

CHAPTER 198**TRANSPORTATION, PUBLIC SAFETY AND PUBLIC DEFENSE APPROPRIATIONS****S.F. 531**

AN ACT relating to transportation by making appropriations to state agencies whose responsibilities relate to transportation, public safety, and public defense and providing for the maintenance of the fiscal stability of certain state and local agencies by providing conditions by which they may be held liable for damages.

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

Section 1. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as is necessary, for the purposes designated:

	<u>1983-1984</u> <u>Fiscal Year</u>
1. IOWA LAW ENFORCEMENT ACADEMY	
For salaries, support, maintenance, and miscellaneous purposes	\$ 847,656
2. DEPARTMENT OF PUBLIC DEFENSE	
Military division	
a. For salaries, support, maintenance, and miscellaneous purposes	\$ 2,996,016
b. For purchases of motor fuel and special fuel	\$ 28,993

Notwithstanding section 29A.33, the per capita annual allowance to units will be five dollars per capita to be paid on a semiannual basis in installments of two dollars fifty cents per capita for the fiscal year beginning July 1, 1983 and ending June 30, 1984. The per capita allowance shall be used for morale purposes and be for the welfare of the troops and in no circumstances expended for support and maintenance.

3. OFFICE OF DISASTER SERVICES

For salaries, support, maintenance, and miscellaneous purposes	\$ 121,703
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Sec. 2. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as is necessary, to be used for funding the following functions and programs for the purposes designated:

	<u>1983-1984</u> <u>Fiscal Year</u>
DEPARTMENT OF PUBLIC SAFETY	
1. ADMINISTRATIVE FUNCTION	
a. For salaries, support, maintenance, and miscellaneous purposes of the department, criminal justice information system, and radio communications	\$ 4,603,217

b. For purchases of motor fuel and special fuel	\$	7,332
c. For payment of claims filed under the victim reparation program and for the payment of operational expenses	\$	200,000

It is the intent of the general assembly that only ten percent of the funds appropriated under this paragraph shall be used for the payment of operational expenses.

2. INSPECTION FUNCTION

a. For salaries, support, maintenance, and miscellaneous purposes of fire marshal's inspections, administration of the state building code, arson investigators including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated	\$	1,034,684
b. For purchases of motor fuel and special fuel	\$	23,354
c. For repayment to the United States government for overpayments received in 1980 and 1981 for intermediate care facility inspections	\$	79,553

d. The fire marshal shall also determine which exits of the Wallace building and Hoover building should be equipped with panic bars and direct that the panic bars be installed by the department of general services with funds appropriated to the department of general services.

3. SECURITY FUNCTION

a. For salaries, support, maintenance, and miscellaneous purposes of the capitol security division	\$	674,862
b. For purchases of motor fuel and special fuel	\$	2,957

4. INVESTIGATION FUNCTION

a. For salaries, support, maintenance, and miscellaneous purposes, including lease or lease purchase of laboratory equipment, of the division of criminal investigation containing the bureaus of identification, drug law enforcement, welfare fraud, and beer and liquor law enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated	\$	4,636,947
b. For purchases of motor fuel and special fuel	\$	85,107
c. For undercover purchases by the division of criminal investigation agents and local law enforcement agents	\$	200,000

5. DIVISION OF HIGHWAY SAFETY AND UNIFORMED FORCE

a. For salaries, support, maintenance, and miscellaneous purposes including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated

\$ 15,837,572

b. For purchases of motor fuel and special fuel

\$ 836,196

c. For various crime prevention programs sponsored within the department of public safety

\$ 54,000

d. Not later than July 1, 1984, the chief of the Iowa highway safety patrol shall have developed for implementation a plan which shall be effective on that date which provides that law enforcement motor vehicles shall no longer be assigned on an individual basis to each of the Iowa highway safety patrol personnel assigned to duty in the administrative headquarters located in the Wallace building and provides for a pool of seven law enforcement motor vehicles to be located at the Wallace building and allocated on a need basis by the chief of the Iowa highway safety patrol to the Iowa highway safety patrol personnel assigned to duty in the administrative headquarters.

e. By January 1, 1984, the Iowa highway safety patrol shall not have more than seven aircraft.

