

FILED MAR 3 1994

SENATE FILE 2250  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2198)

*(p. 592)*  
Passed Senate, Date 3-9-94 Passed House *(p. 1137)* Date 4/5/94  
Vote: Ayes 43 Nays 5 Vote: Ayes 97 Nays 2  
Approved April 25, 1994

A BILL FOR

1 An Act relating to the department of human services by  
2 establishing overpayment debt liens and reporting of assets  
3 and income of a medical assistance recipient by a conservator.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5  
6  
7  
8  
9

SENATE FILE 2250

S-5116

1 Amend Senate File 2250 as follows:  
2 1. Page 1, line 11, by inserting after the figure  
3 "2" the following: ", with the exception of property  
4 which is exempt from execution pursuant to chapter  
5 627".  
6 2. By striking page 2, line 35 through page 3,  
7 line 2, and inserting the following: "soon as  
8 practicable after the debt becomes delinquent. If  
9 service has not been made on a distress warrant by".

By ELAINE SZYMONIAK

S-5116 FILED MARCH 8, 1994

*adopted 3-9-94  
(p. 591)*

20  
21  
22  
23  
24

S.F 3257

1 Section 1. NEW SECTION. 10A.108 LIEN OF OVERPAYMENT DEBT  
2 OWED THE DEPARTMENT OF HUMAN SERVICES -- COLLECTION -- ACTION  
3 AUTHORIZED.

4 1. If a person who is liable to pay an overpayment debt  
5 owed the department of human services refuses or neglects to  
6 pay the overpayment debt, the amount, including any interest,  
7 penalty, or costs attached to the overpayment debt is a lien  
8 in favor of the state upon all property and any rights or  
9 title to or interest in property as applicable, whether real  
10 or personal, belonging to the person for the period  
11 established in subsection 2.

12 2. a. The lien attaches at the time the notice of the  
13 lien is filed under subsection 3, and continues for ten years  
14 from that date, unless released or otherwise discharged at an  
15 earlier time.

16 b. The lien may be extended, within ten years from the  
17 date of attachment, if a person files a notice with the county  
18 recorder or other appropriate county official of the county in  
19 which the property is located at the time of filing the  
20 extension. From the time of the filing of the notice, the  
21 lien period shall be extended for ten years to apply to the  
22 property in the county in which the notice is filed, unless  
23 released or otherwise discharged at an earlier time. The  
24 number of extensions is not limited.

25 c. The director shall discharge any lien which is allowed  
26 to lapse and may charge off any account and release the  
27 corresponding lien before the lien has lapsed if the director  
28 determines, under uniform rules prescribed by the director,  
29 that the account is uncollectible or collection costs involved  
30 would not warrant collection of the amount due.

31 3. To preserve the lien against subsequent mortgagees,  
32 purchasers, or judgment creditors, for value and without  
33 notice of the lien, on any property located in a county, the  
34 director shall file a notice of the lien with the recorder of  
35 the county in which the property is located at the time of

1 filing of the notice.

2 4. The county recorder of each county shall prepare and  
3 maintain in the recorder's office an index of liens of  
4 overpayment debt owed the department of human services, which  
5 provides appropriate columns for all of the following data,  
6 under the names of debtors, arranged alphabetically:

- 7 a. The name of the debtor.
- 8 b. "State of Iowa, Department of Human Services" as  
9 claimant.
- 10 c. The time that the notice of the lien was received.
- 11 d. The date of notice.
- 12 e. The amount of the lien currently due.
- 13 f. The date of the assessment.
- 14 g. The date of satisfaction of the debt.
- 15 h. Any extension of the time period for application of the  
16 lien and the date that the notice for extension was filed.

17 5. The recorder shall endorse on each notice of lien the  
18 day and time received and shall preserve the notice. The  
19 recorder shall index the notice in the index book and shall  
20 record the lien in the manner provided for recording real  
21 estate mortgages. The lien shall be effective from the time  
22 of the indexing.

