

HOUSE FILE 2302

BY COMMITTEE ON HUMAN RESOURCES

FEB 25 1994

Place On Calendar

(SUCCESSOR TO HF 2123)

Passed House, ^(P.537) Date 3-10-94 Passed Senate, Date 3/28/94
 Vote: Ayes 99 Nays 0 Vote: Ayes 47 Nays 0
 Approved April 5, 1994

A BILL FOR

1 An Act creating a personal assistance services program for
 2 persons with disabilities and a family support program for
 3 families of persons with disabilities to be administered by
 4 the department of human services.

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

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HF 2302

1 Section 1. LEGISLATIVE INTENT. The purpose of this Act is
2 to ensure the inclusion of persons with disabilities in the
3 general population, community, and work force of the state
4 through the establishment of a personal assistance services
5 program to be administered by the department of human
6 services. It is intended that the use of state funds be
7 maximized by drawing upon all sources of funding available for
8 personal assistance services. The department of human
9 services has been selected to administer the program in
10 coordination with other state and local agencies in order to
11 implement appropriate services while maximizing and
12 distributing funding in a cost-effective manner.

13 Sec. 2. NEW SECTION. 225C.46 PERSONAL ASSISTANCE
14 SERVICES PROGRAM.

15 1. As used in this section, unless the context otherwise
16 requires:

17 a. (1) "Disability" means, with respect to an individual,
18 a physical or mental impairment that substantially limits one
19 or more of the major life activities of the individual, a
20 record of physical or mental impairment that substantially
21 limits one or more of the major life activities of the
22 individual, or being regarded as an individual with a physical
23 or mental impairment that substantially limits one or more of
24 the major life activities of the individual.

25 (2) "Disability" does not include any of the following:

26 (a) Homosexuality or bisexuality.

27 (b) Transvestism, transsexualism, pedophilia,
28 exhibitionism, voyeurism, gender identity disorders not
29 resulting from physical impairments, or other sexual behavior
30 disorders.

31 (c) Compulsive gambling, kleptomania, or pyromania.

32 (d) Psychoactive substance abuse disorders resulting from
33 current illegal use of drugs.

34 (e) Alcoholism.

35 b. "Major life activity" includes functions such as caring

1 for one's self, performing manual tasks, walking, seeing,
2 hearing, speaking, breathing, learning, or working.

3 c. "Personal assistance services" means services performed
4 by a person to assist an individual with a disability with
5 tasks which that individual would typically do if the
6 individual did not have a disability. The services are
7 intended to enable an individual with a disability to live in
8 the individual's home or community rather than in an
9 institutional setting and may include but are not limited to
10 any of the following:

- 11 (1) Dressing.
- 12 (2) Bathing.
- 13 (3) Access to and from bed or a wheelchair.
- 14 (4) Toilet assistance, including bowel, bladder, and
15 catheter assistance.
- 16 (5) Eating and feeding.
- 17 (6) Cooking and housekeeping assistance.
- 18 (7) Employment support.
- 19 (8) Cognitive assistance with tasks such as handling money
20 and scheduling.
- 21 (9) Fostering communication access through interpreting
22 and reading services.

23 d. (1) "Substantially limits" means either of the
24 following:

- 25 (a) Unable to perform a major life activity that the
26 average person in the general population can perform.
- 27 (b) Significantly restricted as to the condition, manner,
28 or duration under which an individual can perform a particular
29 major life activity as compared to the condition, manner, or
30 duration under which the average person in the general
31 population can perform that same major life activity.

32 (2) The following factors may be considered in determining
33 whether an individual is substantially limited in a major life
34 activity:

- 35 (a) The nature and severity of the impairment.

1 (b) The duration or expected duration of the impairment.

2 (c) The permanent or long-term impact, or expected
3 permanent or long-term impact of or resulting from the
4 impairment.

5 2. Eligibility for the personal assistance services
6 program shall be limited to individuals with a disability, who
7 have Iowa or federal taxable income of less than forty
8 thousand dollars, who are residents of this state, and who are
9 at least eighteen years of age or are emancipated minors. For
10 the purposes of this subsection, "emancipated minor" means a
11 person under eighteen years of age who is married or who is
12 living separate and apart from the person's parent, regardless
13 of the duration of the separate residence, and is managing the
14 person's own financial affairs regardless of the source or
15 extent of the person's income.

16 3. An individual served under the personal assistance
17 services program shall determine the components of the
18 personal assistance services to be provided with the person
19 who is providing the services to the individual. The
20 department shall develop a provider contract with the
21 individual based upon the components to be included. The
22 components may include but are not limited to all of the
23 following:

- 24 a. Training of the person providing services.
- 25 b. Selection of the person providing services.
- 26 c. Management of the person providing services.
- 27 d. Performance standards for the person providing
28 services.
- 29 e. Annual review or review upon demonstration of
30 significant changes in the circumstances of the individual
31 being provided with personal assistance services.

32 4. The department shall adopt rules providing for all of
33 the following:

- 34 a. Coordination of personal assistance service activities
35 and funding with other state and local agencies which provide

1 services to individuals with disabilities or funding of such
2 services.

3 b. The components of contracts between individuals with
4 disabilities being provided personal assistance services and
5 providers of personal assistance services.

6 c. Upon request of an individual with disabilities,
7 provision of assistance in locating a provider of personal
8 assistance services for the individual.

9 d. Upon request of an individual with disabilities,
10 provision of technical assistance to the individual concerning
11 the employment of a personal assistant or contracting for
12 services with a personal assistance service provider.

13 e. Procedures for payment of funds directly to individuals
14 with disabilities in order for the individuals to purchase
15 personal assistance services. The procedures shall include
16 provisions to track the use of the funds and to monitor
17 contract compliance.

18 f. Implementation of the program in accordance with the
19 funding appropriated for the program.

20 Sec. 3. NEW SECTION. 225C.47 FAMILY SUPPORT PROGRAM.

21 1. For the purposes of this section, unless the context
22 otherwise requires:

23 a. "Individual with a disability" means an individual who
24 is less than twenty-two years of age and meets the definition
25 of developmental disability in 42 U.S.C. § 6001.