6. The department of public safety shall not increase any fees to political subdivisions of the state for services provided to local law enforcement agencies unless notification has been provided by the department of public safety of the fee increases prior to March 1, 1983. The department of public safety shall determine the actual costs of services provided to local law enforcement agencies and the current allocation of those costs between the department and the local law enforcement agencies and submit its report to the transportation and law enforcement appropriations subcommittee of the standing committees on appropriations.

Sec. 3. An employee of the department of public safety or the state conservation commission who retires after the effective date of this Act is eligible for payment of life or health insurance premiums as provided for in the collective bargaining agreement covering the public safety bargaining unit at the time of retirement if that employee previously served in a position which would have been covered by that agreement. The employee shall be given credit for the service in that prior position as though it was covered by the agreement. This section shall not operate to reduce any retirement benefits the employee may have earned under other collective bargaining agreements or retirement programs. This section is repealed July 1, 1985.

Sec. 4. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. a. For salaries, support, maintenance, and miscellaneous purposes

\$ 5,686,642

b. For purchases of motor fuel and special fuel \$ 63,334

2. For public transit purposes to implement a state assistance plan \$ 1,908,000

Notwithstanding chapter 8, it is the intent of the general assembly that funds appropriated for public transit purposes to implement a state assistance plan shall be allocated in whole or in part to a public transit system prior to the time actual expenditures are incurred if the allocation is first approved by the state department of transportation. A public transit system shall make application for advance allocations to the state department of transportation specifically stating the reasons why an advance allocation is required and this allocation shall be included in the total to be audited.

3. For deposit in the railroad assistance fund for branch line improvement \$ 1,000,000

Sec. 5. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes \$ 12,661,021

2. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A \$ 18,000

3. Unemployment compensation \$ 12,250

Sec. 6. There is appropriated from the road use tax fund to the state comptroller for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of twenty-three thousand (23,000) dollars, or so much thereof as is necessary, to be used for the purpose of paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation.

Sec. 7. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance, and miscellaneous purposes \$ 120,011,333

2. To be deposited in the state department of transportation materials and equipment revolving fund established by section 307A.7 for funding the increased replacement cost of vehicles \$ 2,000,000

2. To be deposited in the state department of transportation materials and equipment revolving fund established by section 307A.7 for funding the increased replacement cost of vehicles \$ 2,000,000

3. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A \$ 342,000

4. Unemployment compensation \$ 232,750

Sec. 8. There is appropriated from the primary road fund to the state comptroller for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the sum of four hundred thirty-seven thousand (437,000) dollars, or so much thereof as is necessary, for the purpose of paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation.

Sec. 9. There is appropriated from the state aviation fund to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amount, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984
Fiscal Year

For salaries, support, maintenance, and miscellaneous purposes \$ 351,000

Sec. 10. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1983 and ending June 30, 1984, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1983-1984
Fiscal Year

STATE DEPARTMENT OF TRANSPORTATION

1. For handicapped accessibility \$ 91,000

2. For Cedar Rapids materials laboratory \$ 188,000

3. Any unencumbered balance remaining as of June 30, 1987 of the funds appropriated by this section shall revert to the primary road fund on September 30, 1987.

Sec. 11. Section 25A.14, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a highway, secondary road, or street as defined in section 321.1, subsection 48, that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing highway, secondary road, or street, to new, changed, or altered design standards. In respect to highways and roads, sealcoating, asphaltting, patching, resurfacing, ditching, draining, repairing, graveling, rocking, blading, or maintaining an existing highway or road does not constitute reconstruction. This subsection shall not apply to claims based upon gross negligence.