23 6. The department shall pay, from moneys appropriated to  
24 the department for this purpose, a recording fee as provided  
25 in section 331.604, for the recording of the lien, or for  
26 satisfaction of the lien.

27 7. Upon payment of an overpayment debt for which the  
28 director has filed notice with a county recorder, the director  
29 shall file a satisfaction of the debt with the recorder and  
30 the recorder shall enter the satisfaction on the notice on  
31 file in the recorder's office.

32 8. The department of inspections and appeals, as provided  
33 in this chapter and chapter 626, shall proceed to collect all  
34 overpayment debts owed the department of human services as  
35 soon as practicable after the debt becomes delinquent, except

1 that no property of the debtor is exempt from payment of the  
2 debt. If service has not been made on a distress warrant by  
3 the officer to whom addressed within five days from the date  
4 the distress warrant was received by the officer, the  
5 authorized investigators of the department of inspections and  
6 appeals may serve and make return of the warrant to the clerk  
7 of the district court of the county named in the distress  
8 warrant, and all subsequent procedures shall be in compliance  
9 with chapter 626.

10 9. The distress warrant shall be in a form as prescribed  
11 by the director, shall be directed to the sheriff of the  
12 appropriate county, and shall identify the debtor, the type of  
13 overpayment debt, and the delinquent amount. The distress  
14 warrant shall direct the sheriff to distrain, seize, garnish,  
15 or levy upon, and sell, as provided by law, any real or  
16 personal property belonging to the debtor to satisfy the  
17 amount of the delinquency plus costs. The distress warrant  
18 shall also direct the sheriff to make due and prompt return to  
19 the department or to the district court under chapter 626 of  
20 all amounts collected.

21 10. The attorney general, upon the request of the director  
22 of inspections and appeals, shall bring an action, as the  
23 facts may justify, without bond, to enforce payment of any  
24 overpayment debts under this section, and in the action the  
25 attorney general shall have the assistance of the county  
26 attorney of the county in which the action is pending.

27 11. The remedies of the state shall be cumulative and no  
28 action taken by the director of inspections and appeals or  
29 attorney general shall be construed to be an election on the  
30 part of the state or any of its officers to pursue any remedy  
31 to the exclusion of any other remedy provided by law.

32 Sec. 2. Section 633.641, Code 1993, is amended by adding  
33 the following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. The conservator shall report to  
35 the department of human services the assets and income of any

1 ward receiving medical assistance under chapter 249A. Reports  
2 shall be made upon establishment of a conservatorship for an  
3 individual applying for or receiving medical assistance, upon  
4 application for benefits on behalf of the ward, upon annual or  
5 semiannual review of continued medical assistance eligibility,  
6 when any significant change in principal or income occurs in  
7 the conservatorship account, or as otherwise requested by the  
8 department of human services. Written reports shall be  
9 provided to the department of human services county office for  
10 the county in which the ward resides or the county office in  
11 which the ward's medical assistance is administered.

12

EXPLANATION

13 This bill provides for the establishment of a lien on  
14 property of a person liable to pay an overpayment debt to the  
15 department of human services. Administration of the procedure  
16 is the responsibility of the department of inspections and  
17 appeals. The bill provides for recording of the lien and for  
18 recording of satisfaction of the debt owed.

19 The bill also requires a conservator of a ward receiving  
20 medical assistance to report the assets and income of the ward  
21 to the department of human services.

22

23

24

25

26

27

28

29

30

31

32

33

34

35

House, (P.533) 3-10-94 Human Res.  
(P.901) House - amend/Do Pass w/5709

SENATE FILE 2250  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2198)  
(AS AMENDED AND PASSED BY THE SENATE MARCH 9, 1994)

\_\_\_\_\_ - New Language by the Senate

Passed Senate, Date <sup>p.1042</sup> 4/6/94 Passed House, Date <sup>(P.1137)</sup> 4-5-94  
Vote: Ayes 46 Nays 0 Vote: Ayes 97 Nays 2  
Approved April 25, 1994

A BILL FOR

1 An Act relating to the department of human services by  
2 establishing overpayment debt liens and reporting of assets  
3 and income of a medical assistance recipient by a conservator.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

S.F. 2250

1 Section 1. NEW SECTION. 10A.108 LIEN OF OVERPAYMENT DEBT  
2 OWED THE DEPARTMENT OF HUMAN SERVICES -- COLLECTION -- ACTION  
3 AUTHORIZED.