26 b. "Services and support" means services or other
27 assistance intended to enable an individual with a disability
28 to control the individual's environment, to remain living with
29 the individual's family, to function more independently, and
30 to increase the integration of the individual into the
31 individual's community. Services and support may include but
32 are not limited to funding for purchase of equipment,
33 supplies, assistive technology, and payment of other costs
34 attributable to the individual's disability.

35 2. An Iowa family support program is created in the

1 department of human services to provide services and support
2 to eligible families.

3 3. Eligibility for the family support program is limited
4 to families who meet all the following conditions:

5 a. The family resides in the state of Iowa.

6 b. The family includes an individual with a disability.

7 c. The family expresses an intent for the family member
8 who is an individual with a disability to remain living in the
9 family's home.

10 d. The family's taxable income is less than sixty thousand
11 dollars in the most recently completed tax year.

12 4. A family may apply to the department for assistance
13 under the family support program. The department shall
14 determine eligibility for the program in accordance with the
15 provisions of this section.

16 5. The department shall design the program in consultation
17 with the personal assistance and family support services
18 council created in section 225C.48. The department shall
19 adopt rules to implement the program which provide for all of
20 the following:

21 a. Eligible families maintain control of decisions which
22 affect the families' children who are individuals with a
23 disability.

24 b. Existing local agencies are utilized to provide
25 facilities and a single entry point for family support program
26 applicants.

27 c. Technical assistance is provided to service and support
28 providers and users.

29 d. State, regional, and local media are utilized to
30 publicize the family support program.

31 e. A process is available to appeal the department's
32 decisions involving families which apply for the family
33 support program and are denied services and support under the
34 family support program. The department shall make reasonable
35 efforts to utilize telecommunications so that a family

1 initiating an appeal may complete the appeal process in the
2 family's local geographic area.

3 f. Identification of the services and support included in
4 the family support program.

5 g. Identification of payment for services and support
6 directly to families, by voucher, or by other appropriate
7 means to maintain family control over decision making.

8 h. Implementation of the program in accordance with the
9 funding appropriated for the program.

10 Sec. 4. NEW SECTION. 225C.48 PERSONAL ASSISTANCE AND
11 FAMILY SUPPORT SERVICES COUNCIL.

12 1. An eleven-member personal assistance and family support
13 services council is created in the department. The members of
14 the council shall be appointed by the following officials as
15 follows: governor, five members; majority leader of the
16 senate, three members; and speaker of the house, three
17 members. At least three of the governor's appointments and
18 one of each legislative chamber's appointments shall be a
19 family member of an individual with a disability as defined in
20 section 225C.47. At least five of the members shall be
21 consumers of personal services. Members shall serve for
22 three-year staggered terms. A vacancy on the council shall be
23 filled in the same manner as the original appointment. The
24 members of the council shall be entitled to reimbursement of
25 actual and necessary expenses incurred in the performance of
26 their official duties. The council shall elect officers from
27 among the council's members.

28 2. The council shall develop recommendations for the
29 department and other agencies working with the department in
30 the development and implementation of the personal assistance
31 services program created in section 225C.46 and the family
32 support program created in section 225C.47. The council shall
33 perform an annual evaluation of each program, and annually
34 make recommendations concerning each program to the governor
35 and general assembly. The department shall provide sufficient

1 staff support to the council to enable the council to carry
2 out its responsibilities.

3 3. The department shall consider recommendations from the
4 council in developing and implementing each program, including
5 the development of administrative rules. The department shall
6 regularly report to the council on the status of each program
7 and any actions planned or taken by the department related to
8 each program.

9 4. This section is repealed effective July 1, 1998.

10 Sec. 5. IMPLEMENTATION OF PERSONAL ASSISTANCE SERVICES
11 PROGRAM AND FAMILY SUPPORT PROGRAM.

12 1. The department of human services shall perform all of
13 the following beginning July 1, 1994, in implementing the
14 personal assistance services program under section 225C.46 and
15 the family support program under section 225C.47:

16 a. Based upon surveys and population samples, estimate the
17 total population of individuals who would be eligible for each
18 program. The department shall estimate the type and quantity
19 of disabilities present among the population estimated and by
20 use of surveys, interviews, and consultation with individuals
21 with disabilities identify the desired components of personal
22 assistance services contracts. The department shall initially
23 develop a master contract and develop procedures to adapt the
24 master contract to individual needs. The department may use
25 outside technical assistance or a consultant in implementing
26 the provisions of this paragraph.

27 b. Identify and develop a working group of state and local
28 agencies which are experienced in working with individuals
29 with disabilities to develop a budget and funding plan for
30 each program. The department may establish a separate working
31 group for each program. Working group members shall include
32 but are not limited to representatives of regional planning
33 councils, Iowa governor's planning council for developmental
34 disabilities, Iowa state association of counties, vocational
35 rehabilitation division of the department of education, and

1 independent living centers. The department shall coordinate
2 its development activities for the personal assistance
3 services program and the family support program with the
4 working group and provide for the input of the personal
5 assistance and family support services council created in
6 section 225C.48.

7 c. On or before November 1, 1994, develop a budget and
8 funding plan and program design for state and federal funding
9 of the personal assistance services program based upon the
10 contract components identified pursuant to paragraph "a". The
11 department shall not propose a budget and funding plan and
12 program design which would create an unfunded mandate for
13 counties. The budget and funding plan and program design
14 shall be submitted to the governor and the general assembly
15 for consideration and approval by the Seventy-sixth General
16 Assembly, 1995 Session. The funding plan and budget shall
17 include the following provisions:

18 (1) Cost offsets based upon the ability of an individual
19 to pay.

20 (2) Integration of the personal assistance services
21 program with other programs and assistance available to
22 individuals with disabilities so as to avoid duplication and
23 to maximize the use of financial resources.

24 (3) Inclusion of regional planning councils in the
25 implementation of the personal assistance services program.

26 (4) Recommendations for developing medical assistance
27 waivers and state plan amendments such as coverage of personal
28 assistance services in order to maximize the potential for
29 federal funding of the personal assistance services program.

30 (5) Recommendations to ensure that the program is able to
31 operate within appropriated funds.