Sec. 12. Section 25A.14, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public improvement as defined in section 384.37, subsection 1, or other public facility that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing public improvement or other public facility to new, changed, or altered design standards. This subsection shall not apply to claims based upon gross negligence. This subsection takes effect July 1, 1984 and applies to all cases tried or retried on or after July 1, 1984.

Sec. 13. Section 100.18, subsection 5, Code 1983, is amended to read as follows:

5. The state fire marshal ~~or a designated subordinate~~ shall ~~annually inspect smoke detectors installed as required by~~ enforce the requirements of subsection 2 and shall implement a program of inspections to monitor compliance with the provisions of that subsection. Upon inspection, the state fire marshal shall issue a written notice to the owner or manager of a multiple-unit residential building informing the owner or manager of compliance or non-compliance with this section. The state fire marshal may contract with any political subdivision without fee assessed to either the state fire marshal or the political subdivision, for the performance of the inspection and notification responsibilities. The inspections authorized under this section are limited to the placement, repair, and operability of smoke detectors. Any broader inspection authority is not derived from this section. The state fire marshal shall adopt rules under chapter 17A as necessary to enforce this section including rules concerning the placement of smoke detectors and the use of acceptable smoke detectors. The smoke detectors shall display a label or other identification issued by an approved testing agency or another label specifically approved by the state fire marshal. The state fire marshal shall not require other than single-station smoke detectors. If smoke detectors are not required under subsection 4 due to the presence of an automatic smoke detection system, the state fire marshal shall not require other than the automatic smoke detection system.

Sec. 14. Section 306.9, Code 1983, is amended by inserting after unnumbered paragraph 2 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. It is further declared to be the policy of the state of Iowa that on construction of roads classified as freeway-expressway and which are designed with four-lane divided roadways, access controls shall be limited to the minimum level necessary to comply with federal aid requirements.

Sec. 15. Section 306A.10, Code 1983, is amended to read as follows:

306A.10 NOTICE TO RELOCATE—COSTS PAID BY STATE. Whenever the state department of transportation ~~shall determine,~~ city or county determines that relocation or removal of any utility facility now located in, over, along, or under any highway or street, is necessitated by the construction of a project on routes of the national system of interstate and defense highways including extensions within cities or on streets or highways resulting from interstate substitutions in a qualified metropolitan area under title 23, U.S.C., the utility owning or operating such the facility shall relocate or remove the same in accordance with statutory notice. The costs of relocation or removal, including the costs of installation in a new location, shall be ascertained by the ~~state department~~ authority having jurisdiction over the project or as determined in condemnation proceedings for such purposes and may be paid by the state out of the primary road fund as part of the cost of such federally aided project from participating federal aid or other funds.

Sec. 16. Section 306A.12, Code 1983, is amended to read as follows:

306A.12 LIMITATION ON REIMBURSEMENT. ~~No~~ A reimbursement shall not be made for any relocation or removal of facilities under this ~~division chapter~~ unless funds to be provided by federal aid amount to at least ninety eighty-five percent of each reimbursement payment.

Sec. 17. Section 308.4, subsection 3, Code 1983, is amended to read as follows:

3. There is appropriated from the general fund of the state to the state department of transportation the sum of ~~ninety-five~~ one hundred thousand ~~four hundred~~ dollars for each fiscal year beginning July 1, ~~1981~~ 1983, and ending June 30, 1988. The money is to be utilized for the acquisition and construction of highway-associated project components for the great river road. Each annual appropriation shall first be used to reimburse the great river road fund established in section 312.2, with remaining funds being available for a period of one fiscal year following the year of appropriation. The state department of transportation, in cooperation with the state conservation commission and the Mississippi river parkway commission, shall administer this subsection and shall issue rules for administration in accordance with chapter 17A. A report shall be submitted listing the expenditures for the previous year and cumulative expenditures of all funds appropriated by this section and the report shall be incorporated in the annual report required by section 17.9.