4 1. If a person who is liable to pay an overpayment debt  
5 owed the department of human services refuses or neglects to  
6 pay the overpayment debt, the amount, including any interest,  
7 penalty, or costs attached to the overpayment debt is a lien  
8 in favor of the state upon all property and any rights or  
9 title to or interest in property as applicable, whether real  
10 or personal, belonging to the person for the period  
11 established in subsection 2, with the exception of property  
12 which is exempt from execution pursuant to chapter 627.

13 2. a. The lien attaches at the time the notice of the  
14 lien is filed under subsection 3, and continues for ten years  
15 from that date, unless released or otherwise discharged at an  
16 earlier time.

17 b. The lien may be extended, within ten years from the  
18 date of attachment, if a person files a notice with the county  
19 recorder or other appropriate county official of the county in  
20 which the property is located at the time of filing the  
21 extension. From the time of the filing of the notice, the  
22 lien period shall be extended for ten years to apply to the  
23 property in the county in which the notice is filed, unless  
24 released or otherwise discharged at an earlier time. The  
25 number of extensions is not limited.

26 c. The director shall discharge any lien which is allowed  
27 to lapse and may charge off any account and release the  
28 corresponding lien before the lien has lapsed if the director  
29 determines, under uniform rules prescribed by the director,  
30 that the account is uncollectible or collection costs involved  
31 would not warrant collection of the amount due.

32 3. To preserve the lien against subsequent mortgagees,  
33 purchasers, or judgment creditors, for value and without  
34 notice of the lien, on any property located in a county, the  
35 director shall file a notice of the lien with the recorder of

1 the county in which the property is located at the time of  
2 filing of the notice.

3 4. The county recorder of each county shall prepare and  
4 maintain in the recorder's office an index of liens of  
5 overpayment debt owed the department of human services, which  
6 provides appropriate columns for all of the following data,  
7 under the names of debtors, arranged alphabetically:

8 a. The name of the debtor.

9 b. "State of Iowa, Department of Human Services" as  
10 claimant.

11 c. The time that the notice of the lien was received.

12 d. The date of notice.

13 e. The amount of the lien currently due.

14 f. The date of the assessment.

15 g. The date of satisfaction of the debt.

16 h. Any extension of the time period for application of the  
17 lien and the date that the notice for extension was filed.

18 5. The recorder shall endorse on each notice of lien the  
19 day and time received and shall preserve the notice. The  
20 recorder shall index the notice in the index book and shall  
21 record the lien in the manner provided for recording real  
22 estate mortgages. The lien shall be effective from the time  
23 of the indexing.

24 6. The department shall pay, from moneys appropriated to  
25 the department for this purpose, a recording fee as provided  
26 in section 331.604, for the recording of the lien, or for  
27 satisfaction of the lien.

28 7. Upon payment of an overpayment debt for which the  
29 director has filed notice with a county recorder, the director  
30 shall file a satisfaction of the debt with the recorder and  
31 the recorder shall enter the satisfaction on the notice on  
32 file in the recorder's office.

33 8. The department of inspections and appeals, as provided  
34 in this chapter and chapter 626, shall proceed to collect all  
35 overpayment debts owed the department of human services as



1 soon as practicable after the debt becomes delinquent. If  
2 service has not been made on a distress warrant by the officer  
3 to whom addressed within five days from the date the distress  
4 warrant was received by the officer, the authorized  
5 investigators of the department of inspections and appeals may  
6 serve and make return of the warrant to the clerk of the  
7 district court of the county named in the distress warrant,  
8 and all subsequent procedures shall be in compliance with  
9 chapter 626.