32 d. Beginning July 1, 1995, conduct final reviews and
33 planning for implementation of individual personal assistance
34 services contracts on January 1, 1996. Based upon financial
35 resources available for the program and the relative cost and

1 benefit of a particular service, the department shall
2 negotiate the actual services to be included in a contract
3 with the individual who will receive the personal assistance
4 services under that contract.

5 e. On or before June 15, 1995, submit a budget and funding
6 plan and program design for state and federal funding of the
7 family support program. The budget and funding plan and
8 program design shall include the same provisions as required
9 for the personal assistance program in paragraph "c". The
10 department shall not propose a budget and funding plan and
11 program design which would create an unfunded mandate for
12 counties.

13 2. The initial terms of the personal assistance and family
14 support services council created in section 225C.48 shall be
15 as follows:

16 a. The governor shall appoint three members to a one-year
17 term, one member to a two-year term, and one member to a
18 three-year term.

19 b. The majority leader of the senate and the speaker of
20 the house shall each appoint one member to a two-year term and
21 two members to a three-year term.

22 Sec. 6. IMPLEMENTATION. Implementation of the family
23 support program in section 225C.47 as enacted by this Act
24 shall be delayed until July 1, 1996, and is subject to the
25 availability of funding appropriated for the program.

26 EXPLANATION

27 This bill creates a personal assistance services program
28 for persons with disabilities and a family support program for
29 families of persons with disabilities to be administered by
30 the department of human services. The bill provides temporary
31 law requiring the department to develop a budget and funding
32 plan and program design for both programs for submission to
33 the governor and general assembly prior to implementation of
34 the programs. The bill provides for a council and working
35 group or groups to assist with implementation planning.

1 The bill includes a statement of legislative intent that
2 the purpose of the personal services program is to ensure the
3 inclusion of individuals with disabilities in the general
4 population, community, and work force in the state.

5 For the personal assistance program, which would be
6 codified in section 225C.46, the bill provides definitions of
7 the term "disability" based on the definition used by the
8 federal Americans with Disabilities Act and of the term
9 "personal assistance services". Iowans with a disability with
10 a federal or Iowa taxable income of less than \$40,000 who are
11 at least 18 years of age or are emancipated minors are
12 eligible for the program.

13 The personal assistance program would provide for the
14 delivery of personal assistance services under the provisions
15 of individual contracts between the individual receiving
16 services and service providers. The department would develop
17 the provisions of a master contract but the individual who
18 receives the services would determine the actual components of
19 the contract for services to be provided to the individual.
20 The department is directed to adopt rules providing for the
21 components of personal assistance services contracts and is
22 required to work with other state and local agencies in
23 developing the rules.

24 The bill also creates a family support program directed to
25 families of individuals with a disability. The program would
26 be codified in section 225C.47.

27 Eligibility for the family support program is limited to
28 families with an individual who is less than 22 years of age
29 and who has a developmental disability as defined in federal
30 law. The federal definition includes specific requirements
31 such as special criteria for children who are less than six
32 years of age, age of onset must be prior to age 22, the
33 disability is likely to continue indefinitely, and the
34 disability affects at least three areas of major life
35 activity. The family must be maintaining or desiring to

1 maintain the family member with a disability in the family
2 home. Eligibility is limited to families with a taxable
3 income of less than \$60,000. The department is to determine
4 eligibility according to the criteria provided in the bill and
5 the department's decisions may be appealed under chapter 17A,
6 Iowa's administrative procedures Act.

7 The family support program is required to be implemented
8 July 1, 1996, subject to the availability of funding, by
9 providing for purchase of various services and support for
10 eligible families. The term "services and support" is defined
11 by the bill as assistance intended to promote the autonomy and
12 independence of the families and individuals who are eligible
13 for the initiative. The services and support may include
14 purchase of equipment, supplies, assistive technology, and
15 payment of other costs attributable to an individual's
16 disability. The initiative is to be implemented in a manner
17 which emphasizes the decision-making ability of eligible
18 families.

19 A personal assistance and family support services council
20 is created to assist the department in implementing the
21 programs and to evaluate the programs and make recommendations
22 to the governor and the general assembly. A temporary
23 provision provides for staggered terms for the appointment of
24 members to the council which are made by the governor and
25 legislative leaders. The council is repealed effective July
26 1, 1998.

27 The programs are to be implemented over a two-year period.
28 During fiscal year 1994-1995, the department is directed to
29 estimate the eligible population for the two programs through
30 surveys and interviews and to consult with eligible
31 individuals on contract components in order to develop a
32 proposed budget and funding plan and program design for the
33 personal assistance program. In addition, the department is
34 to utilize a working group to assist in development of the
35 proposed plans and designs required by the bill. The proposed

1 plan and design is required to be submitted to the governor
2 and the general assembly for action during the 1995
3 legislative session. Actual contracts would be implemented
4 beginning January 1, 1996, following negotiation over the
5 service components of individual contacts between the
6 department and individuals. The negotiations would be based
7 upon financial resources available and the relative cost and
8 benefit of a particular service.

9 The bill includes similar provisions for development of a
10 budget and funding plan and program design for the family
11 assistance program. The plan and design are to be submitted
12 by June 15, 1995. Both of the programs' plans and designs are
13 to be developed in a manner which does not create an unfunded
14 mandate on counties.