Sec. 18. Section 312.2, subsection 5, Code 1983, is amended to read as follows:

5. The treasurer of state shall before making the above allotments credit annually to the highway grade crossing safety fund the sum of ~~five~~ seven hundred thousand dollars, credit annually from the road use tax fund the sum of five hundred thousand dollars to the highway railroad grade crossing surface repair fund, credit monthly to the primary road fund the dollars yielded from an allotment of sixty-five hundredths of one percent of all road use tax funds for the express purpose of carrying out subsection 11 of section 307A.2, section 313.4, subsection 2, and section 307A.5, and credit annually to the primary road fund the sum of five hundred thousand dollars to be used for paying expenses incurred by the state department of transportation other than expenses incurred for extensions of primary roads in cities. All unobligated funds provided by this subsection, except those funds credited to the highway grade crossing safety fund, shall at the end of each year revert to the road use tax fund. Funds in the highway grade crossing safety fund shall not revert to the road use tax fund except to the extent they exceed five hundred thousand dollars at the end of any biennium. The cost of each highway railroad grade crossing repair project shall be allocated in the following manner:

- a. Twenty percent of the project cost shall be paid by the railroad company.
- b. Twenty percent of the project cost shall be paid by the highway authority having jurisdiction of the road crossing the railroad.
- c. Sixty percent of the project cost shall be paid from the highway railroad grade crossing surface repair fund.

Sec. 19. Section 312.2, subsection 9, Code 1983, is amended to read as follows:

9. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the Iowa department of soil conservation ~~five~~ two hundred fifty thousand dollars from the road use tax funds. The department of soil conservation, in cooperation with the state department of transportation and the Iowa conservation commission shall expend ~~such~~ the funds, for the lease or other use of land intended for the planting or maintenance of wind erosion control barriers designed to reduce wind erosion interfering with the maintenance of highways in the state or the safe operation of vehicles ~~thereon~~ on the highway. However, the funds shall not be expended for wind erosion control barriers located more than forty rods from the highway.

Sec. 20. Section 312.2, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 14. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the state department of transportation one hundred thousand dollars from the road use tax funds. The state department of transportation shall expend the funds for the planting or maintenance of trees or shrubs in shelter belts for erosion control to reduce wind erosion interfering with the maintenance of highways in the state or the safe operation of vehicles on the highways.

Sec. 21. Section 321.211, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Upon suspending the license of any person as authorized the department shall immediately notify the licensee in writing and upon the licensee's request shall afford the licensee an opportunity for a hearing before the director or the director's authorized agent as early as practical within not to exceed thirty days after receipt of the request in the county in which the licensee resides unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing the director or the director's authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the department shall either rescind its order of suspension or for good cause may extend the suspension of such license or revoke such license. There is appropriated each year from the general fund of the state to the department sixty ninety thousand dollars or so much thereof as may be necessary to be used to pay the cost of notice and personal delivery of service, if necessary to meet the notice requirement of this section. The department shall promulgate rules governing the payment of the cost of personal delivery of service. The reinstatement fees collected under section 321.191 shall be deposited in the general fund of the state in a manner provided in section 321.192, as reimbursement for the costs of notice under this section.

Sec. 22. Section 327G.30, Code 1983, is amended to read as follows:

327G.30 ADJUSTMENT OF EXPENSE. If a grade crossing surface of a railroad track and a highway, street, or alley shall require repairs or maintenance, the costs for such the maintenance may be paid equally by the owner of the track, the jurisdiction having primary authority over the highway, street, or alley, and the highway grade crossing surface repair fund as provided in section 312.2, subsection 5.

