

Sec. 73. Section 467A.5, subsection 3, Code 1989, is amended to read as follows:

3. At each general election a successor shall be chosen for each commissioner whose term will expire in the succeeding January. Nomination of candidates for the office of commissioner shall be made by petition in accordance with chapter 45, except that each candidate's nominating petition shall be signed by at least twenty-five eligible electors of the district. The petition form shall be furnished by the county commissioner of elections. Every candidate shall file with the nomination papers an affidavit stating the candidate's name, the candidate's residence, that the person is a candidate and is eligible for the office of commissioner, and that if elected the candidate will qualify for the office. ~~An eligible elector shall not in any one year sign the nominating petitions of a number of candidates greater than the number of commissioners to be elected in that year.~~ The signed petitions shall be filed with the county commissioner of elections not later than five o'clock p.m. on the fifty-fifth day prior to the general election. The votes for the office of district commissioner shall be canvassed in the same manner as the votes for county officers, and the returns shall be certified to the commissioners of the district. A plurality shall be sufficient to elect commissioners, and no primary election for the office shall be held. If the canvass shows that the two candidates receiving the highest and the second highest number of votes for the office of district commissioner are both residents of the same township, the board shall certify as elected the candidate who received the highest number of votes for the office and the candidate receiving the next highest number of votes for the office who is not a resident of the same township as the candidate receiving the highest number of votes.

Sec. 74. Section 602.1216, Code 1989, is amended to read as follows:

**602.1216 RETENTION OF CLERKS OF THE DISTRICT COURT.**

A clerk of the district court shall stand for retention in office, in the county of the clerk's office, upon the petition of ten percent of all ~~eligible and registered~~ qualified electors in the county to the state commissioner of elections, at the judicial election in 1988 and every four years thereafter, under sections 46.17 through 46.24. The petition shall be filed in the office of the state commissioner not later than one hundred twenty days before the general election. A clerk who is not retained in office is ineligible to serve as clerk, in the county in which the clerk was not retained, for the four years following the retention vote.

Sec. 75. Section 50.14, Code 1989, is repealed.

Approved May 8, 1989

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## CHAPTER 137

### EGG EXCISE TAX REFUNDS

*S.F. 386*

**AN ACT** relating to refunds from excise taxes on egg sales.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 179.5A, Code 1989, is amended to read as follows:

**179.5A RIGHT TO REFUND NOT SUBJECT TO EXECUTION OR TRANSFER.**

The right of a person to a refund under this chapter or under ~~chapters~~ chapter 181, 182, 183A, 184A, 185, or 185C, ~~or 196A~~ is not subject to execution, levy, attachment, garnishment, or other legal process, and is not transferable or assignable at law or in equity.

Sec. 2. Section 196A.18, Code 1989, is amended to read as follows:

**196A.18 REFUNDS.**

A producer who has paid ~~the tax~~ a nonrefundable promotion import tax in another state

on eggs produced in Iowa may, by application in writing to the council, secure a refund in the amount paid or any portion thereof of the import tax paid which does not exceed the amount of tax paid under this chapter. The refund shall be payable only when the application shall have been made to the council within sixty days after the end of the calendar quarter during which the eggs were sold by the producer. Each application for refund by a producer shall have attached ~~thereto~~ to it proof of the import tax paid and the tax paid under this chapter. The proof of tax paid may be in the form of a duplicate or certified copy of the purchase invoice by the purchaser.

Sec. 3. Section 196A.19, unnumbered paragraph 2, Code 1989, is amended to read as follows:

Moneys collected under the authority of this chapter ~~shall be~~ are subject to audit by the auditor of state ~~and~~. The moneys shall be used by the Iowa egg council first for the payment of collection and refund expenses, second for payment of the costs and expenses arising in connection with conducting referendums, and third for market development. Any moneys ~~Moneys~~ remaining in the Iowa egg fund after a referendum is held when a majority of the voters do not favor extending the tax shall continue to be expended in accordance with the ~~provisions of~~ this chapter until exhausted.

Approved May 8, 1989

## CHAPTER 138

### SEXUAL ABUSE

*S.F. 426*

**AN ACT** relating to sexual abuse, including sexual abuse in the third degree and sexual abuse which constitutes a forcible felony, to release on appeal from a conviction of sexual abuse in the third degree, to evidence admissible in an action for damages arising from an injury resulting from an act of sexual abuse, and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 668.15 DAMAGES RESULTING FROM SEXUAL ABUSE – EVIDENCE.

In an action against a person accused of sexual abuse, as defined in section 709.1, by an alleged victim of sexual abuse for damages arising from an injury resulting from the act of sexual abuse, evidence concerning the past sexual behavior of the alleged victim is not admissible.

Sec. 2. Section 702.11, Code 1989, is amended to read as follows:

**702.11 FORCIBLE FELONY.**

A "forcible felony" is any felonious child endangerment, assault, murder, sexual abuse other than sexual abuse in the third degree committed between spouses or in violation of section 709.4, subsection 2, paragraph "c", subparagraph (4), kidnapping, robbery, arson in the first degree, or burglary in the first degree.

Sec. 3. Section 709.4, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

**709.4 SEXUAL ABUSE IN THE THIRD DEGREE.**

A person commits sexual abuse in the third degree when the person performs a sex act under any of the following circumstances:

1. The act is done by force or against the will of the other participant, whether or not the other participant is the person's spouse or is cohabiting with the person.