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HOUSE FILE 2302

5218

1 Amend House File 2302 as follows:

- 2 1. Page 1, line 5, by inserting after the word
3 "program" the following: "and a comprehensive family
4 support program for families of persons with
5 disabilities".
- 6 2. Page 3, line 19, by striking the word "The".
- 7 3. Page 3, by striking lines 20 and 21 and
8 inserting the following: "Based upon the components
9 determined by the individual, the department shall
10 develop a provider contract or other means of paying
11 for services. The".
- 12 4. Page 4, by striking lines 13 through 15 and
13 inserting the following:
14 "e. Procedures for disbursement of funds. Funds
15 for the purchase of personal assistance services shall
16 be paid directly to individuals with disabilities
17 pursuant to a contract or by other appropriate means
18 of payment. The rules shall include".
- 19 5. Page 4, line 20, by inserting before the word
20 "FAMILY" the following: "COMPREHENSIVE".
- 21 6. Page 4, line 32, by inserting after the word
22 "equipment," the following: "respite care,".
- 23 7. Page 4, line 34, by inserting after the word
24 "disability" the following: "which are identified by
the individual's family".
- 27 8. Page 4, line 35, by striking the words "An
Iowa" and inserting the following: "A comprehensive".
- 28 9. Page 5, line 3, by inserting before the word
29 "family" the following: "comprehensive".
- 30 10. Page 5, line 13, by inserting before the word
31 "family" the following: "comprehensive".
- 32 11. Page 5, line 25, by inserting before the word
33 "family" the following: "comprehensive".
- 34 12. Page 5, line 32, by inserting before the word
35 "family" the following: "comprehensive".
- 36 13. Page 5, line 34, by inserting before the word
37 "family" the following: "comprehensive".
- 38 14. Page 6, line 4, by inserting before the word
39 "family" the following: "comprehensive".
- 40 15. Page 6, by inserting after line 9 the follow-
41 ing:
42 "6. Services and support provided under the
43 comprehensive family support program shall not be used
44 to supplant other services and support available to a
45 family of an individual with disabilities but shall be
46 used to meet family needs that would not be met
47 without the program."
- 48 16. Page 6, line 28, by striking the words
49 "develop recommendations for" and inserting the
50 following: "provide ongoing guidance, advice, and

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H-5218

Page 2

1 direction to".
2 17. Page 6, line 31, by inserting before the word
3 "family" the following: "comprehensive".
4 18. Page 7, line 11, by inserting before the word
5 "FAMILY" the following: "COMPREHENSIVE".
6 19. Page 7, line 15, by inserting before the word
7 "family" the following: "comprehensive".
8 20. Page 7, line 24, by inserting after the word
9 "needs." the following: "For the comprehensive family
10 support program, the department shall develop a
11 payment system for services and supports which
12 provides payment directly to families or utilizes
13 vouchers or other payment mechanisms which maintain
14 the decision-making ability of families."
15 21. Page 7, line 30, by inserting after the word
16 "program" the following: "which may provide for
17 incrementally implementing either or both programs
18 over two or more fiscal years".
19 22. Page 8, line 3, by inserting before the word
20 "family" the following: "comprehensive".
21 23. Page 8, line 16, by inserting after the word
22 "Session." the following: "The budget and funding
23 plan and program design shall also be submitted for
24 consideration by state agencies which may be subject
25 to budget revision due to implementation of the
26 program."
27 24. Page 9, line 7, by inserting before the word
28 "family" the following: "comprehensive".
29 25. Page 9, line 22, by inserting before the word
30 "family" the following: "comprehensive".
31 26. Page 9, line 25, by inserting after the word
32 "program." the following: "However, if funding is
33 available from a source other than the state,
34 including but not limited to federal or private
35 grants, the department, in consultation with the
36 personal assistance and family support council, may
37 institute pilot projects in one or more counties
38 during the fiscal year beginning July 1, 1995, to test
39 the comprehensive family support program. The council
40 shall provide an evaluation of any pilot program and
41 report the results to the governor and the general
42 assembly."
43 27. Title page, line 2, by inserting before the
44 word "family" the following: "comprehensive".

By WITT of Black Hawk
BODDICKER of Cedar

H-5218 FILED MARCH 8, 1994

Adopted
3-10-94
(P. 537)

(p. 799) 3/22/94 Senate - Amend/Do Pass
W/S. 5280
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HOUSE FILE 2302
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 2123)

(As Amended and Passed by the House March 10, 1994)

Passed House, Date _____ Passed Senate, Date 3/28/94
Vote: Ayes _____ Nays _____ Vote: Ayes 47 Nays 0
Approved April 5, 1994

A BILL FOR

1 An Act creating a personal assistance services program for
2 persons with disabilities and a comprehensive family support
3 program for families of persons with disabilities to be
4 administered by the department of human services.

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

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House Amendments _____
Deleted Language *

1 Section 1. LEGISLATIVE INTENT. The purpose of this Act is
2 to ensure the inclusion of persons with disabilities in the
3 general population, community, and work force of the state
4 through the establishment of a personal assistance services
5 program and a comprehensive family support program for
6 families of persons with disabilities to be administered by
7 the department of human services. It is intended that the use
8 of state funds be maximized by drawing upon all sources of
9 funding available for personal assistance services. The
10 department of human services has been selected to administer
11 the program in coordination with other state and local
12 agencies in order to implement appropriate services while
13 maximizing and distributing funding in a cost-effective
14 manner.

15 Sec. 2. NEW SECTION. 225C.46 PERSONAL ASSISTANCE
16 SERVICES PROGRAM.

17 1. As used in this section, unless the context otherwise
18 requires:

19 a. (1) "Disability" means, with respect to an individual,
20 a physical or mental impairment that substantially limits one
21 or more of the major life activities of the individual, a
22 record of physical or mental impairment that substantially
23 limits one or more of the major life activities of the
24 individual, or being regarded as an individual with a physical
25 or mental impairment that substantially limits one or more of
26 the major life activities of the individual.

27 (2) "Disability" does not include any of the following:

28 (a) Homosexuality or bisexuality.

29 (b) Transvestism, transsexualism, pedophilia,
30 exhibitionism, voyeurism, gender identity disorders not
31 resulting from physical impairments, or other sexual behavior
32 disorders.

33 (c) Compulsive gambling, kleptomania, or pyromania.

34 (d) Psychoactive substance abuse disorders resulting from
35 current illegal use of drugs.