If the railroad corporation and the jurisdiction having authority agree on the method of crossing maintenance and establish an agreement to each contribute one-third of the costs as provided in section 312.2, subsection 5, a copy of the agreement shall be filed with the department which shall allocate an amount equal to one-third of the cost for the work if funds are available in the highway railroad grade crossing surface repair fund. The department shall make appropriate notification if the fund is exhausted in which case agreements shall not be made under the provisions of this section until additional funds are available. The fund shall be administered by the department.

Upon completion of the agreed repair work, a statement of costs shall be filed with the department by the railroad corporation in a form and manner prescribed by the department. The department, upon approval of the statement, shall pay to the railroad corporation an amount equal to one-third of the cost of the work from the highway railroad grade crossing surface repair fund as provided in section 312.2, subsection 5. The owner of the track and the jurisdiction entering into the agreement shall each pay one-third of the cost as provided in section 312.2, subsection 5.

Sec. 23. Section 331.655, subsection 1, paragraph a, Code 1983, is amended to read as follows:

a. For serving a notice and returning it, for the first person served, six dollars, and each additional person, six dollars except the fee for serving additional persons in the same household shall be three dollars for each additional service, or if the service of notice cannot be made or several attempts are necessary, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the notice.

Sec. 24. Section 613A.4, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a highway, secondary road, or street as defined in section 321.1, subsection 48, that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing highway, secondary road, street, to new, changed, or altered design standards. In respect to highways and roads, sealcoating, asphaltting, patching, resurfacing, ditching, draining, repairing, graveling, rocking, blading, or maintaining an existing highway or road does not constitute reconstruction. This subsection shall not apply to claims based upon gross negligence.

Sec. 25. Section 613A.4, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. Any claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent construction or reconstruction of a public improvement as defined in section 384.37, subsection 1, or other public facility that was constructed or reconstructed in accordance with a generally recognized engineering or safety standard, criteria, or design theory in existence at the time of the construction or reconstruction. A claim under this chapter shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing public improvement or other public facility to new, changed, or altered design standards. This subsection shall not apply to claims based upon gross negligence. This subsection takes effect July 1, 1984 and applies to all cases tried or retried on or after July 1, 1984.

Sec. 26. Section 613A.4, subsection 3, Code 1983, is amended to read as follows:

3. Any claim based upon an act or omission of an officer or employee of the municipality, exercising due care, in the execution of a statute, ordinance, or regulation whether the statute, ordinance or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the municipality or an officer or employee of the municipality, whether or not the discretion is abused.

Sec. 27. **LEGISLATIVE INTENT.** It is the intent of sections 11 and 24 of this legislation, to define those cases in which a state or municipality, by its highway or road construction or reconstruction policy, may be liable for negligent acts or omissions, and it is not the intent of this legislation to affect those rights, claims, or defenses which exist in the law and which are in areas of litigation other than highway or road construction or reconstruction. The rule of statutory construction that the express mention of one thing implies the exclusion of the other does not apply to this Act.

Sec. 28. **NEW SECTION.** The doctrine of joint and several liability shall not apply if a plaintiff is found to bear any comparative negligence with respect to any claim.

Sec. 29. Sections 11, 24 and 26 of this Act shall apply to all cases tried or retried after July 1, 1983. Section 28 of this Act shall apply to cases tried or retried on or after July 1, 1984.

Sec. 30. The legislative council is directed to establish a joint subcommittee of the senate committee on judiciary, the house committee on judiciary and law enforcement, and the senate and house committees on commerce, to be composed of eight members of the house and eight members of the senate, to study the matter of comparative negligence, comparative fault and

contributory negligence as they apply to the broad spectrum of tort law in Iowa, during the interim between the Seventieth General Assembly's first and second session. This joint subcommittee shall be authorized to meet for not less than five days.