10 9. The distress warrant shall be in a form as prescribed  
11 by the director, shall be directed to the sheriff of the  
12 appropriate county, and shall identify the debtor, the type of  
13 overpayment debt, and the delinquent amount. The distress  
14 warrant shall direct the sheriff to distrain, seize, garnish,  
15 or levy upon, and sell, as provided by law, any real or  
16 personal property belonging to the debtor to satisfy the  
17 amount of the delinquency plus costs. The distress warrant  
18 shall also direct the sheriff to make due and prompt return to  
19 the department or to the district court under chapter 626 of  
20 all amounts collected.

21 10. The attorney general, upon the request of the director  
22 of inspections and appeals, shall bring an action, as the  
23 facts may justify, without bond, to enforce payment of any  
24 overpayment debts under this section, and in the action the  
25 attorney general shall have the assistance of the county  
26 attorney of the county in which the action is pending.

27 11. The remedies of the state shall be cumulative and no  
28 action taken by the director of inspections and appeals or  
29 attorney general shall be construed to be an election on the  
30 part of the state or any of its officers to pursue any remedy  
31 to the exclusion of any other remedy provided by law.

32 Sec. 2. Section 633.641, Code 1993, is amended by adding  
33 the following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. The conservator shall report to  
35 the department of human services the assets and income of any

1 ward receiving medical assistance under chapter 249A. Reports  
2 shall be made upon establishment of a conservatorship for an  
3 individual applying for or receiving medical assistance, upon  
4 application for benefits on behalf of the ward, upon annual or  
5 semiannual review of continued medical assistance eligibility,  
6 when any significant change in principal or income occurs in  
7 the conservatorship account, or as otherwise requested by the  
8 department of human services. Written reports shall be  
9 provided to the department of human services county office for  
10 the county in which the ward resides or the county office in  
11 which the ward's medical assistance is administered.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

## SENATE FILE 2250

H-5709

1 Amend Senate File 2250 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 12, and  
4 inserting the following:

5 "Section 1. NEW SECTION. 10A.108 LIEN OF  
6 ENTITLEMENT BENEFITS INAPPROPRIATELY OBTAINED FROM THE  
7 DEPARTMENT OF HUMAN SERVICES -- DEBT ESTABLISHED --  
8 COLLECTION -- ACTION AUTHORIZED.

9 1. If a person refuses or neglects to repay  
10 benefits inappropriately obtained from the department  
11 of human services, the amount inappropriately  
12 obtained, including any interest, penalty, or costs  
13 attached to the amount, constitutes a debt and is a  
14 lien in favor of the state upon all property and any  
15 rights or title to or interest in property, whether  
16 real or personal, belonging to the person for the  
17 period established in subsection 2, with the exception  
18 of property which is exempt from execution pursuant to  
19 chapter 627.

20 A lien under this section shall not attach to any  
21 amount of inappropriately obtained benefits, or  
22 portions of the benefits, attributable to errors by  
23 the department of human services. Liens shall only  
24 attach to the amounts of inappropriately obtained  
25 benefits or portions of the benefits which were  
26 obtained due to false, misleading, incomplete, or  
27 inaccurate information submitted by a person in  
28 connection with the application for or receipt of  
29 benefits."

30 2. Page 2, line 5, by striking the words  
31 "overpayment debt" and inserting the following:  
32 "debts established based upon benefits inappropriately  
33 obtained from and".

34 3. Page 2, line 28, by striking the words "an  
35 overpayment" and inserting the following: "a".

36 4. Page 2, line 35, by striking the word  
37 "overpayment".

38 5. Page 3, line 13, by striking the word  
39 "overpayment".

40 6. Page 3, line 24, by striking the word  
41 "overpayment".

42 7. Title page, line 2, by striking the words  
43 "overpayment debt liens" and inserting the following:  
44 "debt liens based upon the inappropriate obtaining of  
45 benefits from the department of human services".