- 1 (e) Alcoholism.
- 2 b. "Major life activity" includes functions such as caring
3 for one's self, performing manual tasks, walking, seeing,
4 hearing, speaking, breathing, learning, or working.
- 5 c. "Personal assistance services" means services performed
6 by a person to assist an individual with a disability with
7 tasks which that individual would typically do if the
8 individual did not have a disability. The services are
9 intended to enable an individual with a disability to live in
10 the individual's home or community rather than in an
11 institutional setting and may include but are not limited to
12 any of the following:
- 13 (1) Dressing.
- 14 (2) Bathing.
- 15 (3) Access to and from bed or a wheelchair.
- 16 (4) Toilet assistance, including bowel, bladder, and
17 catheter assistance.
- 18 (5) Eating and feeding.
- 19 (6) Cooking and housekeeping assistance.
- 20 (7) Employment support.
- 21 (8) Cognitive assistance with tasks such as handling money
22 and scheduling.
- 23 (9) Fostering communication access through interpreting
24 and reading services.
- 25 d. (1) "Substantially limits" means either of the
26 following:
- 27 (a) Unable to perform a major life activity that the
28 average person in the general population can perform.
- 29 (b) Significantly restricted as to the condition, manner,
30 or duration under which an individual can perform a particular
31 major life activity as compared to the condition, manner, or
32 duration under which the average person in the general
33 population can perform that same major life activity.
- 34 (2) The following factors may be considered in determining
35 whether an individual is substantially limited in a major life

1 activity:

- 2 (a) The nature and severity of the impairment.
- 3 (b) The duration or expected duration of the impairment.
- 4 (c) The permanent or long-term impact, or expected
- 5 permanent or long-term impact of or resulting from the
- 6 impairment.

7 2. Eligibility for the personal assistance services
 8 program shall be limited to individuals with a disability, who
 9 have Iowa or federal taxable income of less than forty
 10 thousand dollars, who are residents of this state, and who are
 11 at least eighteen years of age or are emancipated minors. For
 12 the purposes of this subsection, "emancipated minor" means a
 13 person under eighteen years of age who is married or who is
 14 living separate and apart from the person's parent, regardless
 15 of the duration of the separate residence, and is managing the
 16 person's own financial affairs regardless of the source or
 17 extent of the person's income.

18 3. An individual served under the personal assistance
 19 services program shall determine the components of the
 20 personal assistance services to be provided with the person
 *21 who is providing the services to the individual. Based upon
 22 the components determined by the individual, the department
 23 shall develop a provider contract or other means of paying for
 24 services. The components may include but are not limited to
 25 all of the following:

- 26 a. Training of the person providing services.
- 27 b. Selection of the person providing services.
- 28 c. Management of the person providing services.
- 29 d. Performance standards for the person providing
- 30 services.
- 31 e. Annual review or review upon demonstration of
- 32 significant changes in the circumstances of the individual
- 33 being provided with personal assistance services.

34 4. The department shall adopt rules providing for all of
 35 the following:

1 a. Coordination of personal assistance service activities
2 and funding with other state and local agencies which provide
3 services to individuals with disabilities or funding of such
4 services.

5 b. The components of contracts between individuals with
6 disabilities being provided personal assistance services and
7 providers of personal assistance services.

8 c. Upon request of an individual with disabilities,
9 provision of assistance in locating a provider of personal
10 assistance services for the individual.

11 d. Upon request of an individual with disabilities,
12 provision of technical assistance to the individual concerning
13 the employment of a personal assistant or contracting for
14 services with a personal assistance service provider.

15 e. Procedures for disbursement of funds. Funds for the
16 purchase of personal assistance services shall be paid
17 directly to individuals with disabilities pursuant to a
18 contract or by other appropriate means of payment. The rules
19 shall include provisions to track the use of the funds and to
20 monitor contract compliance.

21 f. Implementation of the program in accordance with the
22 funding appropriated for the program.

23 Sec. 3. NEW SECTION. 225C.47 COMPREHENSIVE FAMILY SUPPORT
24 PROGRAM.

25 1. For the purposes of this section, unless the context
26 otherwise requires:

27 a. "Individual with a disability" means an individual who
28 is less than twenty-two years of age and meets the definition
29 of developmental disability in 42 U.S.C. § 6001.

30 b. "Services and support" means services or other
31 assistance intended to enable an individual with a disability
32 to control the individual's environment, to remain living with
33 the individual's family, to function more independently, and
34 to increase the integration of the individual into the
35 individual's community. Services and support may include but

1 are not limited to funding for purchase of equipment, respite
2 care, supplies, assistive technology, and payment of other
3 costs attributable to the individual's disability which are
4 identified by the individual's family.

5 2. A comprehensive family support program is created in
6 the department of human services to provide services and
7 support to eligible families.

8 3. Eligibility for the comprehensive family support
9 program is limited to families who meet all the following
10 conditions:

11 a. The family resides in the state of Iowa.

12 b. The family includes an individual with a disability.

13 c. The family expresses an intent for the family member
14 who is an individual with a disability to remain living in the
15 family's home.

16 d. The family's taxable income is less than sixty thousand
17 dollars in the most recently completed tax year.

18 4. A family may apply to the department for assistance
19 under the comprehensive family support program. The
20 department shall determine eligibility for the program in
21 accordance with the provisions of this section.

22 5. The department shall design the program in consultation
23 with the personal assistance and family support services
24 council created in section 225C.48. The department shall
25 adopt rules to implement the program which provide for all of
26 the following:

27 a. Eligible families maintain control of decisions which
28 affect the families' children who are individuals with a
29 disability.

30 b. Existing local agencies are utilized to provide
31 facilities and a single entry point for comprehensive family
32 support program applicants.

33 c. Technical assistance is provided to service and support
34 providers and users.

35 d. State, regional, and local media are utilized to

1 publicize the family support program.

2 e. A process is available to appeal the department's
3 decisions involving families which apply for the comprehensive
4 family support program and are denied services and support
5 under the comprehensive family support program. The
6 department shall make reasonable efforts to utilize
7 telecommunications so that a family initiating an appeal may
8 complete the appeal process in the family's local geographic
9 area.

10 f. Identification of the services and support included in
11 the comprehensive family support program.

12 g. Identification of payment for services and support
13 directly to families, by voucher, or by other appropriate
14 means to maintain family control over decision making.

15 h. Implementation of the program in accordance with the
16 funding appropriated for the program.

17 6. Services and support provided under the comprehensive
18 family support program shall not be used to supplant other
19 services and support available to a family of an individual
20 with disabilities but shall be used to meet family needs that
21 would not be met without the program.