Sec. 31. Notwithstanding the provisions of section 423.24, there is transferred from revenues collected under chapter 423 during the fiscal year beginning July 1, 1983 and ending June 30, 1984, from the use tax imposed on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 the sum of one million (1,000,000) dollars which shall be transferred to the state department of transportation for public transit assistance for the fiscal year beginning July 1, 1983 and ending June 30, 1984. The funds transferred under this section to the state department of transportation for public transit assistance shall be considered an advance of funds to be received for public transit assistance under the Surface Transportation Assistance Act of 1982 and the road use tax fund shall receive reimbursement of the funds from receipts received by the state department of transportation for public transit assistance from the United States government pursuant to the Surface Transportation Assistance Act of 1982 during the fiscal period beginning July 1, 1983 and ending June 30, 1985.

Sec. 32. Notwithstanding the provisions of section 423.24, there is transferred from revenues collected under chapter 423 during each year of the fiscal period beginning July 1, 1983 and ending June 30, 1985 from the use tax imposed on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 the sum of seven million five hundred thousand (7,500,000) dollars which shall be transferred to the special railroad facility fund to be used exclusively for the purposes provided in this section. The Iowa railway finance authority may enter into a partnership agreement as allowed under section 307B.7, subsection 7, for the purpose of acquiring the right-of-way of the Chicago, Rock Island and Pacific railroad. The funds shall be expended to supplement private investment capital obtained for that purpose by matching any private investment capital on an equal basis. The funds transferred to the special railroad facility fund under this section shall be considered an interest-free loan to be repaid to the road use tax fund from receipts credited to the special railroad facility fund under section 307B.23.

The Iowa railway finance authority shall obtain a lien against the railroad right-of-way and related materials to secure the loan and secure repayment. If the purchase of the railroad right-of-way is not completed by January 1, 1986, the entire amount of the loan shall become due and payable.

*Sec. 33. If the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984, are insufficient to pay all appropriations in full prior to February 1, 1984, and the governor's findings are concurred in by the executive council, the governor shall not make any reductions in allotment as allowed under section 8.31 until the transfers authorized by this section have been made.

Notwithstanding the provisions of section 423.24, there shall be transferred from the revenues collected under chapter 423 in the fiscal year beginning July 1, 1983 and ending June 30, 1984, from the use tax collected on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 an amount necessary to provide the estimated budget resources necessary to pay all appropriations in full. However, the total amount transferred prior to February 1, 1984, shall not exceed twelve million five hundred thousand (12,500,000) dollars.

If upon transfer of the twelve million five hundred thousand (12,500,000) dollars authorized by this section, the governor finds that the estimated budget resources during the fiscal year

*Item veto; see message at end of this Act

are insufficient to pay all appropriations in full and the executive council concurs in the governor's findings, the governor may make the reductions of allotments allowed under section 8.31.

Any funds transferred to the general fund of the state under this section prior to February 1, 1984, shall be considered an interest-free loan and the loan shall be repaid from the general fund of the state to the road use tax fund not later than May 31, 1984.*

Sec. 34. Notwithstanding section 312.2, subsection 5, the treasurer of state shall credit to the highway railroad grade crossing surface repair fund from the road use tax fund the sum of four hundred thousand dollars for each year of the fiscal biennium beginning July 1, 1983 and ending June 30, 1985. The moneys allocated under this section shall be in addition to the funds credited to the fund under section 312.2, subsection 5.

Sec. 35. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants and receipts unless otherwise provided by the general assembly.

Approved June 3, 1983, except that item which I hereby disapprove and which is designated as Section 33 which is herein bracketed in ink and initialed by me. This is all delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD
Governor

*Item veto; see message at end of this Act

The Honorable Mary Jane Odell
Secretary of State
State Capitol Building
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 531, an act relating to transportation by making appropriations to state agencies whose responsibilities relate to transportation, public safety, and public defense and providing for the maintenance of the fiscal stability of certain state and local agencies by providing conditions by which they may be held liable for damages.

Senate File 531 is approved June 3, 1983, with the following exceptions which I hereby disapprove.