By COMMITTEE ON HUMAN RESOURCES  
PLASIER of Sioux, Chairperson

H-5709 FILED MARCH 25, 1994

*Adopted  
4-5-94  
(P. 1137)*

SENATE FILE 2250

H-5738

1 Amend the amendment, H-5709, to Senate File 2250,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by inserting after line 8 the  
5 following:

6 "\_\_\_\_. This section only applies if the department  
7 of human services requests a hearing on its own motion  
8 in the district court in the county where the person  
9 resides, prior to the attachment of a lien, to  
10 establish that the person has obtained benefits  
11 inappropriately from the department of human services  
12 through false, misleading, incomplete, or inaccurate  
13 information submitted by the person in connection with  
14 the application for or receipt of benefits and if the  
15 court enters an order finding the person to have  
16 inappropriately obtained benefits under this section.  
17 The department of human services shall pay all costs  
18 associated with the hearing if the person is not found  
19 to have inappropriately obtained benefits from the  
20 department."

21 2. By renumbering and correcting internal  
22 references as necessary.

By BURKE of Marshall

H-5738 FILED MARCH 28, 1994

WITHDRAWN  
4-5-94  
(P. 1136)

HOUSE AMENDMENT TO  
SENATE FILE 2250

S-5462

1 Amend Senate File 2250 as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 1, by striking lines 1 through 12, and  
4 inserting the following:  
5 "Section 1. NEW SECTION. 10A.108 LIEN OF  
6 ENTITLEMENT BENEFITS INAPPROPRIATELY OBTAINED FROM THE  
7 DEPARTMENT OF HUMAN SERVICES -- DEBT ESTABLISHED --  
8 COLLECTION -- ACTION AUTHORIZED.  
9 1. If a person refuses or neglects to repay  
10 benefits inappropriately obtained from the department  
11 of human services, the amount inappropriately  
12 obtained, including any interest, penalty, or costs  
13 attached to the amount, constitutes a debt and is a  
14 lien in favor of the state upon all property and any  
15 rights or title to or interest in property, whether  
16 real or personal, belonging to the person for the  
17 period established in subsection 2, with the exception  
18 of property which is exempt from execution pursuant to  
19 chapter 627.  
20 Alien under this section shall not attach to any  
21 amount of inappropriately obtained benefits, or  
22 portions of the benefits, attributable to errors by  
23 the department of human services. Liens shall only  
24 attach to the amounts of inappropriately obtained  
25 benefits or portions of the benefits which were  
26 obtained due to false, misleading, incomplete, or  
27 inaccurate information submitted by a person in  
28 connection with the application for or receipt of  
29 benefits."  
30 2. Page 2, line 5, by striking the words  
31 "overpayment debt" and inserting the following:  
32 "debts established based upon benefits inappropriately  
33 obtained from and".  
34 3. Page 2, line 28, by striking the words "an  
35 overpayment" and inserting the following: "a".  
36 4. Page 2, line 35, by striking the word  
37 "overpayment".  
38 5. Page 3, line 13, by striking the word  
39 "overpayment".  
40 6. Page 3, line 24, by striking the word  
41 "overpayment".  
42 7. Title page, line 2, by striking the words  
43 "overpayment debt liens" and inserting the following:  
44 "debt liens based upon the inappropriate obtaining of  
45 benefits from the department of human services".

RECEIVED FROM THE HOUSE

S-5462 FILED APRIL 5, 1994

*Senate Concurred*  
*4-6-94* *P. 1042*

Szymoniak  
Buhr  
Bennett

SSB-2198  
Human Resources  
New  
2250

SENATE/HOUSE FILE  
BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS  
BILL)

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

A BILL FOR

1 An Act relating to the department of human services by  
2 establishing overpayment debt liens and reporting of assets  
3 and income of a medical assistance recipient by a conservator.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

1 Section 1. NEW SECTION. 10A.108 LIEN OF OVERPAYMENT DEBT  
2 OWED THE DEPARTMENT OF HUMAN SERVICES -- COLLECTION -- ACTION  
3 AUTHORIZED.