22 Sec. 4. NEW SECTION. 225C.48 PERSONAL ASSISTANCE AND
23 FAMILY SUPPORT SERVICES COUNCIL.

24 1. An eleven-member personal assistance and family support
25 services council is created in the department. The members of
26 the council shall be appointed by the following officials as
27 follows: governor, five members; majority leader of the
28 senate, three members; and speaker of the house, three
29 members. At least three of the governor's appointments and
30 one of each legislative chamber's appointments shall be a
31 family member of an individual with a disability as defined in
32 section 225C.47. At least five of the members shall be
33 consumers of personal services. Members shall serve for
34 three-year staggered terms. A vacancy on the council shall be
35 filled in the same manner as the original appointment. The

1 members of the council shall be entitled to reimbursement of
2 actual and necessary expenses incurred in the performance of
3 their official duties. The council shall elect officers from
4 among the council's members.

5 2. The council shall provide ongoing guidance, advice, and
6 direction to the department and other agencies working with
7 the department in the development and implementation of the
8 personal assistance services program created in section
9 225C.46 and the comprehensive family support program created
10 in section 225C.47. The council shall perform an annual
11 evaluation of each program, and annually make recommendations
12 concerning each program to the governor and general assembly.
13 The department shall provide sufficient staff support to the
14 council to enable the council to carry out its
15 responsibilities.

16 3. The department shall consider recommendations from the
17 council in developing and implementing each program, including
18 the development of administrative rules. The department shall
19 regularly report to the council on the status of each program
20 and any actions planned or taken by the department related to
21 each program.

22 4. This section is repealed effective July 1, 1998.

23 Sec. 5. IMPLEMENTATION OF PERSONAL ASSISTANCE SERVICES
24 PROGRAM AND COMPREHENSIVE FAMILY SUPPORT PROGRAM.

25 1. The department of human services shall perform all of
26 the following beginning July 1, 1994, in implementing the
27 personal assistance services program under section 225C.46 and
28 the comprehensive family support program under section
29 225C.47:

30 a. Based upon surveys and population samples, estimate the
31 total population of individuals who would be eligible for each
32 program. The department shall estimate the type and quantity
33 of disabilities present among the population estimated and by
34 use of surveys, interviews, and consultation with individuals
35 with disabilities identify the desired components of personal

1 assistance services contracts. The department shall initially
2 develop a master contract and develop procedures to adapt the
3 master contract to individual needs. For the comprehensive
4 family support program, the department shall develop a payment
5 system for services and supports which provides payment
6 directly to families or utilizes vouchers or other payment
7 mechanisms which maintain the decision-making ability of
8 families. The department may use outside technical assistance
9 or a consultant in implementing the provisions of this
10 paragraph.

11 b. Identify and develop a working group of state and local
12 agencies which are experienced in working with individuals
13 with disabilities to develop a budget and funding plan for
14 each program which may provide for incrementally implementing
15 either or both programs over two or more fiscal years. The
16 department may establish a separate working group for each
17 program. Working group members shall include but are not
18 limited to representatives of regional planning councils, Iowa
19 governor's planning council for developmental disabilities,
20 Iowa state association of counties, vocational rehabilitation
21 division of the department of education, and independent
22 living centers. The department shall coordinate its
23 development activities for the personal assistance services
24 program and the comprehensive family support program with the
25 working group and provide for the input of the personal
26 assistance and family support services council created in
27 section 225C.48.

28 c. On or before November 1, 1994, develop a budget and
29 funding plan and program design for state and federal funding
30 of the personal assistance services program based upon the
31 contract components identified pursuant to paragraph "a". The
32 department shall not propose a budget and funding plan and
33 program design which would create an unfunded mandate for
34 counties. The budget and funding plan and program design
35 shall be submitted to the governor and the general assembly

1 for consideration and approval by the Seventy-sixth General
2 Assembly, 1995 Session. The budget and funding plan and
3 program design shall also be submitted for consideration by
4 state agencies which may be subject to budget revision due to
5 implementation of the program. The funding plan and budget
6 shall include the following provisions:

7 (1) Cost offsets based upon the ability of an individual
8 to pay.

9 (2) Integration of the personal assistance services
10 program with other programs and assistance available to
11 individuals with disabilities so as to avoid duplication and
12 to maximize the use of financial resources.

13 (3) Inclusion of regional planning councils in the
14 implementation of the personal assistance services program.

15 (4) Recommendations for developing medical assistance
16 waivers and state plan amendments such as coverage of personal
17 assistance services in order to maximize the potential for
18 federal funding of the personal assistance services program.

19 (5) Recommendations to ensure that the program is able to
20 operate within appropriated funds.

21 d. Beginning July 1, 1995, conduct final reviews and
22 planning for implementation of individual personal assistance
23 services contracts on January 1, 1996. Based upon financial
24 resources available for the program and the relative cost and
25 benefit of a particular service, the department shall
26 negotiate the actual services to be included in a contract
27 with the individual who will receive the personal assistance
28 services under that contract.

29 e. On or before June 15, 1995, submit a budget and funding
30 plan and program design for state and federal funding of the
31 comprehensive family support program. The budget and funding
32 plan and program design shall include the same provisions as
33 required for the personal assistance program in paragraph "c".
34 The department shall not propose a budget and funding plan and
35 program design which would create an unfunded mandate for

1 counties.

2 2. The initial terms of the personal assistance and family
3 support services council created in section 225C.48 shall be
4 as follows:

5 a. The governor shall appoint three members to a one-year
6 term, one member to a two-year term, and one member to a
7 three-year term.

8 b. The majority leader of the senate and the speaker of
9 the house shall each appoint one member to a two-year term and
10 two members to a three-year term.

11 Sec. 6. IMPLEMENTATION. Implementation of the
12 comprehensive family support program in section 225C.47 as
13 enacted by this Act shall be delayed until July 1, 1996, and
14 is subject to the availability of funding appropriated for the
15 program. However, if funding is available from a source other
16 than the state, including but not limited to federal or
17 private grants, the department, in consultation with the
18 personal assistance and family support council, may institute
19 pilot projects in one or more counties during the fiscal year
20 beginning July 1, 1995, to test the comprehensive family
21 support program. The council shall provide an evaluation of
22 any pilot program and report the results to the governor and
23 the general assembly.

