forever barred
11 unless the claimant shall within twenty days after the date of
12 mailing the notice, file a request for hearing on the claim
13 with the clerk, and mail a copy of such request for hearing to
14 the personal representative and the attorney of record, if
15 any, by certified mail.

16 Sec. 15. Section 633.681, Code 1995, is amended to read as
17 follows:

18 633.681 ASSETS OF MINOR WARD EXHAUSTED.

19 When the assets of a minor ward's conservatorship are
20 exhausted or consist of personal property only of an aggregate
21 value not in excess of ~~four~~ ten thousand dollars, the court,
22 upon application or upon its own motion, may terminate the
23 conservatorship and. The order for termination shall direct
24 the conservator to deliver the any property remaining after
25 the payment of allowed claims and expenses of administration
26 ~~to the parent or other person entitled to the custody of the~~
27 ~~minor ward, for the use of the ward, after payment of allowed~~
28 ~~claims and expenses of administration~~ a custodian under any
29 uniform transfers to minors Act. Such delivery shall have the
30 same force and effect as if delivery had been made to the ward
31 after attaining majority.

32 Sec. 16. Section 633.704, subsection 3, paragraph a, Code
33 Supplement 1995, is amended to read as follows:

34 a. PASSAGE OF DISCLAIMED INTEREST OR PROPERTY. Unless the
35 transferor has otherwise provided, the property, interest, or

1 right disclaimed, and any future interest which is to take
2 effect in possession or enjoyment at or after the termination
3 of the interest or right disclaimed, descends or shall be
4 distributed as if the disclaimant has died prior to the date
5 of the transfer, or if the disclaimant is one designated to
6 take pursuant to a power of appointment exercised by
7 testamentary instrument, then as if the disclaimant has
8 predeceased the donee of the power unless the donee of the
9 power has otherwise provided. In every case, the disclaimer
10 relates back for all purposes to the date of the transfer. In
11 ~~the case of a disclaiming beneficiary under a will, other than~~
12 ~~a spouse, the property, interest, or right disclaimed passes~~
13 ~~to the heirs of the disclaimant unless from the terms of the~~
14 ~~transferor's will the intent is clear and explicit to the~~
15 ~~contrary, in which event the property, interest, or right~~
16 ~~disclaimed passes pursuant to the will.~~ In the case of a
17 disclaimer under a will by a spouse the property, interest, or
18 right disclaimed lapses unless from the terms of the
19 transferor's will the intent is clear and explicit to the
20 contrary.

21 Sec. 17. Sections 1 through 8 of this Act are applicable
22 to estates of decedents dying on or after July 1, 1996.

23

EXPLANATION

24 This bill amends sections of the inheritance tax and
25 probate chapters.

26 Sections 1 through 10 of the bill address inheritance tax
27 issues. Section 17 of the bill makes sections 1 through 8
28 applicable only to the estates of decedents dying on or after
29 July 1, 1996. Section 1 adds directions for construction of
30 the terms "child", "lineal descendant", and "stepchild", to
31 clearly include stepchildren in consideration of inheritance
32 tax issues. Sections 6, 7, and 8 use these terms in place of
33 lists of certain descendants for exemption and rate of tax
34 purposes. Stepchildren are taxed equally with biological
35 children under this bill.

1 Section 2 restates the property that is subject to
2 inheritance tax. Section 3 adds directions for determining
3 net market value (and, consequently, the taxable amount)
4 according to the date of transfer for certain taxable
5 property. Section 4 increases the limit for bequests for
6 religious services to \$1,000.

7 Section 5 strikes the current provision on exemptions for
8 annuities purchased under a retirement or pension plan, and
9 replaces it with a similar provision related to any type of
10 interest in a pension or retirement plan.

11 Section 9 adds a new section regarding the distribution of
12 property pursuant to a compromise settlement and its treatment
13 for inheritance tax purposes, which makes Iowa law consistent
14 with federal tax law on this issue. Section 10 changes the
15 time period for filings of records of deferred estates.

16 Sections 11 through 16 of the bill address probate code
17 sections. Section 11 changes the warranty the trustee makes
18 regarding the trustor's condition at the time of creation of
19 the trust. Section 12 adds a new paragraph releasing certain
20 testamentary trusts from the jurisdiction of the court, to
21 allow such the same opportunities as other types of trusts.
22 Section 13 exempts certain property transferred from a
23 testamentary trust from certain statutory fees, to prohibit a
24 trust from being charged fees after the estate has paid its
25 fees.

26 Section 14 requires a request for a hearing on a notice of
27 disallowance of a claim against an estate to be mailed no only
28 to the personal representative, but also to any attorney of
29 record. Section 15 permits a court to terminate a
30 conservatorship where the value of the property is \$10,000 or
31 less, an increase over the current statutory amount of \$4,000.
32 Section 16 removes language regarding a disclaimer made by a
33 beneficiary, to make it consistent with the antilapse
34 provisions of the Code in sections 633.273 and 633.274.

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