4 1. If a person who is liable to pay an overpayment debt  
5 owed the department of human services refuses or neglects to  
6 pay the overpayment debt, the amount, including any interest,  
7 penalty, or costs attached to the overpayment debt is a lien  
8 in favor of the state upon all property and any rights or  
9 title to or interest in property as applicable, whether real  
10 or personal, belonging to the person for the period  
11 established in subsection 2.

12 2. a. The lien attaches at the time the notice of the  
13 lien is filed under subsection 3, and continues for ten years  
14 from that date, unless released or otherwise discharged at an  
15 earlier time.

16 b. The lien may be extended, within ten years from the  
17 date of attachment, if a person files a notice with the county  
18 recorder or other appropriate county official of the county in  
19 which the property is located at the time of filing the  
20 extension. From the time of the filing of the notice, the  
21 lien period shall be extended for ten years to apply to the  
22 property in the county in which the notice is filed, unless  
23 released or otherwise discharged at an earlier time. The  
24 number of extensions is not limited.

25 c. The director shall discharge any lien which is allowed  
26 to lapse and may charge off any account and release the  
27 corresponding lien before the lien has lapsed if the director  
28 determines, under uniform rules prescribed by the director,  
29 that the account is uncollectible or collection costs involved  
30 would not warrant collection of the amount due.

31 3. To preserve the lien against subsequent mortgagees,  
32 purchasers, or judgment creditors, for value and without  
33 notice of the lien, on any property located in a county, the  
34 director shall file a notice of the lien with the recorder of  
35 the county in which the property is located at the time of

1 filing of the notice.

2 4. The county recorder of each county shall prepare and  
3 maintain in the recorder's office an index of liens of  
4 overpayment debt owed the department of human services, which  
5 provides appropriate columns for all of the following data,  
6 under the names of debtors, arranged alphabetically:

7 a. The name of the debtor.

8 b. "State of Iowa, Department of Human Services" as  
9 claimant.

10 c. The time that the notice of the lien was received.

11 d. The date of notice.

12 e. The amount of the lien currently due.

13 f. The date of the assessment.

14 g. The date of satisfaction of the debt.

15 h. Any extension of the time period for application of the  
16 lien and the date that the notice for extension was filed.

17 5. The recorder shall endorse on each notice of lien the  
18 day and time received and shall preserve the notice. The  
19 recorder shall index the notice in the index book and shall  
20 record the lien in the manner provided for recording real  
21 estate mortgages. The lien shall be effective from the time  
22 of the indexing.

23 6. The department shall pay, from moneys appropriated to  
24 the department for this purpose, a recording fee as provided  
25 in section 331.604, for the recording of the lien, or for  
26 satisfaction of the lien.

27 7. Upon payment of an overpayment debt for which the  
28 director has filed notice with a county recorder, the director  
29 shall file a satisfaction of the debt with the recorder and  
30 the recorder shall enter the satisfaction on the notice on  
31 file in the recorder's office.

32 8. The department of inspections and appeals, as provided  
33 in this chapter and chapter 626, shall proceed to collect all  
34 overpayment debts owed the department of human services as  
35 soon as practicable after the debt becomes delinquent, except



1 that no property of the debtor is exempt from payment of the  
2 debt. If service has not been made on a distress warrant by  
3 the officer to whom addressed within five days from the date  
4 the distress warrant was received by the officer, the  
5 authorized investigators of the department of inspections and  
6 appeals may serve and make return of the warrant to the clerk  
7 of the district court of the county named in the distress  
8 warrant, and all subsequent procedures shall be in compliance  
9 with chapter 626.