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HOUSE FILE 2302

S-5280

1 Amend House File 2302, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 4, line 2, by inserting before the word
4 "funding" the following: "existing".
5 2. Page 4, by inserting after line 22 the
6 following:
7 "g. An appeals process for adverse determinations
8 involving individuals with disabilities and the
9 personal assistance services program."
10 3. Page 9, by inserting after line 20 the
11 following:
12 "(6) Proposals to reinvest current funding to
13 attract federal funding for the personal assistance
14 program. The department may identify and modify other
15 existing state programs which could be modified to
16 attain the objectives of the personal assistance
17 program."
18 4. By renumbering, relettering, and correcting
19 internal references as necessary.

By COMMITTEE ON HUMAN RESOURCES
ELAINE SZYMONIAK, Chairperson

S-5280 FILED MARCH 22, 1994

WITHDRAWN

HOUSE FILE 2302

AN ACT

CREATING A PERSONAL ASSISTANCE SERVICES PROGRAM FOR PERSONS WITH DISABILITIES AND A COMPREHENSIVE FAMILY SUPPORT PROGRAM FOR FAMILIES OF PERSONS WITH DISABILITIES TO BE ADMINISTERED BY THE DEPARTMENT OF HUMAN SERVICES.

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

Section 1. LEGISLATIVE INTENT. The purpose of this Act is to ensure the inclusion of persons with disabilities in the general population, community, and work force of the state through the establishment of a personal assistance services program and a comprehensive family support program for families of persons with disabilities to be administered by the department of human services. It is intended that the use of state funds be maximized by drawing upon all sources of funding available for personal assistance services. The department of human services has been selected to administer the program in coordination with other state and local agencies in order to implement appropriate services while maximizing and distributing funding in a cost-effective manner.

Sec. 2. NEW SECTION. 225C.46 PERSONAL ASSISTANCE SERVICES PROGRAM.

1. As used in this section, unless the context otherwise requires:

a. (1) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(2) "Disability" does not include any of the following:

(a) Homosexuality or bisexuality.

(b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.

(c) Compulsive gambling, kleptomania, or pyromania.

(d) Psychoactive substance abuse disorders resulting from current illegal use of drugs.

(e) Alcoholism.

b. "Major life activity" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

c. "Personal assistance services" means services performed by a person to assist an individual with a disability with tasks which that individual would typically do if the individual did not have a disability. The services are intended to enable an individual with a disability to live in the individual's home or community rather than in an institutional setting and may include but are not limited to any of the following:

(1) Dressing.

(2) Bathing.

(3) Access to and from bed or a wheelchair.

(4) Toilet assistance, including bowel, bladder, and catheter assistance.

(5) Eating and feeding.

- (6) Cooking and housekeeping assistance.
- (7) Employment support.
- (8) Cognitive assistance with tasks such as handling money and scheduling.
- (9) Fostering communication access through interpreting and reading services.

d. (1) "Substantially limits" means either of the following:

- (a) Unable to perform a major life activity that the average person in the general population can perform.
- (b) Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

(2) The following factors may be considered in determining whether an individual is substantially limited in a major life activity:

- (a) The nature and severity of the impairment.
- (b) The duration or expected duration of the impairment.
- (c) The permanent or long-term impact, or expected permanent or long-term impact of or resulting from the impairment.

2. Eligibility for the personal assistance services program shall be limited to individuals with a disability, who have Iowa or federal taxable income of less than forty thousand dollars, who are residents of this state, and who are at least eighteen years of age or are emancipated minors. For the purposes of this subsection, "emancipated minor" means a person under eighteen years of age who is married or who is living separate and apart from the person's parent, regardless of the duration of the separate residence, and is managing the person's own financial affairs regardless of the source or extent of the person's income.

3. An individual served under the personal assistance services program shall determine the components of the personal assistance services to be provided with the person who is providing the services to the individual. Based upon the components determined by the individual, the department shall develop a provider contract or other means of paying for services. The components may include but are not limited to all of the following:

- a. Training of the person providing services.
- b. Selection of the person providing services.
- c. Management of the person providing services.
- d. Performance standards for the person providing services.
- e. Annual review or review upon demonstration of significant changes in the circumstances of the individual being provided with personal assistance services.

4. The department shall adopt rules providing for all of the following:

- a. Coordination of personal assistance service activities and funding with other state and local agencies which provide services to individuals with disabilities or funding of such services.
- b. The components of contracts between individuals with disabilities being provided personal assistance services and providers of personal assistance services.
- c. Upon request of an individual with disabilities, provision of assistance in locating a provider of personal assistance services for the individual.
- d. Upon request of an individual with disabilities, provision of technical assistance to the individual concerning the employment of a personal assistant or contracting for services with a personal assistance service provider.
- e. Procedures for disbursement of funds. Funds for the purchase of personal assistance services shall be paid directly to individuals with disabilities pursuant to a

contract or by other appropriate means of payment. The rules shall include provisions to track the use of the funds and to monitor contract compliance.

f. Implementation of the program in accordance with the funding appropriated for the program.

Sec. 3. NEW SECTION. 225C.47 COMPREHENSIVE FAMILY SUPPORT PROGRAM.

1. For the purposes of this section, unless the context otherwise requires:

a. "Individual with a disability" means an individual who is less than twenty-two years of age and meets the definition of developmental disability in 42 U.S.C. § 6001.

b. "Services and support" means services or other assistance intended to enable an individual with a disability to control the individual's environment, to remain living with the individual's family, to function more independently, and to increase the integration of the individual into the individual's community. Services and support may include but are not limited to funding for purchase of equipment, respite care, supplies, assistive technology, and payment of other costs attributable to the individual's disability which are identified by the individual's family.

2. A comprehensive family support program is created in the department of human services to provide services and support to eligible families.

3. Eligibility for the comprehensive family support program is limited to families who meet all the following conditions:

- a. The family resides in the state of Iowa.
- b. The family includes an individual with a disability.
- c. The family expresses an intent for the family member who is an individual with a disability to remain living in the family's home.
- d. The family's taxable income is less than sixty thousand dollars in the most recently completed tax year.

4. A family may apply to the department for assistance under the comprehensive family support program. The department shall determine eligibility for the program in accordance with the provisions of this section.