I am unable to approve that item designated in the Act as Section 33, which reads as follows:

Sec. 33. If the governor finds that the estimated budget resources during the fiscal year beginning July 1, 1983 and ending June 30, 1984, are insufficient to pay all appropriations in full prior to February 1, 1984, and the governor's findings are concurred in by the executive council, the governor shall not make any reductions in allotment as allowed under section 8.31 until the transfers authorized by this section have been made.

Notwithstanding the provisions of section 423.24, there shall be transferred from the revenues collected under chapter 423 in the fiscal year beginning July 1, 1983 and ending June 30, 1984, from the use tax collected on motor vehicles, trailers and motor vehicle accessories and equipment under section 423.7 an amount necessary to provide the estimated budget resources necessary to pay all appropriations in full. However, the total amount transferred prior to February 1, 1984, shall not exceed twelve million five hundred thousand (12,500,000) dollars.

If upon transfer of the twelve million five hundred thousand (12,500,000) dollars authorized by this section, the governor finds that the estimated budget resources during the fiscal year are insufficient to pay all appropriations in full and the executive council concurs in the governor's findings, the governor may make the reductions of allotments allowed under section 8.31.

Any funds transferred to the general fund of the state under this section prior to February 1, 1984, shall be considered an interest-free loan and the loan shall be repaid from the general fund of the state to the road use tax fund not later than May 31, 1984.

Section 33 of Senate File 531 would allow the transfer of up to \$12.5 million of the use tax on motor vehicles from the Road Use Tax Fund (RUTF) to the state's general fund if revenue estimates are less than total appropriations. This transfer is required to be implemented prior to any action to reduce state allotments under section 8.31 of the Code of Iowa. The transfer must be made prior to February 1, 1984 and the amounts transferred must be repaid to the RUTF no later than May 31, 1984.

I can understand the legislative desire to provide for alternatives to across-the-board budget cuts. I, too, view such cuts as one of the last resorts to be used to balance the state budget.

However, I cannot approve this section of Senate File 531 because it would not effectively forestall such a cut, it could tempt the General Assembly into funding on-going state programs with RUTF, and it could unnecessarily disrupt the expenditure of these funds for needed road projects.

This concept was added to Senate File 531 as an amendment during debate in the House. The House amendment did not specifically include a provision to repay these funds to the RUTF. However, intent language was added stating that the legislature would repay these funds no later than June 30, 1985. As a result, the ending fiscal year 1984 balance, which is calculated based on the status of the general fund on June 30, 1984, would have been increased by the amount of the transfer.

However, the conference committee report which was passed by the legislature requires repayment by May 31, 1984 — one month before the close of the 1984 fiscal year. Thus, the fiscal year 1984 ending balance for the general fund would not be affected by the transfer. There would be no net increase in the general fund balance.

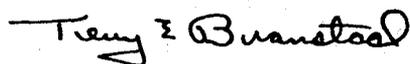
The Governor must base the decision to exercise a section 8.31 budget reduction on the expected ending general fund balance. Since Section 33 would have no impact on that balance, it would not act as an alternative to an across-the-board budget cut. Therefore, this section would apparently be unable to meet its intended purpose.

Moreover, the section could have adverse impacts. This provision would prevent the Department of Transportation from budgeting for the use of the \$12.5 million available for transfer since those funds would potentially be placed in the state's general fund for a few months of every year. This would lead to an unstable road repair program with fluctuations in the work force and in the accompanying supply system. Those funds would be better spent on highway projects where they could create jobs and economic activity, especially in light of the fact that they would provide no net benefit to the state's general fund.

Also, I am concerned that this provision could tempt the General Assembly into funding on-going state operations with funds intended for the RUTF. At one time, a portion of the sales tax on automobile parts and accessories was earmarked for the RUTF. However, a temporary diversion to balance the general fund and to meet budget priorities eventually resulted in a permanent loss of the revenue to the RUTF. I am concerned that the same temptation could exist as a result of this temporary effort to balance the general fund.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 531 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad
Governor