10 9. The distress warrant shall be in a form as prescribed  
11 by the director, shall be directed to the sheriff of the  
12 appropriate county, and shall identify the debtor, the type of  
13 overpayment debt, and the delinquent amount. The distress  
14 warrant shall direct the sheriff to distrain, seize, garnish,  
15 or levy upon, and sell, as provided by law, any real or  
16 personal property belonging to the debtor to satisfy the  
17 amount of the delinquency plus costs. The distress warrant  
18 shall also direct the sheriff to make due and prompt return to  
19 the department or to the district court under chapter 626 of  
20 all amounts collected.

21 10. The attorney general, upon the request of the director  
22 of inspections and appeals, shall bring an action, as the  
23 facts may justify, without bond, to enforce payment of any  
24 overpayment debts under this section, and in the action the  
25 attorney general shall have the assistance of the county  
26 attorney of the county in which the action is pending.

27 11. The remedies of the state shall be cumulative and no  
28 action taken by the director of inspections and appeals or  
29 attorney general shall be construed to be an election on the  
30 part of the state or any of its officers to pursue any remedy  
31 to the exclusion of any other remedy provided by law.

32 Sec. 2. Section 633.641, Code 1993, is amended by adding  
33 the following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. It is the duty of the  
35 conservator to report to the director of human services, on an

1 annual basis, the assets and income, earned or unearned, of  
2 any ward receiving medical assistance under chapter 249A.

3

EXPLANATION

4 This bill provides for the establishment of a lien on  
5 property of a person liable to pay an overpayment debt to the  
6 department of human services. Administration of the procedure  
7 is the responsibility of the department of inspections and  
8 appeals. The bill provides for recording of the lien and for  
9 recording of satisfaction of the debt owed.

10 The bill also requires a conservator of a ward receiving  
11 medical assistance to report the assets and income of the ward  
12 to the department of human services.

13

BACKGROUND STATEMENT

14

SUBMITTED BY THE AGENCY

15 The bill allows for establishment of a lien on property to  
16 satisfy an overpayment debt owed the department of human  
17 services. This language is needed as an additional mechanism  
18 to ensure that overpayment debts are collected. This  
19 language, in conjunction with the distress warrant mechanism  
20 authorized by the 75th General Assembly in 1993, will help to  
21 increase the collectibility of debts owed. This language is  
22 similar to language utilized by the department of revenue and  
23 finance for delinquent taxes owed.

24 The bill also requires the conservator of a ward receiving  
25 medical assistance to report assets and income to ensure  
26 continued eligibility of the ward under the program. Recent  
27 investigations have shown that assets and income are not being  
28 properly reported in determining eligibility. This would help  
29 to ensure that eligible persons receive accurate benefits.

30

31

32

33

34

35

SENATE FILE 2250

AN ACT

RELATING TO THE DEPARTMENT OF HUMAN SERVICES BY ESTABLISHING DEBT LIENS BASED UPON THE INAPPROPRIATE OBTAINING OF BENEFITS FROM THE DEPARTMENT OF HUMAN SERVICES AND REPORTING OF ASSETS AND INCOME OF A MEDICAL ASSISTANCE RECIPIENT BY A CONSERVATOR.

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

Section 1. NEW SECTION. 10A.108 LIEN OF ENTITLEMENT BENEFITS INAPPROPRIATELY OBTAINED FROM THE DEPARTMENT OF HUMAN SERVICES -- DEBT ESTABLISHED -- COLLECTION -- ACTION AUTHORIZED.

1. If a person refuses or neglects to repay benefits inappropriately obtained from the department of human services, the amount inappropriately obtained, including any interest, penalty, or costs attached to the amount, constitutes a debt and is a lien in favor of the state upon all property and any rights or title to or interest in property, whether real or personal, belonging to the person for the period established in subsection 2, with the exception of property which is exempt from execution pursuant to chapter 627.

A lien under this section shall not attach to any amount of inappropriately obtained benefits, or portions of the benefits, attributable to errors by the department of human

services. Liens shall only attach to the amounts of inappropriately obtained benefits or portions of the benefits which were obtained due to false, misleading, incomplete, or inaccurate information submitted by a person in connection with the application for or receipt of benefits.