5. The department shall design the program in consultation with the personal assistance and family support services council created in section 225C.48. The department shall adopt rules to implement the program which provide for all of the following:

a. Eligible families maintain control of decisions which affect the families' children who are individuals with a disability.

b. Existing local agencies are utilized to provide facilities and a single entry point for comprehensive family support program applicants.

c. Technical assistance is provided to service and support providers and users.

d. State, regional, and local media are utilized to publicize the family support program.

e. A process is available to appeal the department's decisions involving families which apply for the comprehensive family support program and are denied services and support under the comprehensive family support program. The department shall make reasonable efforts to utilize telecommunications so that a family initiating an appeal may complete the appeal process in the family's local geographic area.

f. Identification of the services and support included in the comprehensive family support program.

g. Identification of payment for services and support directly to families, by voucher, or by other appropriate means to maintain family control over decision making.

h. Implementation of the program in accordance with the funding appropriated for the program.

6. Services and support provided under the comprehensive family support program shall not be used to supplant other services and support available to a family of an individual with disabilities but shall be used to meet family needs that would not be met without the program.

Sec. 4. NEW SECTION. 225C.48 PERSONAL ASSISTANCE AND FAMILY SUPPORT SERVICES COUNCIL.

1. An eleven-member personal assistance and family support services council is created in the department. The members of the council shall be appointed by the following officials as follows: governor, five members; majority leader of the senate, three members; and speaker of the house, three members. At least three of the governor's appointments and one of each legislative chamber's appointments shall be a family member of an individual with a disability as defined in section 225C.47. At least five of the members shall be consumers of personal services. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment. The members of the council shall be entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. The council shall elect officers from among the council's members.

2. The council shall provide ongoing guidance, advice, and direction to the department and other agencies working with the department in the development and implementation of the personal assistance services program created in section 225C.46 and the comprehensive family support program created in section 225C.47. The council shall perform an annual evaluation of each program, and annually make recommendations concerning each program to the governor and general assembly. The department shall provide sufficient staff support to the council to enable the council to carry out its responsibilities.

3. The department shall consider recommendations from the council in developing and implementing each program, including the development of administrative rules. The department shall regularly report to the council on the status of each program and any actions planned or taken by the department related to each program.

4. This section is repealed effective July 1, 1998.

Sec. 5. IMPLEMENTATION OF PERSONAL ASSISTANCE SERVICES PROGRAM AND COMPREHENSIVE FAMILY SUPPORT PROGRAM.

1. The department of human services shall perform all of the following beginning July 1, 1994, in implementing the personal assistance services program under section 225C.46 and the comprehensive family support program under section 225C.47:

a. Based upon surveys and population samples, estimate the total population of individuals who would be eligible for each program. The department shall estimate the type and quantity of disabilities present among the population estimated and by use of surveys, interviews, and consultation with individuals with disabilities identify the desired components of personal assistance services contracts. The department shall initially develop a master contract and develop procedures to adapt the master contract to individual needs. For the comprehensive family support program, the department shall develop a payment system for services and supports which provides payment directly to families or utilizes vouchers or other payment mechanisms which maintain the decision-making ability of families. The department may use outside technical assistance or a consultant in implementing the provisions of this paragraph.

b. Identify and develop a working group of state and local agencies which are experienced in working with individuals with disabilities to develop a budget and funding plan for each program which may provide for incrementally implementing either or both programs over two or more fiscal years. The

department may establish a separate working group for each program. Working group members shall include but are not limited to representatives of regional planning councils, Iowa governor's planning council for developmental disabilities, Iowa state association of counties, vocational rehabilitation division of the department of education, and independent living centers. The department shall coordinate its development activities for the personal assistance services program and the comprehensive family support program with the working group and provide for the input of the personal assistance and family support services council created in section 225C.48.

c. On or before November 1, 1994, develop a budget and funding plan and program design for state and federal funding of the personal assistance services program based upon the contract components identified pursuant to paragraph "a". The department shall not propose a budget and funding plan and program design which would create an unfunded mandate for counties. The budget and funding plan and program design shall be submitted to the governor and the general assembly for consideration and approval by the Seventy-sixth General Assembly, 1995 Session. The budget and funding plan and program design shall also be submitted for consideration by state agencies which may be subject to budget revision due to implementation of the program. The funding plan and budget shall include the following provisions:

- (1) Cost offsets based upon the ability of an individual to pay.
- (2) Integration of the personal assistance services program with other programs and assistance available to individuals with disabilities so as to avoid duplication and to maximize the use of financial resources.
- (3) Inclusion of regional planning councils in the implementation of the personal assistance services program.

(4) Recommendations for developing medical assistance waivers and state plan amendments such as coverage of personal assistance services in order to maximize the potential for federal funding of the personal assistance services program.

(5) Recommendations to ensure that the program is able to operate within appropriated funds.

d. Beginning July 1, 1995, conduct final reviews and planning for implementation of individual personal assistance services contracts on January 1, 1996. Based upon financial resources available for the program and the relative cost and benefit of a particular service, the department shall negotiate the actual services to be included in a contract with the individual who will receive the personal assistance services under that contract.

e. On or before June 15, 1995, submit a budget and funding plan and program design for state and federal funding of the comprehensive family support program. The budget and funding plan and program design shall include the same provisions as required for the personal assistance program in paragraph "c". The department shall not propose a budget and funding plan and program design which would create an unfunded mandate for counties.

2. The initial terms of the personal assistance and family support services council created in section 225C.48 shall be as follows:

- a. The governor shall appoint three members to a one-year term, one member to a two-year term, and one member to a three-year term.
- b. The majority leader of the senate and the speaker of the house shall each appoint one member to a two-year term and two members to a three-year term.

Sec. 6. IMPLEMENTATION. Implementation of the comprehensive family support program in section 225C.47 as enacted by this Act shall be delayed until July 1, 1996, and is subject to the availability of funding appropriated for the

program. However, if funding is available from a source other than the state, including but not limited to federal or private grants, the department, in consultation with the personal assistance and family support council, may institute pilot projects in one or more counties during the fiscal year beginning July 1, 1995, to test the comprehensive family support program. The council shall provide an evaluation of any pilot program and report the results to the governor and the general assembly.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2302, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 5, 1994

TERRY E. BRANSTAD
Governor