2. a. The lien attaches at the time the notice of the lien is filed under subsection 3, and continues for ten years from that date, unless released or otherwise discharged at an earlier time.

b. The lien may be extended, within ten years from the date of attachment, if a person files a notice with the county recorder or other appropriate county official of the county in which the property is located at the time of filing the extension. From the time of the filing of the notice, the lien period shall be extended for ten years to apply to the property in the county in which the notice is filed, unless released or otherwise discharged at an earlier time. The number of extensions is not limited.

c. The director shall discharge any lien which is allowed to lapse and may charge off any account and release the corresponding lien before the lien has lapsed if the director determines, under uniform rules prescribed by the director, that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

3. To preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property located in a county, the director shall file a notice of the lien with the recorder of the county in which the property is located at the time of filing of the notice.

4. The county recorder of each county shall prepare and maintain in the recorder's office an index of liens of debts established based upon benefits inappropriately obtained from and owed the department of human services, which provides appropriate columns for all of the following data, under the names of debtors, arranged alphabetically:

- a. The name of the debtor.
  - b. "State of Iowa, Department of Human Services" as claimant.
  - c. The time that the notice of the lien was received.
  - d. The date of notice.
  - e. The amount of the lien currently due.
  - f. The date of the assessment.
  - g. The date of satisfaction of the debt.
  - h. Any extension of the time period for application of the lien and the date that the notice for extension was filed.
5. The recorder shall endorse on each notice of lien the day and time received and shall preserve the notice. The recorder shall index the notice in the index book and shall record the lien in the manner provided for recording real estate mortgages. The lien shall be effective from the time of the indexing.
6. The department shall pay, from moneys appropriated to the department for this purpose, a recording fee as provided in section 331.604, for the recording of the lien, or for satisfaction of the lien.
7. Upon payment of a debt for which the director has filed notice with a county recorder, the director shall file a satisfaction of the debt with the recorder and the recorder shall enter the satisfaction on the notice on file in the recorder's office.
8. The department of inspections and appeals, as provided in this chapter and chapter 626, shall proceed to collect all debts owed the department of human services as soon as practicable after the debt becomes delinquent. If service has not been made on a distress warrant by the officer to whom addressed within five days from the date the distress warrant was received by the officer, the authorized investigators of the department of inspections and appeals may serve and make return of the warrant to the clerk of the district court of the county named in the distress warrant, and all subsequent procedures shall be in compliance with chapter 626.

9. The distress warrant shall be in a form as prescribed by the director, shall be directed to the sheriff of the appropriate county, and shall identify the debtor, the type of debt, and the delinquent amount. The distress warrant shall direct the sheriff to distrain, seize, garnish, or levy upon, and sell, as provided by law, any real or personal property belonging to the debtor to satisfy the amount of the delinquency plus costs. The distress warrant shall also direct the sheriff to make due and prompt return to the department or to the district court under chapter 626 of all amounts collected.

10. The attorney general, upon the request of the director of inspections and appeals, shall bring an action, as the facts may justify, without bond, to enforce payment of any debts under this section, and in the action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

11. The remedies of the state shall be cumulative and no action taken by the director of inspections and appeals or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy provided by law.

Sec. 2. Section 633.641, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The conservator shall report to the department of human services the assets and income of any ward receiving medical assistance under chapter 249A. Reports shall be made upon establishment of a conservatorship for an individual applying for or receiving medical assistance, upon application for benefits on behalf of the ward, upon annual or semiannual review of continued medical assistance eligibility, when any significant change in principal or income occurs in the conservatorship account, or as otherwise requested by the department of human services. Written reports shall be provided to the department of human services county office for

the county in which the ward resides or the county office in which the ward's medical assistance is administered.

---

LEONARD L. BOSWELL  
President of the Senate

---

HAROLD VAN MAANEN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2250, Seventy-fifth General Assembly.

---

JOHN F. DWYER  
Secretary of the Senate

Approved April 25, 1994

---

TERRY E. BRANSTAD  
Governor